



PROVINCE OF THE EASTERN CAPE
IPHONDO LEMPUMA KOLONI
PROVINSIE OOS-KAAP

**Provincial Gazette
Igazethi Yephondo
Provinsiale Koerant**

Vol. 17

**BISHO/
KING WILLIAM'S TOWN,** 18 JUNE 2010

**No. 2384
(Extraordinary)**

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LOCAL AUTHORITY NOTICES

LOCAL AUTHORITY NOTICE 75

TSOLWANA LOCAL MUNICIPALITY

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996] the By-laws Relating to a Municipal Library that come into operation on the date of publication thereof.

BY-LAWS RELATING TO A MUNICIPAL LIBRARY

PREAMBLE

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996 [Act No. 108 of 1996];

AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to regulate matters relating to libraries in the demarcated municipal area and to provide for incidental matters;

NOW THEREFORE be it enacted by the Council as follows:

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[1] DEFINITIONS

In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and, unless the context otherwise indicates –

"charges" or **"charge"** means any fine or miscellaneous charge in respect of a library as determined by the Council from time to time;

"Council" means the Council of the Tsolwana Local Municipality and includes any duly authorized political structure or political office bearer as defined in the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998], or official thereof.

"lending period" means the period which the Council determines for the lending out of different types of library material;

"library" means a municipal library and ancillary facilities including any hall and group facilities room attached thereto or operated by the Council as part of a library service and includes any furniture, equipment and library material therein;

"librarian" means the staff member or his representative appointed by the Council to exercise control over and to manage the library;

"library material" means:

[a] printed book, newspaper, magazine, periodical, journal, pamphlet, brochure, sheet, map or portion thereof or any other similar printed matter;

[b] a replacement of a portion of or an addition or addendum to material referred to in subsection [a];

[c] a microfilm, microcard, microfiche or any other micro graphical reproduction of the written work or of any mark, representation or depiction having meaning to any person;

[d] any other reproduction of the written work, including manuscripts, letters, depictions and pictorial material;

[e] any other audiovisual, machine readable and other information formats;

[f] educational toys;

[g] art works in any format or reproductions thereof.

"member" means any person or organization registered as a member of a library.

"rules" means the rules and procedures adopted by the Council for and relating to the administration, business, day-to-day operation, the application of charges and the control of a library which rules shall form an integral part of these by-laws.

"unauthorized person" means a person in possession of library material who is not a member of the library as contemplated in section 3 of these by-laws.

[2] USE OF THE LIBRARY

[1] Any person admitted to a library by the Municipality may use the library facilities during the official hours of opening of such library.

[2] No person may borrow library material unless he is first registered by the Municipality as a member of such library in terms of these by-laws.

[3] MEMBERSHIP

- [1]** Subject to the provisions of subsection [2], the Municipality may grant to any person residing or employed within the area of jurisdiction of the Municipality or who is a taxpayer of the Municipality, membership of a library, provided such person undertakes to subject himself to the provisions of these by-laws and the rules adopted by the Municipality.
- [2]** The Municipality may grant membership of a library to a pre-school or school-going child, should his parent or guardian consent to such membership and undertake in writing to ensure that such child complies with the provisions of these by-laws and the rules adopted by the Council.
- [3]** Application for membership of a library must be made on a form prescribed by the Municipality for this purpose.
- [4]** The Municipality must issue a certificate of membership to a member authorizing him to borrow from a library such quantity of library material as it may in the rules from time to time determine.
- [5]** By accepting a certificate of membership, the member concerned signifies that he is aware of these by-laws and the rules and agrees to comply with same.
- [6]** A certificate of membership remains valid from the date of issue thereof for a period as determined by the Municipality from time to time and, upon expiry of such period, the certificate lapses unless the membership of the person has been renewed.
- [7]** The Municipality may grant membership of a library to a person residing outside its area of jurisdiction on such conditions as the Council may determine, including the payment of an additional charge or surcharge.
- [8]** On termination of membership of a library, the member must return his certificate of membership to the librarian without delay, failing which he must be held responsible for all library material borrowed against such certificate of membership.
- [9]** The librarian must be notified in writing by the member within seven days –
- [a]** of the date of the library member's change of address; and
 - [b]** of the loss of the member's certificate of membership.
- [10]** A duplicate certificate of membership –
- [a]** must be issued by the librarian if a member's certificate of membership, or duplicate certificate membership, as the case may be, is lost or destroyed;
 - [b]** must be issued only on payment of the prescribed charge; and
 - [c]** must, if a lost certificate of membership is subsequently found, be returned to the librarian; provided that any charge paid for such duplicate may not be refunded to the member.

[11] If a member gives notice in terms of subsection [9] [b], notwithstanding the provisions of section 8[1] such member cannot be held liable in terms of the said section in respect of any library material borrowed against the lost certificate of membership after the date of such notice.

[12] Anybody may, on behalf of any organization or similar body, if duly authorised thereto by such organization or body, apply on the form prescribed by the Municipality for registration of such organization or body, as a member of a library.

[4] LOAN OF LIBRARY MATERIAL

[1] Library material is deemed to be on loan from a library to a member against whose certificate of membership it was lent.

[2] No person may be in possession of any library material not lent against a certificate of membership.

[3] Library material bearing the mark of a library or of any library service that supplies library material to a library and on which there is no official indication that the material had been withdrawn, written off or sold, is deemed to be the property of the Municipality or the tending library service until the contrary is proved.

[4] A member borrowing library material from a library must ensure that such material is not damaged and, if damaged, he must draw the librarian's attention to such fact.

[5] The librarian may not make damaged library material available for borrowing purposes; provided that where such damaged library material is nevertheless made available for borrowing purposes, particulars of such damage must be recorded thereon or be affixed thereto by means of a note.

[5] RETURN OF LIBRARY MATERIAL

[1] Notwithstanding anything to the contrary contained in these by-laws and the period for which the library material was borrowed, the librarian may, on written notice to a member who has borrowed material from a library, demand the return of the library material within such time period as the librarian may prescribe in such notice.

[2] A member must return borrowed library material to the librarian not later than the last day of the borrowing period; provided –

[a] the librarian may extend the borrowing period of any library material –

[i] for not more than two further borrowing periods;

[ii] not in demand by any other member after consideration of an application to that effect by the member who borrowed the library material;

- [b] the member must be responsible for the return of borrowed library material and should such member find it impossible to personally return such library material, he may, subject to section 4[2], return it in any other manner; and
- [c] the member who has borrowed library material may not keep it for more than three days after receipt of the written notice provided for in subsection [1] from the librarian that such library material is to be returned.

[6] OVERDUE LIBRARY MATERIAL

- [1] Should a member not return library material borrowed against his certificate of membership within the period stated in subsection 5[2], or any period determined by the Council in terms of the proviso to that section, as the case may be, such member will be liable for payment to the Municipality of the prescribed charge for every week or portion thereof during which such member fails to return such library material.
- [2] The Municipality may exempt anybody from the payment of the charge contemplated in section 5[1] if it is satisfied that failure to return library material is due to circumstances beyond the borrower's control.
- [3] In order to obtain overdue library material, the Council may determine a charge-free period for a time in which such library material may be returned.

[7] RESERVATION OF LIBRARY MATERIAL

A member may, subject to compliance with the rules determined by the Municipality, reserve library material.

[8] LOST AND DAMAGED LIBRARY MATERIAL

- [1] The member against whose certificate of membership library material was lost, damaged or was deemed to be lost in terms of subsection [2], will, unless he replaces such material with a copy of equal value or a copy acceptable to the Municipality, be liable for –
 - [a] any charge for which he is liable in respect of the said library material; and
 - [b] payment to the Municipality of the replacement value of such library material; or
 - [c] an amount to make good the damage as may be determined by the Municipality;
- [2] Library material retained by a borrower for more than three months calculated from the expiry date allocated to such material at the time of issuing or after granting any extension of the borrowing period, is deemed to be lost.

[3] Lost or damaged library material remains the property of the Municipality or the Library Service that supplied the material to the library.

[4] No further library material may be lent to a member who, in terms of subsection [1], failed to comply with the conditions in the said section.

[9] HANDLING OF LIBRARY MATERIAL

No person in possession of library material may, either wilfully or negligently –

[1] fail to keep such material in a clean condition;

[2] expose or permit such material to be exposed to or be damaged by water, heat, fire, animals or any other thing;

[3] mutilate, deface, mark, crease or in any way damage such material or permit such material to be mutilated, defaced, marked, creased or damaged;

[4] remove or damage or permit to be removed or damaged any protective coverings of such material; or

[5] lend any such material to any unauthorized person.

[10] LIBRARY ADVISORY COMMITTEE

[1] The Council may appoint an advisory library committee in respect of a library or any affiliated library controlled and conducted by it.

[2] A library committee contemplated by subsection [1] must consist of –

[a] one municipal official or member of any committee of the Council or of the management of the Council;

[b] the librarian, who must act as secretary to the library committee, and

[c] such other members representing the community and community based organizations as may be appointed by the Municipality.

[3] The principle function of the library advisory committee must be to –

[a] advise and make recommendation to the Council on all aspects of the administration of a library and the supply of library material; and/or

[b] raise funds for the purchase of library material.

[11] LIBRARY MATERIAL FOR SPECIAL PURPOSES

Library material of a specialized nature may be used only in such parts of a library as are set aside by the Municipality for special purposes and may not be removed from a library or to any other part of a library without the permission of the librarian.

[12] USE OF THE GROUP ACTIVITIES HALLS AND ART GALLERY

Approval for the use of the group activity hall and any art gallery attached to a library must vest in the Municipality, subject to any conditions contained in the rules.

[13] LIBRARY HOURS

A notice by the Municipality, setting forth the days and hours during which a library will be open to the public, must be displayed in a prominent place at or near the entrance to the library.

[14] POSTING OF BY-LAWS AND RULES IN THE LIBRARY

The librarian must place a copy of these by-laws and the rules in a prominent place in a library and direct the attention of a library user to them.

[15] OFFENCES

No person may –

- [a]** conduct or participate in a conversation, read aloud, sing, or whistle in a library in a manner which is disturbing to other persons present in a library building;
- [b]** impede, obstruct, disturb or in any other way annoy any other person in the legitimate use of a library;
- [c]** refuse to deliver any library material to the librarian within a reasonable time after being requested thereto verbally or telephonically;
- [d]** allow any child under his supervision to create a disturbance in a library;
- [e]** in a library –
 - [i]** act in an uncouth or disorderly fashion;
 - [ii]** use unseemly, abusive or blasphemous language, or
 - [iii]** lay a bet or gamble.
- [f]** recline, sleep or partake of refreshments in a library;
- [g]** cause or permit any animal under his supervision to enter or remain in a library;
- [h]** while using a library, refuse to comply with any lawful request of the librarian;
- [i]** bring any vehicle, carrier or container into a library without the permission of the librarian;
- [j]** distribute or deposit in a library for distribution, material for advertisement, publicity or any other purpose without the permission of the librarian;
- [k]** damage or deface any part of a library or any fitting, furniture, equipment or contents thereof;

- [l] supply a false name and address for the purpose of entering any part of a library or to benefit from any service rendered by a library;
- [m] enter or remain in the library, or any part of a library if he is –
 - [i] unclean on body or dress;
 - [ii] suffering from a contagious or infectious disease notifiable in terms of any law, or
 - [iii] under the influence of intoxicating liquor or drugs;
- [n] enter or remain in any part of a library during the hours that such a library or part thereof is not officially open for service to the public without the permission of the librarian;
- [o] enter or leave a library by an entrance or exit not officially provided for the use of the public;
- [p] enter or remain in any part of a library which is reserved for the use of the library staff;
- [q] obstruct or block any entrance to or exit from a library;
- [r] remove from a library or be in the possession of library material the loan whereof has not been registered by the librarian in terms of these by-laws; or
- [s] retain in his possession any library material for more than 24 hours after the delivery to his registered address of a written demand from the librarian contemplated in subsection 5[1] for the return of such material;
- [t] contravene any provision of the rules adopted by the Council.

7] PENALTIES

- [1] Any person not using a library for the bona fide purpose for which it is intended or misbehaves in a library, may be removed from such library by the librarian or by a person called upon by the librarian to do so.
- [2] Any person contravening any of the provisions of these by-laws is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding 6 months.

8] REPEAL OF BY-LAWS

- [1] Any by-law adopted by the Municipality or a municipality now forming an administrative unit of the Municipality and relating to any matter regulated by these by-laws are, from date of promulgation of these by-laws, hereby repealed.
- [2] Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, is deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

LOCAL AUTHORITY NOTICE 76**TSOLWANA LOCAL MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996] the By-Laws Relating to Public Open Spaces which come into operation on the date of publication thereof.

BY-LAWS RELATING TO PUBLIC OPEN SPACES**PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996;

AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to control, manage and develop public open spaces and municipal property within its area of jurisdiction to ensure that it is environmentally sustainable and beneficial to future generations;

AND WHEREAS the Council of the Municipality has the right to alienate municipal property within its area of jurisdiction and to provide guidelines for doing so;

AND WHEREAS the Council of the Municipality has the right to clearly define the rights and obligations of the public in relation to public open spaces;

NOW THEREFORE be it enacted by the Council as follows:

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[1] DEFINITIONS

In these by-laws, any words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates –

"active game" means any physical sport, game or other activity by one or more persons which is undertaken within a public open space other than in an area set aside for that purpose and which may cause injury to other users of the public open space, a nuisance or damage to vegetation or municipal property within a public open space, and includes rugby, golf, archery, football, tennis, badminton, hockey, netball, volleyball, skate-boarding, roller-skating and in-line skating;

"authorized official" means –

- [a] an official who has been authorized by the Municipality to administer, implement and enforce the provisions of these by-laws;
- [b] a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996;
- [c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995; or
- [d] a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977.

"conservation public open space" means public open space that is managed by or on behalf of the Municipality for conservation purposes, and includes nature reserves, greenbelts, ravines, bird sanctuaries and sites of historic, ecological or archaeological value;

"designated area" means an area designated by the Municipality as an area in which an active game or any other activity, which would otherwise be prohibited under these by-laws, may be undertaken;

"environment" means the surroundings within which humans exist and that are made up of –

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

"Municipal Finance Management Act" means the Local Government: Municipal Finance Management Act, 2003 [Act No. 56 of 2003];

"Municipal Manager" means a person appointed as such by the Municipality in terms of section 82 of the Local Government: Municipal Structures Act, 1998 [Act 117 of 1998];

"municipal property" means any structure or thing owned or managed by or on behalf of the Municipality and which is incidental to the use and enjoyment of a public open space and includes buildings, lapas, kiosks, benches, picnic tables, playground equipment, fountains, statues, monuments, fences, poles, notices and signs;

"notice" means a clear and legible official notice drawn up by the Municipality in the official languages recognised by the Municipality and prominently erected in a public open space;

"nuisance" means an unreasonable interference or likely interference with –

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

"organ of state" means –

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

"owner" means –

- [a] the person in whom from time to time is vested the legal title to premises;
- [b] in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- [c] in a case where the Municipality is unable to determine the identity of such person, a person who is entitled to the benefit of such premises with a building thereon;
- [d] in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;
- [e] in relation to –
 - [i] a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 [Act No. 95 of

- 1986], and without restricting the above, the developer or the body corporate in respect of the common property; or
- [ii] a section as defined in such Act, the person in whose name such a section is registered under a sectional title deed and includes the lawfully appointed agent of such a person.
- [f] any legal person including but not limited to –
- [i] a company registered in terms of the Companies Act, 1973 [Act 61 of 1973], a Trust, a Closed Corporation registered in terms of the Closed Corporations Act, 1984 [Act 69 of 1984] and a Voluntary Association;
 - [ii] a state department;
 - [iii] a Council or Board established in terms of any legislation applicable to the Republic of South Africa;
 - [iv] an Embassy or other foreign entity.

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

"premises" means any land, whether vacant, occupied or with buildings thereon, situated within the municipal area.

"prescribed fee" means a fee determined by the Municipality by resolution, or any applicable legislation;

"printed matter" includes any advertisement, billboard, poster, book, pamphlet or handbill;

"prohibited activity" means any activity or behaviour that is prohibited from being undertaken in a public open space, either completely or without permission in terms of these by-laws;

"public open space" means any land which –

[a] is controlled and managed by the Municipality; and

[b] is either –

- [i] set aside in terms of any law, zoning scheme or spatial plan for the purposes of public recreation, conservation, the installation of public infrastructure or agriculture; or
- [ii] predominantly undeveloped and open and has not yet been set aside for a particular purpose in terms of any law, zoning scheme or spatial plan;

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

"recreational public open space" means public open space that is managed by or on behalf of the Municipality for public recreational purposes, and includes parks, botanical gardens, sports grounds and play grounds, but excludes golf courses;

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

"service provider" means a person or institution or any combination of persons and institutions which provide a municipal service in terms of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000];

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

"urban agricultural public open space" means public open space that is managed by or on behalf of the Municipality for urban agricultural purposes;

"vehicle" means a device designed or adapted mainly to travel on wheels, but excludes wheelchairs and children's pushchairs;

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

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

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

[2] GENERAL POWERS

The Municipality may in relation to any public open space –

- [a] designate any area within a public open space as an area within which one or more activities otherwise prohibited in terms of these by-laws may be undertaken and erect a prominent notice to this effect at entrances to the designated area;
- [b] develop any public open space;
- [c] erect, construct, establish or demolish municipal property; and
- [d] exercise any other power reasonably necessary for the discharge of the Municipality's obligations in terms of these by-laws relating to the management of public open spaces.

[3] SALE OF PROPERTY

No person may alienate of municipal property except in accordance with the provisions of a supply chain management policy as contemplated in section 111 of the Municipal Finance Management Act, 2003 [Act No. 56 of 2003] and duly adopted by the Council of the Municipality.

[4] FEES

The Municipality may require members of the public to pay –

- [a] a reasonable prescribed fee to use recreational or other facilities that the Municipality provides within public open spaces;

- [b] a reasonable prescribed fee for entrance to public open spaces which are significantly more expensive to maintain than other public open spaces, such as botanical gardens;
- [c] a prescribed fee for the right to undertake a special event;
- [d] a prescribed fee for the right to exclusively use municipal property for a specific period;
- [e] a deposit prior to undertaking a prohibited activity;
- [f] an annual or monthly fee for the right to use urban agricultural public open space to the exclusion of any other person; and
- [g] a prescribed fee for processing applications for permits or letters of permission under these by-laws.

[5] RESTRICTING ACCESS

The Municipality may restrict access to any public open space or to any part of a public open space for a specified period of time –

- [a] to protect any aspect of the environment within a public open space;
- [b] to reduce vandalism and the destruction of property;
- [c] to improve the administration of a public open space;
- [d] to develop a public open space;
- [e] to enable a special event that has been permitted in terms of these by-laws; or
- [f] to undertake any activity that the Municipality reasonably considers necessary or appropriate to achieve the purposes of these by-laws.

[6] PROCEDURE WHEN EXERCISING POWERS

If the rights or legitimate expectations of any person will be materially and adversely affected by the Municipality exercising any powers in terms of these by-laws, the Municipality must give notice of the proposed administrative action, which notice must –

- [a] be published in the Provincial Gazette and in a newspaper circulating in the area or areas that will be directly affected by the proposed administrative action;
- [b] contain a clear statement of the proposed administrative action;
- [c] invite comments and objections within a specified period; and
- [d] consider the comments and objections received in response to the notice.

[7] POWERS OF AUTHORISED OFFICIALS

In relation to any public open space, an authorised official may –

- [a] issue a notice in terms of section 341 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977];
- [b] issue a notice under section 18;
- [c] order any person to leave a public open space if the authorised official reasonably believes that that person has not complied with any provision of these by-laws; and

- [d] exercise any other power that may be exercised by a peace officer under the Criminal Procedure Act, 1977 [Act No. 51 of 1977].

[8] OBLIGATIONS IN RELATION TO PUBLIC OPEN SPACES

- [1] The Municipality must within a public open space, erect any notice required under these by-laws.
- [2] In relation to recreational public open spaces, the Municipality must –
 - [a] ensure that they are open to the public between sunrise and sunset, unless specified otherwise in terms of a notice; and
 - [b] erect prominently displayed notices at every entrance indicating –
 - [i] the opening and closing times of that recreational public open space; and
 - [ii] any rules made in relation to that recreational public open space.

[9] PERMISSION MUST BE OBTAINED

- [1] Any person who undertakes an activity or behaves in a manner that is prohibited under these by-laws commits an offence unless the activity or conduct in question –
 - [a] takes place in a designated area within which that activity was allowed;
 - [b] is authorised in terms of a permission granted or permit issued under these by-laws; or
 - [c] is deemed to have been authorised by the Municipality as contemplated in subsection [2].
- [2] Subject to subsection [3], a person is deemed to have permission to undertake a prohibited activity if that person needs to undertake the prohibited activity –
 - [a] to perform his obligations as an employee, agent or subcontractor of the Municipality under his contract with, or mandate from, the Municipality or to achieve the purposes of this by-law;
 - [b] to carry out public duties as an employee, agent or subcontractor of an organ of state within a public open space which is subject to a public utility servitude in favour of an organ of state;
 - [c] to fulfil his duties as an authorised officer to implement these by-laws; or
 - [d] to fulfil his duties as an authorised official.
- [3] No person is deemed to have permission to undertake an activity that the Municipality has expressly refused to permit.

[10] GENERAL PROHIBITIONS

- No person may within a public open space –
 - [a] act in a manner that is dangerous to life or property;

- [b] contravene the provisions of any notice within any public open space;
- [c] unlawfully enter a public open space to which access has been restricted in terms of section 5;
- [d] cause a nuisance;
- [e] behave in an indecent or offensive manner; or
- [f] obstruct any authorised official who is exercising a power under these by-laws.

[11] RESTRICTED ACTIVITIES

No person may within a public open space –

- [a] bathe, wade, or swim in or wash him self, an animal or any object, including clothing, in any water body;
- [b] sail, row, paddle, propel or control any watercraft on any water body;
- [c] make, light or otherwise start a fire;
- [d] camp or reside in any public open space;
- [e] consume, brew, store or sell any alcoholic beverage;
- [f] use any sound equipment, including a radio, portable hi-fi or car stereo;
- [g] play an active game, except in an area designated for that purpose, on sport playing fields or on a golf course;
- [h] shoot a projectile of any nature; or
- [i] ride a horse or bicycle.

[12] LITTERING

Notwithstanding any provision of the by-laws of the Municipality relating to dumping, littering and waste collection, no person may within a public open space –

- [a] deposit, dump or discard any waste, unless in a receptacle provided by the Municipality for that purpose; or
- [b] pollute or deposit any waste or thing in a manner which may detrimentally impact on a water body.

[13] VEHICLES

No person may within a public open space –

- [a] except at times and on roads or pathways prescribed by the Municipality, drive, draw or propel any vehicle;
- [b] drive, draw or propel a vehicle in excess of 5 kilometres per hour; or
- [c] park a vehicle in a public open space.

[14] ANIMALS AND VEGETATION

[1] Subject to subsection [2], no person may within a public open space –

- [a] disturb, damage, destroy or remove any vegetation;
- [b] plant any vegetation;
- [c] alter the slope or drainage pattern so as to interfere with the access of water, air or nutrients to any tree;

- [d] capture or attempt to capture, chase, shoot at, injure, throw objects at, tease, molest or in any other way disturb any fish, bird or animal;
 - [e] disturb, damage or destroy any bird nest or eggs;
 - [f] walk, carry, ride or bring an animal, unless the animal is a guide dog and is accompanied by a person with a sight disability; or
 - [g] affix or place on any tree any printed matter.
- [2] The provisions of subsections [1] [a] and [b] do not apply to any person who has obtained a permit in terms of section 21 to undertake agricultural activities in an urban agricultural public open space.

[15] MUNICIPAL PROPERTY AND ERECTION OF STRUCTURES

- [1] Subject to subsection [2], no person may within a public open space –
- [a] deface, damage, destroy or remove any municipal property;
 - [b] disturb the surface of any land, whether by digging or undertaking any earthworks;
 - [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 in any public open space.
- [2] The provisions of subsection [1] [b] do not apply to any person who has obtained a permit in terms of section 21 to undertake agricultural activities in an urban agricultural public open space.

[16] SELLING AND SPECIAL EVENTS

- [1] No person may within a public open space –
- [a] use municipal property in a way that unfairly restricts or prevents other users of the public open space from enjoying that municipal property; or
 - [b] sell, hawk, offer or display any goods or articles for sale or hire;
- [2] No person may undertake a special event, except in terms of a permit issued in terms of section 20.

[17] COMMUNITY SERVICE

No person may within a public open space undertake any community or voluntary work of any description.

[18] RESTORATION OR REMOVAL NOTICES

- [1] Unless permission or a permit to do so has been obtained under section 20, an authorised official may issue a restoration or

removal notice to any person who has directly or indirectly in a public open space –

- [a] damaged, defaced, disturbed, destroyed, demolished or removed vegetation or a municipal structure;
 - [b] erected, built or assembled a structure; or
 - [c] dumped, discarded or deposited any waste, unless in a receptacle provided by the Municipality for that purpose.
- [2] The restoration or removal notice may direct the person within the reasonable time stated in the notice to take stated reasonable action –
- [a] to restore or rehabilitate the affected area to the reasonable satisfaction of the Municipality; or
 - [b] to remove a structure or thing and restore the affected site, as nearly as practicable, to its former condition.

[19] APPLICATION FOR PERMISSION

- [1] Any person who wants to undertake a prohibited activity must apply in writing to the Municipality for permission to do so.
- [2] The Municipality may, after receiving an application, request the applicant to provide additional information which the Municipality reasonably requires in order to consider the application.
- [3] The Municipality may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and until the prescribed fee [if any] has been paid.
- [4] Subject to subsections [2] and [3], the Municipality must consider the application within a reasonable time and must either –
 - [a] refuse the application; or
 - [b] grant permission in writing subject to whatever conditions the Municipality considers appropriate to best achieve the purposes of these by-laws, which may include payment of a deposit and/or a fee.
- [5] The Municipality must not grant permission for any person to behave in a manner that is prohibited under section 10[1] [a], [e] or [f].

[20] APPLICATION FOR A SPECIAL EVENT PERMIT

- [1] An application for permission to hold a special event in a public open space must be made at least three weeks before the proposed date of the special event.
- [2] The time period referred to in subsection [1] may be reduced on good cause at the Municipality's discretion.
- [3] The application must contain the following information –
 - [a] the name and full contact details of the applicant [including name, organisation [if any], address, telephone and fax numbers and email address, if available];
 - [b] the nature and purpose of the special event;

- [c] the intended route or area proposed to be used by the special event; and
 - [d] any permission required and obtained under these by-laws.
- [4] Subject to any permit conditions imposed by the Municipality, the holder of a special events permit has the right to use the area of public open space specified on the permit to the exclusion of any other person during the period specified in the permit.

[21] APPLICATION FOR PERMISSION TO FARM IN AN URBAN AGRICULTURAL PUBLIC OPEN SPACE

- [1] An application for permission to farm in an urban agricultural public open space must contain the following information:
 - [a] The name and full contact details of the applicant, including name, organisation [if any], address, telephone and fax numbers and email address, if available];
 - [b] the nature of the agricultural activity that the applicant proposes to undertake; and
 - [c] the size and location of the area on which the applicant wishes to undertake the proposed agricultural activity.
- [2] A permit under this section may require the permit holder to pay an annual or monthly fee for the use of the land.
- [3] The holder of an urban agricultural permit may, subject to any conditions in the permit, use the area of public open space specified in the permit for agricultural purposes to the exclusion of any other person.

[22] CO-OPERATIVE MANAGEMENT AGREEMENTS

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

[23] TREE PRESERVATION ORDERS

- [1] If the Municipality believes that any tree or group of trees in a public open space requires legal protection, the Municipality may

issue a tree preservation order in respect of that tree or group of trees.

- [2] A tree preservation order –
 - [a] must indicate the tree or trees to which it relates; and
 - [b] may provide that any person who cuts, disturbs, damages, destroys, removes, transports, exports, purchases, sells, donates or in any other manner acquires or disposes of the tree or trees to which it relates, commits an offence.
- [3] The Municipality must erect a prominently displayed copy of any tree preservation order granted at or in the vicinity of the tree or trees to which the order relates.
- [4] Unless, in the Municipality's reasonable opinion, the issuing of a tree preservation order is required as a matter of urgency, the Municipality must, before issuing a tree preservation order under this section –
 - [a] give notice of the proposal to protect the tree or group of trees and invite comments and objections within a specified period, by publishing a notice in the Provincial Gazette and in two newspapers circulating in the area in which the tree or group of trees is situated;
 - [b] notify any affected organs of State; and
 - [c] consider the comments and objections received in response to the notice.

[24] WAIVER OF PROVISIONS

- [1] The Municipality may, if it deems it desirable to do so in the public interest, waive compliance with or relax the provisions of these by-laws; provided that any person whose rights are adversely affected by such waiver or relaxation will not be bound thereby.
- [2] In each case in which such waiver or relaxation has been granted to any person, the Municipality must serve a written notice upon such person citing the relevant provision waived or relaxed and the extent to which such provision has been waived and, in addition, the Municipality must keep a record containing an identical copy of each such notice, which record must be available for inspection by members of the public at the offices of the Municipality.

[25] APPEALS

- [1] A person whose rights are affected by a decision taken by an authorised official under these by-laws may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- [2] The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection [4].
- [3] The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a

decision may detract from any rights that may have accrued as a result of the decision.

- [4] An appeal submitted in terms of this section must be dealt with in the manner prescribed by section 62 of the Municipal Systems Act, 2000 [Act No 32 of 2000].

[26] OFFENCES

Any person is guilty of an offence if he –

- [a] contravenes or fails to comply with any provisions of these by-laws irrespective of whether such contravention or failure has been declared as an offence elsewhere in these by-laws;
- [b] fails to comply with any notice issued in terms of these by-laws or a condition imposed under these by-laws;
- [c] fails to comply with any lawful instruction given in terms of these by-laws; or
- [d] obstructs or hinders any authorised official in the execution of his duties under these by-laws.

[27] PENALTIES

Any person who contravenes a provision of subsection [26] is guilty of an offence and liable upon conviction to –

- [a] a fine or imprisonment for a period not exceeding six months or either such fine or such imprisonment or both such fine and such imprisonment;
- [b] in the case of a continuing offence, an additional fine or an additional period of imprisonment of 10 days or either such additional fine or such additional imprisonment or both such additional fine and imprisonment for each day on which such offence is continued; and
- [c] a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as a result of such contravention or failure.

[28] REPEAL OF BY-LAWS

- [1] Any by-law promulgated by the Municipality or a municipality now forming an administrative unit of the Municipality and relating to any matter referred to in these by-laws is, from the date of promulgation of these by-laws, hereby repealed.
- [2] Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, shall be deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

LOCAL AUTHORITY NOTICE 77**TSOLWANA LOCAL MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996] the By-laws Relating to Barbers, Hairdressers and Beauticians that come into operation on the date of publication thereof.

BY-LAW RELATING TO BARBERS, HAIRDRESSERS AND BEAUTICIANS**PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996;

AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to provide, establish, regulate, manage and maintain hygienic facilities in respect of barbers, hairdressers and beauticians in its municipal area;

NOW THEREFORE be it enacted by the Council as follows:

TABLE OF CONTENTS

- [1] Definitions
- [2] Hygiene on premises
- [3] General hygiene
- [4] Removal of refuse
- [5] Waiver of provisions
- [6] Appeal
- [7] Implementation and enforcement
- [8] Penalties
- [9] Repeal of by-laws

[1] DEFINITIONS

In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates –

"authorized official" means –

[a] an official who has been authorized by the Council to administer, implement and enforce the provisions of these by-laws; or

[b] a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977. **"barber"** or **"hairdresser"** means a person who carries on or assists in carrying on the business of cutting, shaving or dressing the hair and beard of human beings;

"beautician" means a person who carries on or assists in carrying on the business of manicure, pedicure, massage and beauty treatment;

"Council" means the Council of the Tsolwana Municipality or any political structure, political office bearer, councillor, or any staff member acting under council's delegated or sub-delegated authority;

"dwelling" means any place the whole or part of which is used as a sleeping place or is habitually occupied by any person;

"Municipality" means the Municipality of Tsolwana established in terms of section 12 of the Municipal Structures Act, 117 of 1998;

[2] HYGIENE ON PREMISES

No person may carry on the business of a barber, hairdresser or beautician unless –

- [a]** all parts of such premises are effectively illuminated and ventilated;
- [b]** there is provided on such premises for employees of each sex separately at least one closet for every twenty or part of twenty employees of that sex; provided that where the majority of employees is of one sex and not more than two are of the other sex, separate closet accommodation need not be provided for the latter.
- [c]** there is fixed on the premises at least one wash-basin with running hot and cold water laid on and fitted with a trap waste pipe, for every two or part of two persons engaged at the same time on the premises in any operation in connection with the business of a barber, hairdresser or beautician;
- [d]** the wall at the rear of each such wash-basin or sink on the premises is lined to a height of not less than 450mm above the tap and for the full width of such wash-basin or sink with glass, marble, glazed tiles or other similar glazed, durable or non-corroding material approved by the Council;
- [e]** all tables and shelves on such premises on which instruments are usually laid, are constructed of or covered with glass, marble, glazed tiles or other similar glazed, durable or non-corroding material approved by the Council;
- [f]** such premises have an even floor suitably covered with linoleum or impervious material, or constructed with a smooth impervious surface and maintained so that it may be easily swept and thoroughly cleaned;
- [g]** there is on such premises a sufficient number of readily portable refuse receptacles constructed of impervious material in such manner that they can be readily washed and cleaned and covered with close-fitting lids;
- [h]** a minimum of 14 square metres of air space per chair is provided;
- [i]** the premises on which such business is carried on and all instruments and other articles thereon which are used or intended to be used in connection with such business are at all times kept clean and in good repair; and
- [j]** there is on such premises a sufficient number of brushes, combs, razors, scissors, clippers or other instruments for the purpose of carrying on such business.

[3] GENERAL HYGIENE

No person carrying on the business of a barber, hairdresser or beautician, or assisting in any such business, may –

- [a]** use or keep a hairbrush or equipment, instruments and articles for use in such business unless it is thoroughly clean and sterilised before use;
- [b]** repeatedly use articles or instruments destined for non-recurrent use;
- [c]** in such business, use or allow the use of any towel upon a person unless it has been thoroughly washed and sterilised since having been used upon any other person; or
- [d]** in such business use or allow the use of a covering or garment upon any person so as to come into contact with the head, face or neck of such person unless it has been thoroughly washed and sterilised since having been used upon any other person; or
- [e]** attend to or allow any person to be attended to unless an unused piece of clean paper, or linen which has been washed and sterilised since previous use, has been applied to such person so as effectively to prevent direct contact of the head or neck of such person with the chair occupied by him; or
- [f]** use or allow the use of any brush, comb, razor, scissor, clipper or other instrument which has been in contact with the exposed portion of a person's body upon any other person, unless –
 - [i]** it has been immersed in boiling water; or
 - [ii]** it has been immersed for at least ten minutes in a disinfectant solution of a germicidal strength not less than that of a five percent solution of carbolic acid and has thereafter, before use, been thoroughly rinsed in clean water; or
 - [iii]** it has been treated in a special disinfecting apparatus and in a manner approved by the Council; or
- [g]** on that part of the premises where such business is ordinarily carried on, subject or allow any person who appears to be suffering from any infestation or hair or skin disease to be subjected to shaving, haircutting or any other operation connected with such business; or
- [h]** use or allow the use of any towel, instrument or other article which has been used on a person referred to in subparagraph [f], unless it has been sterilized; or
- [i]** in such business, use or allow the use –
 - [i]** of soap, shaving cream, wax or similar substance in any other form than its liquid, powder or tube form; or
 - [ii]** of soap in cake or tablet form; or
 - [iii]** on any person of any styptic other than liquid or powder applied as a spray or by means of a clean and un-used piece of cotton wool; or
 - [iv]** on any person of any sponge, powder-puff or alum or other styptic in stick or block form; or

- [j] apply or allow any operation pertaining to the business of a barber, hairdresser or beautician to be applied to any person, unless the person so applying –
 - [i] wears clean clothes;
 - [ii] has immediately before commencing such operation washed his or her hands; and
 - [iii] is free from any infectious or contagious disease, any disruptive disorder or any discharging ulcer or sore, or, if he has attended to or been in contact with a person thus afflicted, has thoroughly disinfected himself before commencing such operation; or
- [k] when engaged in any operation in such business –
 - [i] blow away with his own breath any hair or other matter which may have fallen upon a person in the course of such operation;
 - [ii] remove such hair or matter otherwise than by means of a soft brush or a compressed air blower.

[4] REMOVAL OF REFUSE

Every person carrying on the business of a barber, hairdresser or beautician must ensure that all hair, immediately after being cut, be swept up and placed in the covered refuse receptacles provided for the purpose

[5] WAIVER OF PROVISIONS

- [1] The Municipality may, if it deems it desirable to do so in the public interest, waive compliance with or relax the provisions of these by-laws; provided that any person whose rights are adversely affected by such waiver or relaxation will not be bound thereby.
- [2] In each case in which such waiver or relaxation has been granted to any person, the Municipality must serve a written notice upon such person citing the relevant provision waived or relaxed and the extent to which such provision has been waived and, in addition, the Municipality must keep a record containing an identical copy of each such notice, which record must be available for inspection by members of the public at the offices of the Municipality.

[6] APPEAL

- [1] A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.
- [2] The Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- [3] When the appeal is against a decision taken by –

- [a] a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - [b] the Municipal Manager, the Executive Committee is the appeal authority; or
 - [c] a political structure or political officer bearer, or a Councillor Council is the appeal authority.
- [4] The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

[7] IMPLEMENTATION AND ENFORCEMENT

- [1] The Municipality may appoint an authorized official to administer the implementation and enforcement of these by-laws.
- [2] Any person commits an offence if he –
- [a] hinders or interferes with an authorized official in the execution of his duties in terms of these by-laws;
 - [b] falsely professes to be an authorized official;
 - [c] furnishes false or misleading information when complying with a request of an authorized official; or
 - [d] fails to comply with a request of an authorized official.

[8] PENALTIES

Any person who contravenes or fails to comply with any provision of this by-law is guilty of an offence and liable upon conviction to –

- [a] a fine or imprisonment for a period not exceeding six months, or to both a fine and such imprisonment;
- [b] in the case of a continuing offence, an additional fine or an additional period of imprisonment or 10 days or either such additional fine or such additional imprisonment or both such additional fine and imprisonment for each day on which such offence is continued; and
- [c] a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as a result of such contravention of failure.

[9] REPEAL OF BY-LAWS

- [1] Any by-law adopted by the Municipality or a municipality now forming an administrative unit of the Municipality and relating to any matter regulated by these by-laws are, from date of promulgation of these by-laws, hereby repealed.
- [2] Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, is deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

LOCAL AUTHORITY NOTICE 78**TSOLWANA LOCAL MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996] the By-Laws Relating to Cemeteries that come into operation on the date of publication thereof.

BY-LAWS RELATING TO CEMETERIES**PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996;

AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to regulate the establishment, conduct and control of all cemeteries under its control and provide the general public with reasonable access to such facilities in areas under its jurisdiction;

NOW THEREFORE be it enacted by the Council as follows:

TABLE OF CONTENTS

- [1] Definitions
- [2] Establishment
- [3] Control
- [4] Application for burial
- [5] Burials
- [6] Exclusive right
- [7] Coffins
- [8] Prohibitions on burials
- [9] Mound on grave
- [10] Exhumation
- [11] Application for memorial work
- [12] Care of memorials, graves and plots
- [13] Unauthorised memorials
- [14] General requirements for memorials and memorial work
- [15] Prohibitions on memorial work
- [16] General
- [17] Savings
- [18] Compliance notice
- [19] Prohibition notice
- [20] Withdrawal of prohibition notice
- [21] Delivery of notices
- [22] Appeal

[23] Offences

[24] Repeal of by-laws

[1] **DEFINITIONS**

In these by-laws, any words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates –

"administrative unit" means a former municipality as envisaged in section 14[3] of the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998];

"authorized official" means –

[a] an official who has been authorized by the Council to administer, implement and enforce the provisions of these by-laws;

[b] a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996;

[c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995; or

[d] a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977;

"body" means the remains of any deceased person or foetus;

"bury" means inter or dispose of in any lawful manner and **"burial"** has a corresponding meaning;

"burial order" means an order issued in terms of the Births and Deaths Registration Act, 1992 [Act No. 51 of 1992] or any superseding Act or Regulation;

"cemeteries" means all cemeteries under the management and control of the Municipality;

"coffin" means any form of opaque outer shell which completely encloses the body and is of sufficient strength to bear the weight of the body without collapsing;

"competent authority" means any person or body authorised by law to perform the functions contemplated in section 10 of these by-laws;

"Council" means the Tsolwana Local Municipality and includes any duly authorised political structure, political office bearer or official thereof;

"exclusive right" means a right of burial issued in terms of section 6 of these by-laws;

"memorial gardens" means any lawned or landscaped section or similar section cultivated in a cemetery for the purposes of commemorating any deceased;

"memorial" means any tombstone, monument, kerbing, grave-guard, bed and chips, plaque, inscription thereon or other similar work erected or intended to be erected in any cemetery commemorating a deceased, whether permanent or temporary;

"modular grave system" means an arrangement of rectangular prefabricated modules which are set out in rows next to each other and covered with soil and turf to form a collection of prepared graves;

"plot" means one unit or two adjacent graves;

"private grave" means any piece of ground in which the exclusive right of burial has been acquired immediately before the time of burial;

"public grave" means any piece of ground in which the right of burial has been acquired without any exclusive right to such grave;

"public holiday" has the same meaning as in the Public Holidays Act, 1994 [Act No. 36 of 1994] or any superseding Act or Regulation;

"authorised official" means any person duly authorised by the Council to be in charge of any cemetery under the control and management of the Municipality.

[2] ESTABLISHMENT

[1] The Municipality may acquire, hold and alienate land for the purpose of establishing cemeteries.

[2] The Municipality may set aside cemeteries or any section thereof for the burial of the dead of any religious denomination or other body or community; provided that such setting aside will not vest in any person the right to be buried in any particular place in any cemetery.

[3] The Municipality may set aside cemeteries or any section thereof to be maintained by the Council in the form of memorial gardens.

[3] CONTROL

The Municipality may issue such directives and give such oral and written instructions as it may deem necessary for the proper and efficient operation and management of cemeteries.

[4] APPLICATION FOR BURIAL

[1] Application for burial in all cemeteries must be made upon such terms and at such times and places and upon payment of such fees as determined by the Municipality from time to time.

[2] A person may only bury or cause to be buried a body within a cemetery with the prior permission of the authorised official.

[3] The authorised official will only grant permission once a burial order and a duly completed notice of interment have been submitted to him with any other documents that may be required by the Municipality.

[5] BURIALS

Burials may only take place on such terms and at the times determined by the Municipality.

[6] EXCLUSIVE RIGHT

- [1]** The Municipality may sell or dispose of the right to be buried in a grave or a plot on such conditions as it may determine from time to time and in so doing it confers an exclusive right on the person acquiring such right to be buried or to bury a body in such grave or plot.
- [2]** The Municipality must issue to a person acquiring an exclusive right the conditions attaching to such acquisition and a certificate confirming the exclusive right.
- [3]** The holder of an exclusive right may transfer an exclusive right in accordance with the conditions as determined by the Municipality.
- [4]** Should a holder of an exclusive right wish to relinquish it, he may return it to the Municipality upon such terms and conditions as the Municipality may determine.
- [5]** An exclusive right will be of force and effect only for the period as determined by the Municipality.
- [6]** The Municipality may extend an exclusive right upon such terms and conditions as it may determine.

[7] COFFINS

- [1]** A coffin must be used for any burial except where the Council is of the view that religious beliefs prohibit its use.
- [2]** A coffin must conform to the specifications as determined by the Municipality.

[8] PROHIBITIONS ON BURIALS

- [1]** No vaults or brick-lined graves are permitted in a cemetery on the understanding that the Municipality may implement a modular grave system to ensure the optimal use of available ground in cemeteries.
- [2]** No person may bury or cause to be buried a body if the conditions for burial as determined by the Municipality have not been complied with.
- [3]** No person may bury or cause to be buried a body in a private grave unless the person performing the burial had a right to bury a body in that grave or the deceased whose body is to be buried had a right, prior to death, to be buried in that grave.

[9] MOUND ON GRAVE

The Municipality has the discretion to lower any mound on any grave should this, in the Municipality's opinion, be necessary.

[10] EXHUMATION

- [1]** No person may exhume, disturb or remove a body from or re-inter a body in a grave unless –

- [a] he has obtained the authority required in terms of applicable legislation; and
 - [b] the conditions specified by such authorities are complied with.
- [2] No body may be exhumed less than eighteen months after burial unless so directed by a competent authority or unless the coffin in which the body is contained was hermetically sealed prior to the burial.
- [3] All exhumations must take place in accordance with the conditions as determined by the Municipality.

[11] APPLICATION FOR MEMORIAL WORK

- [1] No person may undertake memorial work in a cemetery, whether erection or removal, unless –
 - [a] such person has obtained a written permit issued by the Municipality; and
 - [b] in accordance with the conditions attaching to such permit as determined by the Municipality.
- [2] An application for a permit referred to in subsection [1] must contain such particulars of the method of erection and the inscription to be placed thereon as the Municipality may require and the Municipality may refuse to issue such permit if, in its opinion, such memorial work is –
 - [a] likely to be of inferior workmanship or quality;
 - [b] likely in any way to disfigure a cemetery;
 - [c] calculated to hurt or offend the feelings of the public; or
 - [d] likely to create a danger.
- [3] Any person responsible for memorial work being carried out within a cemetery must at any time when requested by the authorised official to do so, produce the permit required in terms of this section to carry out such memorial work.

[12] CARE OF MEMORIALS, GRAVES AND PLOTS

- [1] The holder of an exclusive right and/or the purchaser of a memorial must keep the grave or plot concerned and the memorial thereon in good order and repair.
- [2] Whenever the holder of an exclusive right and/or the purchaser of a memorial has allowed the grave, plot or memorial thereon to fall into such a state of disrepair as, in the opinion of the Municipality, constitutes a danger, nuisance or disfigurement in a cemetery, the Municipality may call upon such holder and/or purchaser to repair or to remove the memorial within a stipulated period and to a standard that the Municipality may require.
- [3] In the event that the required repairs or removal are not done within the stipulated period, the Municipality may repair or remove the memorial without paying compensation to the holder and/or

purchaser and may recover the expense of such repair or removal from such holder and/or purchaser.

[13] UNAUTHORISED MEMORIALS

- [1] The Municipality may call upon the person who erected or constructed a memorial to remove it within a stipulated period if it has been erected or constructed contrary to the terms and conditions of the Municipality.
- [2] If the memorial is not removed within the stipulated period, the Municipality may itself remove the memorial without paying compensation to the person who erected or constructed it and may recover the expense of such removal from that person.

[14] GENERAL REQUIREMENTS FOR MEMORIALS AND MEMORIAL WORK

- [1] Grave guards may be installed only on such terms and conditions as determined by the Municipality.
- [2] The Municipality may provide books of remembrance in which memorial inscriptions may be made.
- [3] The Municipality may erect memorials in the form of park benches, fountains and bird baths.
- [4] Where it is necessary to cause a subsequent burial in a grave or a plot, the onus is on the person requiring the burial to remove any existing memorials required to be removed for that purpose and for their replacement, if necessary.
- [5] The Municipality may fix and determine the position of any memorials, having reference to the general plan for ornamenting a cemetery.
- [6] The Municipality or its employees will not be liable to members of the public for any damage to or theft from graves, memorials or any other embellishments to graves within cemeteries under the Municipality's control.

[15] PROHIBITIONS ON MEMORIAL WORK

- [1] No person may –
 - [a] use any part of a cemetery, road, or footpath therein, for the cutting, dressing or manufacturing of tombstones, monuments, kerbing or other grave fittings except with the written consent of the Municipality;
 - [b] carry out any memorial work or bring any materials into a cemetery for the purpose of such work on Saturdays, Sundays and public holidays, except where the removal of memorials is necessary to effect a burial; or
 - [c] erect palings or railings on a grave.

- [2] Any person who requires written permission in terms of this section must produce such written permission at the request of the authorised official at any time.

[16] GENERAL

- [1] No burial may take place on a public holiday, unless the permission of the Municipality has been obtained.
- [2] No person under 12 years of age may enter any cemetery unless such under the care of a person of full legal age who must be responsible and accountable for the person under 12 years of age.
- [3] No person may –
- [a] solicit any business or order, or exhibit, distribute, or leave any business card or advertisement within a cemetery without the written consent of the Municipality;
 - [b] use any part of a cemetery, or any road or footpath therein for hawking or conducting of any other business without the written consent of the Municipality;
 - [c] leave or deposit any rubbish, loose soil, stone or other debris within a cemetery other than at a place provided for that purpose;
 - [d] mark, draw, scribble or erect an advertisement upon or in any way deface a wall, building, fence, gate, memorial or other erection in a cemetery or in any way damage or deface any other part of a cemetery or anything contained therein;
 - [e] overnight in, trespass on or enter and remain in any cemetery unless for the purposes of a burial or visiting a grave in such cemetery;
 - [f] use a cemetery or any road or footpath therein, for the conveyance of goods, parcels or other materials or as a thoroughfare or short cut;
 - [g] sit, stand or climb upon or over memorials, a gate, wall, fence or building in a cemetery or cause any damage or other nuisance or disturbance therein;
 - [h] enter or leave a cemetery other than by the gates and/or doors provided;
 - [i] disturb or annoy any person lawfully present in a cemetery;
 - [j] play any games or sport in a cemetery;
 - [k] discharge any firearm except as a salute at a military funeral, or discharge any airgun or catapult within a cemetery;
 - [l] play or perform any music in a cemetery without the permission of the authorised official;
 - [m] hold or take part in any demonstration for any purpose in a cemetery without the prior consent of the Municipality;

- [n]** enter and drive in a cemetery with a vehicle except in accordance with the terms and conditions determined by the Municipality from time to time;
 - [o]** bring an animal into a cemetery;
 - [p]** bring intoxicating liquor or any dependence-producing substance into a cemetery, or be in possession of such liquor or dependence-producing substance in a cemetery, without the consent of the Municipality;
 - [q]** expose or convey a body in an unseemly manner in a cemetery;
 - [r]** pick or in any way interfere with plants, shrubs, flowers or trees in a cemetery;
 - [s]** plant a tree or shrub on a grave or plot or in any other place in a cemetery without the permission of the authorised official, and for these purposes, the authorised official is entitled to prune, cut down or remove any shrub, plant, flower or tree in a cemetery and the Municipality is not liable to any person who may suffer damages as a result of such pruning or removal by the authorised official;
 - [t]** obstruct, restrict or oppose the authorised official or other authorised official in the course of his duty or refuse to comply with any order or request of the authorised official or other authorised official or any directive of the Municipality; or
 - [u]** knowingly make any false statement under these by-laws or wilfully conceal any fact or any document required by these by-laws.
- [4]** The maximum speed limit in a cemetery is 20km/h or as otherwise determined by the Municipality.
- [5]** The driver of a vehicle within a cemetery passing in close proximity to any point where a funeral service is being conducted must pay the necessary respect by driving in an orderly and dignified manner.
- [6]** Persons entering the Municipality's cemeteries do so at their own risk and the Municipality will not be liable or accept any responsibility for damage, loss or injury to any person or property howsoever arising, except where such loss, damage or injury is proved to be due to the wilful misconduct of the Municipality or any of its employees acting in the course and scope of their employment with the Municipality.
- [7]** Every cemetery must be open to the general public from 9:00 to 16:30 and no person may be present in a cemetery outside these hours except with the permission of the authorised official.
- [8]** Offices situated within cemeteries will be open during the hours as determined by the Municipality from time to time.

[17] SAVINGS

- [1]** These by-laws must be read in conjunction with any regulations pertaining to cemeteries or health issues under or in terms of the Health Act, 1977 [Act No. 63 of 1977] or any superseding legislation and in the event of conflict the provisions of the regulations will prevail.
- [2]** The Municipality may, if it deems it desirable to do so in the public interest, waive compliance with or relax the provisions of these by-laws; provided that any person whose rights are adversely affected by such waiver or relaxation will not be bound thereby.
- [3]** In each case in which such waiver or relaxation has been granted to any person, the Municipality must serve a written notice upon such person citing the relevant provision waived or relaxed and the extent to which such provision has been waived and, in addition, the Municipality must keep a record containing an identical copy of each such notice, which record must be available for inspection by members of the public at the offices of the Municipality.

[18] COMPLIANCE NOTICE

- [1]** If an authorized official, after inspecting any cemetery reasonably believes that a provision of these by-laws is being contravened, he may serve a compliance notice on the person apparently responsible for such contravention.
- [2]** A compliance notice must state –
 - [a]** why the authorized official believes that these by-laws are being contravened;
 - [b]** the measures that must be taken to ensure compliance with these by-laws;
 - [c]** the time period within which the measures must be taken;
 - [d]** the possible consequences of failing to comply with the notice; and
 - [e]** how to appeal against the notice.
- [3]** If a person fails to comply with a compliance notice that requires a particular action to be taken, the Municipality may –
 - [a]** take the required action specified in the compliance notice; and
 - [b]** recover, as a debt, from the person to whom the notice was given, the costs and expenses reasonably incurred in taking the required action; or
 - [c]** direct that a prohibition notice be served on such person in terms of section 19 of these by-laws.

[19] PROHIBITION NOTICE

- [1]** An authorized official may, after inspecting any cemetery as contemplated in section 18, serve a prohibition notice on the person

prohibiting the stated contravention and requiring measures to be taken to ensure that this occurs.

- [2] The authorized official must give the person on whom he intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice.
- [3] A prohibition notice must state –
 - [a] the reasons for serving the notice;
 - [b] whether or not the Municipality will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;
 - [c] the possible consequences of failing to comply with the notice; and
 - [d] how to appeal against the notice.
- [4] Unless a prohibition notice provides otherwise, it comes into effect when it is served under subsection [1] and remains in force until it is withdrawn.
- [5] It is a defence for any person charged with failing to comply with a prohibition notice to prove that –
 - [a] he did not know of the existence of the prohibition order and could not reasonably be expected to have known of its existence; and
 - [b] he had complied with the prohibition notice within 48 hours of the time that the notice was issued to him.

[20] WITHDRAWAL OF PROHIBITION NOTICE

- [1] The authorized official must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a prohibition notice, carry out an investigation of the affected area of the cemetery.
- [2] After completing the investigation, the authorized official must inform the person on whom the prohibition notice was served or that person's agent in writing, whether or not the prohibition has been removed or withdrawn.
- [3] The Municipality may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection [1], a fee as prescribed in the applicable tariff policy for undertaking the investigation.

[21] DELIVERY OF NOTICES

A notice, order or other document is to be regarded as having been properly served if –

- [a] it has been delivered to that person personally;
- [b] sent by registered post to the person to whom it is addressed at his last known address;

- [c] it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;
- [d] if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided for in subsections [1] [a], [b] or [c].

[22] APPEAL

- [1] A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.
- [2] The Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- [3] When the appeal is against a decision taken by –
 - [a] a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - [b] the Municipal Manager, the Executive Committee is the appeal authority; or
 - [c] a political structure or political officer bearer, or a Councillor Council is the appeal authority.
- [4] The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

[23] OFFENCES

Any person who contravenes these by-laws or any term, condition, directive or instruction of the Municipality hereunder is guilty of an offence and liable on conviction to the applicable fine as prescribed for the offence under the Adjustments of Fines Act, 1991 [Act No. 101 of 1991] or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[24] REPEAL OF BY-LAWS

- [1] Any by-law adopted by the Municipality or a municipality now forming an administrative unit of the Municipality and relating to any matter regulated by these by-laws are, from date of promulgation of these by-laws, hereby repealed.
- [2] Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law is deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

LOCAL AUTHORITY NOTICE 79**TSOLWANA LOCAL MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996] the By-laws Relating to Childcare Services which come into operation on the date of publication thereof.

BY-LAWS RELATING TO CHILDCARE SERVICES**PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996;
AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to regulate the establishment, conduct and control of all childcare services under its control;
NOW THEREFORE be it enacted by the Council as follows:

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[1] **DEFINITIONS**

In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and, unless the context otherwise indicates –

"authorised official" means an official of the Municipality or the official of another municipality or another organ of state with which the Municipality has concluded an agreement for the rendering of services in terms of these by-laws and to whom the Council has delegated a duty, function or power under these by-laws;

"child" means any person under the age of 18 years of age, including an infant, who is in the care of a childcare facility;

"childcare service" means any undertaking involving the custody and care of more than six children during the whole or part of the day on all or any days of the week;

"child-minder service" means any undertaking involving the custody and care of a maximum of six children during the whole or part of the day on all or any days of the week;

"certificate" means a certificate issued in terms of section 3 of these by-laws;

"certificate holder" means a person to whom a certificate has been issued in terms of section 3 of these by-laws;

"communicable disease" means a communicable disease as defined by section 1 of the Health Act, 1977 [Act No. 63 of 1977];

"Council" means the Council of the Municipality or any Committee, political office-bearer or official thereof acting by virtue of any power entrusted or delegated to it or to him in terms of legislation with regard to the application and implementation of these by-laws;

"facility" means a place where either a childcare or a child-minder service is conducted, whichever is applicable, and "service" has a corresponding meaning;

"Health Act" means the Health Act, 1977 [Act No. 63 of 1977];

"Municipality" means the Tsolwana Local Municipality and includes the Council thereof;

"National Building Regulations" means the regulations published under the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977];

"occupier" includes any person in actual occupation of land or premises without regard to the title under which he occupies, and, in the case of premises subdivided and let to lodgers or various tenants, includes the person receiving the rent payable to the lodgers or tenants whether for his own account or as agent for any person entitled thereto or interested therein;

"owner" includes any person that has title to any premises or land or any person receiving the rent or profits of any land or premises from any tenant or occupier thereof, or who would receive such rents or profits if such land or premises were let, whether for his own account or as agent for any person entitled thereto or interested therein; provided that the "owner" in respect of premises on the Sectional Title Register opened in terms of section 12 of the Sectional Titles Act, 1986, [Act No. 95 of 1986] means the body corporate, as defined in that Act, in relation to such premises;

"premises" means the erf, lot or stand, including any buildings or part thereof and outdoor play areas in or upon which a childcare service or a child-minder service is conducted.

[2] APPLICATION OF BY-LAWS

[1] These by-laws apply to all childcare and child-minder services operated within the jurisdiction of the Municipality.

[2] Subject to the provisions of these by-laws, no person may conduct a childcare or a child-minder service unless it has been registered as contemplated in section 3 of these by-laws and such service is in possession of a valid certificate issued in terms of that section.

[3] Any person who is, at the date of commencement of these by-laws, conducting a childcare or a child-minder service must, within one month of that date, or within such extended period as the Municipality may allow, on written application made prior to the expiry of the said period, apply for registration of such service in terms of section 3 of these by-laws.

[4] If a person referred to in subsection [3] who is conducting a childcare or a child-minder service fails to apply as aforesaid, or if the application in respect thereof is refused, he will be deemed to have contravened subsection [2] of these by-laws by continuing to conduct such service after such period or after refusal of his application.

[5] Any person whose service has been registered in terms of section 3 of these by-laws must ensure that the service and the premises comply with the conditions and restrictions imposed upon the operation of such service.

[3] REGISTRATION OF CHILDCARE FACILITIES AND CHILD-MINDER FACILITIES

[1] An application to register a childcare or child-minder service must be in writing to the Municipality in a manner and form prescribed by the Municipality.

[2] An application in terms of subsection [1] must, if the applicant is not the owner of the premises to which the application applies, be accompanied by the written consent of the owner of such premises.

- [3]** The Municipality may, before or during the consideration of the application, request such further information relating to the application as it deems necessary.
- [4]** The Municipality may approve an application and register the service if it is satisfied that the no circumstances exist which are likely to be prejudicial to the health, safety and welfare of the children who are to be cared for at the facility.
- [5]** The Municipality may at any time before or after approval of an application in terms of this section, require the applicant to submit to the Council –
- [a]** a report at the applicant's cost from a registered psychologist pertaining to the applicant's state of mental health; and
 - [b]** a social report on the qualifications and criminal background of such applicant.
- [6]** The Municipality may approve an application and register the facility if it is satisfied that the premises comply with:
- [a]** The National Building Regulations;
 - [b]** the Health Act;
 - [c]** the Municipality's Town Planning Scheme or Town Planning Scheme in the course of preparation;
 - [d]** requirements relating to the premises on which the childcare or the child-minder service is to be conducted as contemplated in these by-laws; and
 - [e]** the registration requirements of the Department of Social Development in accordance with the Childcare Act, 1983 [Act No. 74 of 1983] as amended or any other applicable legislation.
- [7]** The Municipality may, when approving an application for registration, impose such further conditions and restrictions as it deems fit.
- [8]** The Municipality must, on approval of an application for registration in terms of subsection [3] issue a certificate –
- [a]** stating the name of the person to whom it is issued;
 - [b]** describing the premises in respect of which the application was approved;
 - [c]** specifying any conditions or restrictions imposed in terms of subsection [6];
 - [d]** stating the period for which the premises will be so registered.
- [9]** Registration and certification is not transferable to any person, heir or successor-in-title to the certificate holder.
- [10]** The Municipality must within 14 days of a decision not to approve an application for the registration of a childcare or child-minder facility –
- [a]** inform the applicant of such a decision;

- [b]** provide written reasons for such refusal if so requested by the applicant; and
 - [c]** provide the applicant an opportunity, if requested, to comply with the stated requirements of, or any other conditions and/or requirements that the Council may stipulate, within a period determined by the Council.
- [11]** A certificate holder must, at least 30 days before expiry of the period referred to in subsection 8[d], re-submit an application for registration in terms of this section.

[4] CANCELLATION OF REGISTRATION

- [1]** The authorised official must, by written notice to the certificate holder, cancel the registration of a childcare service if –
 - [a]** the certificate holder is convicted of an offence under these by-laws, or pays an admission of guilt in respect of any such contravention;
 - [b]** the certificate holder fails to comply with any condition or restriction imposed in terms of subsection 3[6]; or
 - [c]** the authorised official is of the reasonable opinion that the certificate holder is an unsuitable person to conduct a childcare service, or that circumstances exist that are likely to be prejudicial to the health, safety and welfare of children being cared for by the service;
 - [d]** the certificate holder sells or vacates the premises;
 - [e]** the certificate holder or owner dies; and
 - [f]** the certificate holder notifies Municipality of the permanent termination of the service as contemplated in section 5 of these by-laws.
- [2]** The authorised official may, in exceptional circumstances or where it is impractical or impossible to do so, dispense with the requirement in subsection [1] to provide a written notice to the certificate holder.
- [3]** Upon cancellation of registration in terms of subsection [1] of this section, the registration certificate will lapse and the facility must be closed immediately; provided that, before cancellation of the registration, the authorised official may in his sole discretion, suspend cancellation to afford the certificate holder an opportunity to remedy a defect in the premises or rectify an omission.
- [4]** The authorised official may, if the certificate holder remedies the defect in the premises or rectifies an omission referred to in subsection [3] to the satisfaction of such authorised official, suspend the cancellation of registration; provided that during the period of such suspension, the certificate holder must cease operation of the relevant child care or child-minding facility.

[5] TERMINATION OF SERVICE

The certificate holder must immediately notify the Municipality of the temporary or permanent termination or closure of the childcare facility to which the certificate relates.

[6] RIGHT OF ENTRY AND INSPECTION OF PREMISES AND RECORDS

An authorised official may, in the enforcement of these by-laws, at any reasonable time and without prior notice, enter any premises upon which a childcare or child-minder service is being conducted, or upon which such official has reasonable grounds for suspecting the existence of such service, and conduct such examination, enquiry and inspection thereon as he may deem necessary.

[7] REQUIREMENTS FOR A CHILDCARE FACILITY

[1] Provision must be made, in respect of a facility with 30 or more children, for an office, staffroom and sickbay with –

- [a]** a separate office large enough to be divided into a sick bay to accommodate at least two children; and
- [b]** a staff room where staff can rest and keep safe their personal possessions; provided that the office, staff room and sickbay referred to in subsection 1[a] may be combined.

[2] Provision must be made for an indoor play area –

- [a]** covering a minimum floor space of 1,8m² per child to be used for play, meals and rest; provided that not more than one third of the compulsory floor space per child may consist of a covered veranda;
- [b]** with cots and mattresses utilised for sleeping purposes by children, arranged so that there is a minimum of a 50cm space between the cots and/or mattresses.

[3] Provision must be made for a kitchen area that is –

- [a]** separate from the play area;
- [b]** inaccessible to children; and with –
 - [i]** adequate and suitable cooking and washing facilities;
 - [ii]** a smoothly finished floor of concrete or any other impervious material;
 - [iii]** adequate natural lighting and ventilation;
 - [iv]** smooth surface walls with a smooth finish and painted with a washable paint;
 - [v]** dust-proof ceilings;
 - [vi]** working surfaces made exclusively of stainless steel or other impervious material;
 - [vii]** cooling facilities for the storage of perishable food;
 - [viii]** adequate storage space;
 - [ix]** an adequate number of waste bins with tightly fitting lids;

[d] be free of excavations and dangerous steps and levels.

[8] REQUIREMENTS FOR CHILD-MINDER FACILITY

The certificate holder must ensure that a child-minder facility complies with the National Building Regulations and that the following minimum accommodation and facility requirements are provided:

- [1] An adequate, suitable and unobstructed indoor floor area reserved for the use of the children;
- [2] a suitable floor covering for the floor area if required by and authorised official and to his satisfaction;
- [3] a kitchen on the premises for the preparation of meals;
- [4] storage facilities for the personal belongings of each child;
- [5] a towel and face cloth for each child, which must be kept or hung separately;
- [6] a plastic bucket with a close-fitting lid for each child for the storage of soiled napkins, which buckets must –
 - [a] be marked to ensure exclusive use; and
 - [b] stored in a bathroom or other suitable area, inaccessible to any child;
- [7] a separate storage for clean napkins; and
- [8] an adequate outdoor play area comprising lawns or other safe surface that is –
 - [a] fenced; and
 - [b] has approved lockable or child-proof gates; provided that if such an area cannot be provided, the authorised official may, in his sole discretion, approve of the substitution of an indoor area additional to that provided in terms of subsection 1[a].

[9] EQUIPMENT FOR CHILDREN

A certificate holder must provide sufficient and suitable equipment in every childcare facility and, except where otherwise provided, such equipment must comprise at least the under-mentioned items which must be to the satisfaction of the authorised official and comply with the following minimum requirements:

- [1] Lightweight, washable chairs of a suitable height, without splinters or rough surfaces;
- [2] sturdy, washable tables without splinters;
- [3] mats, or beds with mattresses for sleeping and resting, that must –
 - [a] not be dangerous to the child; and
 - [b] in the case of mattresses, be covered with suitable waterproof material;
- [4] sheets, waterproof sheets and blankets;
- [5] sufficient, safe and adequate indoor as well as outdoor play apparatus and toys;

- [6] personal toiletries such as face cloth, toothbrush, a comb or brush and items such as soap, paper towels and toilet paper must be provided;
- [7] sufficient eating utensils; and
- [8] sand pits that should –
 - [a] be covered overnight;
 - [b] be sprinkled with coarse salt every six weeks; and
 - [c] have the sand replaced at least once a year.

[10] GENERAL REQUIREMENTS

Notwithstanding anything to the contrary contained in these by-laws, every childcare and child-minder facility must comply with the following general requirements:

- [1] All interior walls must have a durable finish that can be cleaned with relative ease.
- [2] all floors must be constructed of a smooth and impervious material that is durable and can be easily cleaned.
- [3] if carpeting is used on the floors, it must be kept clean at all times.
- [4] any slats or rails forming part of an enclosure, security gate, play pen, bed, cot or any other object or structure whatsoever, must –
 - [a] be a minimum of 75mm apart;
 - [b] be installed and maintained in a good state of repair; and
 - [c] if painted, be non-toxic.
- [5] All windows and doors accessible to children must be constructed of safety glass.
- [6] A separate storage area must be provided for the storage of indoor and outdoor play materials, equipment, stretchers, sleeping mats, bedding and linen.
- [7] Waste bins with tightly fitted lids must be provided.
- [8] Apparatus and equipment used and any structures that may be on the premises must in no way present any danger to the children.
- [9] Provision should be made for the storage of medicines, cleaning materials and other harmful agents in such a way that it is out of the reach of children and kept separate from food.
- [10] Pets may not be kept on the premises without the prior permission of the Municipality.
- [11] All food, eating utensils and equipment used for the preparation, handling or serving of food must be properly protected against dust, dirt, insects or any contaminating agent.
- [12] Staff living quarters must be kept separate from the facility to prevent children having access thereto.
- [13] Insects and vermin must be efficiently combated.
- [14] At least 2 meals per day, balanced to meet a child's daily nutritional requirement must be provided to a child who stays in the childcare or child-minder facility for longer than 4 hours at a time.

[15] Children must at all times be under the direct supervision of an adult staff member.

[16] Staff must be trained and skilled in first aid and basic fire fighting.

[11] RATIO OF STAFF TO NUMBER OF CHILDREN

[1] The certificate holder must ensure that the following ratio of staff-to-children is adhered to at all times:

[a] One childcare worker for every 6 or less infants between birth and 18 months of age;

[b] one childcare worker for every 12 or less infants between 18 months and 3 years of age;

[c] one childcare worker for every 20 or less children between 3 and 4 years of age;

[d] one childcare worker for every 30 or less children between 4 and 5 years of age; and

[e] one childcare worker for every 35 or less children of school-going age.

[2] Administrative and domestic staff is not included in the ratio referred to in subsection [1].

[12] HEALTH REGISTER

[1] The certificate holder must maintain a health register reflecting the following details of all children attending the facility:

[a] Name and date of birth;

[b] names of parents or guardians and their home and work addresses and telephone numbers;

[c] name and address and telephone number of a medical practitioner and dentist holding written authority from the parents or guardians to consult them in emergencies;

[d] information concerning the child's general state of health and physical condition;

[e] details of medical procedures that each child has undergone;

[f] details, including the dates of all illnesses or communicable diseases from which the child has suffered;

[g] details of immunisations against polio, diphtheria, tetanus, whooping cough, measles, mumps, German measles and tuberculosis; and

[h] details of allergies and any current medical treatment.

[2] The names of children who are allergic and the substances or products to which they are allergic must be displayed prominently in the facility.

[3] A proper record of all medicine given to a child must be kept.

[4] The register must be kept available for inspection for a period of at least three years from the date that any child whose name is

reflected therein ceased being cared for by the facility and must be produced to an authorised official upon demand for inspection.

[13] MEDICAL CARE OF CHILDREN

The certificate holder must –

- [a]** observe all children for any signs of illness, indisposition, injury or other abnormal condition, including possible child abuse.
- [b]** maintain an Incident Register that is separate from the Health Register referred to in section 12 and in respect of which the provisions of section 12[4] will apply, of all –
 - [i]** injuries and illnesses which occurred or manifested themselves whilst a child was on the premises; and
 - [ii]** injuries observed on a child which occurred other than at the premises;
- [c]** immediately notify the parent or guardian of an illness, indisposition, injury or other abnormal condition referred to in subsection 1[b] [i];
- [d]** if necessary and subject to the prior consent of the parent or guardian –
 - [i]** summon the private medical practitioner if any child is suffering or suspected to be suffering from illness or injury referred to in subsection 1[b] [i]; or
 - [ii]** in the event of the unavailability of such medical practitioner referred to in subsection 1[d] [ii], summon a medical practitioner of the certificate holder's choice;
- [e]** immediately isolate the child suffering and devote all care necessary to the comfort and treatment of the child on the premises;
- [f]** administer medicine to a child only with the written consent of that child's parents or guardian whose endorsement must be made in the Health Register referred to in section 12;
- [g]** notify the authorised official and/or the local social worker immediately upon detecting evidence of a possible –
 - [i]** communicable disease; or
 - [ii]** child-abuse;
- [h]** ensure that all children admitted to the facility have completed basic immunisation schedules; provided that if a child is too young, the certificate holder must ensure that such immunisation be performed as soon as the child is old enough;
- [i]** ensure, as soon as head or body lice are noticed –
 - [i]** that the parents or guardians are advised immediately;
 - [ii]** that the affected child is isolated and removed from the facility as soon as possible; and
 - [iii]** that the affected child is not permitted to return to the facility before the condition has cleared up.

[14] HEALTH AND SAFETY MEASURES

- [1]** The certificate holder must, in the interest of the health and safety of the children –
- [a]** take effective precautions for the protection of the children against fires, hot water installations, electrical fittings and appliances and any other object, condition or thing which that may be dangerous or is likely to cause injury to any child;
 - [b]** fence and completely cover any swimming or paddling pool on the premises at all times when not in use;
 - [c]** ensure that any children utilising a swimming or paddling pool do so –
 - [i]** with the written consent of their parents or guardians; and
 - [ii]** under the constant supervision of an adult who is able to swim;
 - [d]** ensure that all gates or doors of outdoor play areas are securely locked or otherwise closed at all times so as to –
 - [i]** prevent children from entering or leaving the confines of such areas or the premises of their own accord; and
 - [ii]** prevent the entrance or presence of unauthorised people and domestic animals in the facility;
 - [e]** to the satisfaction of the authorised official, maintain adequate first-aid equipment that is –
 - [i]** readily available for use; and
 - [ii]** kept out of reach of children;
 - [f]** install fire fighting equipment on the premises –
 - [i]** in accordance with National Building Regulations SABS 0400;
 - [ii]** with an emergency procedure submitted to the fire brigade or disaster management officer or other designated official of the Municipality for approval.
 - [g]** store medicines, corrosive and other harmful substances, including cleaning materials and alcoholic beverages –
 - [i]** in a safe manner; and
 - [ii]** in a place not accessible to children;
 - [h]** ensure that no noxious or poisonous plant or shrub grows on the premises;
 - [i]** ensure, in respect of any employees and other persons involved in conducting childcare or child-minder services, or any person present on the premises on the instruction of the authorised person who is reasonably suspected to be suffering from, or carrying a communicable disease –
 - [i]** that a medical examination of such persons takes place immediately; and

- until he is handed back to his parent or guardian or an authorized person;
- [b] in addition to the driver, at least one other adult should be in a vehicle transporting children in terms of subsection 1[a];
 - [c] all vehicle doors are fitted with child locks and said locks are used at all times when transporting children;
 - [d] the driver of a vehicle referred to in subsection 1[c] remains in the driving cabin of the vehicle at all times and may not assist in the handing-over of the children;
 - [e] no children are transported in the driving cabin of a vehicle;
 - [f] the driver of the vehicle transporting children is in possession of a Public Driver's Permit and Public Indemnity Insurance;
 - [g] infants in carrycots are not placed beneath seats in vehicles;
 - [h] the sitting space for each child and the room for carrycots comply with the prescribed requirements; and
 - [i] any other prescribed legislation regulating the transportation of children is adhered to.

[17] WAIVER OF PROVISIONS

- [1] The Municipality may, if it deems it desirable to do so in the public interest, waive compliance with or relax the provisions of these by-laws; provided that any person whose rights are adversely affected by such waiver or relaxation will not be bound thereby.
- [2] In each case in which such waiver or relaxation has been granted to any person, the Municipality must serve a written notice upon such person citing the relevant provision waived or relaxed and the extent to which such provision has been waived and, in addition, the Municipality must keep a record containing an identical copy of each such notice, which record must be available for inspection by members of the public at the offices of the Municipality.

[18] COMPLIANCE NOTICE

- [1] If an authorized official, after inspecting premises on which a child-care or childminder service as contemplated in these by-laws is conducted, reasonably believes that a provision of these by-laws is being contravened, he may serve a compliance notice on one or more of the following persons:
 - [a] The owner of the premises;
 - [b] the occupier of the premises;
 - [c] any person apparently in charge of undertaking the aforesaid use on the premises; or
 - [d] the certificate holder.
- [2] A compliance notice must state –
 - [a] why the authorized official believes that these by-laws are being contravened;

- [b] the measures that must be taken to ensure compliance with these by-laws;
 - [c] the time period within which the measures must be taken;
 - [d] the possible consequences of failing to comply with the notice; and
 - [e] how to appeal against the notice.
- [3] If a person fails to comply with a Compliance Notice that requires a particular action to be taken, the Municipality may –
 - [a] take the required action specified in the compliance notice; and
 - [b] recover, as a debt, from the person to whom the notice was given, the costs and expenses reasonably incurred in taking the required action; or
 - [c] direct that a prohibition notice be served on such person in terms of section 19 of these by-laws.

[19] PROHIBITION NOTICE

- [1] An authorized official may, after inspecting premises contemplated in section 18, serve a prohibition notice on the owner, occupier, user of such premises or certificate holder, prohibiting the conduct described in such notice and requiring measures to be taken to ensure that this occurs.
- [2] The authorized official must give the person on whom he intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice.
- [3] A prohibition notice must state –
 - [a] the reasons for serving the notice;
 - [b] whether or not the Municipality will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;
 - [c] the possible consequences of failing to comply with the notice; and
 - [d] how to appeal against the notice.
- [4] Unless a prohibition notice provides otherwise, it comes into effect when it is served under subsection [1] and remains in force until it is withdrawn.
- [5] The authorized official must as soon as possible affix a copy of the notice in a conspicuous position on the premises.
- [6] It is a defence for any person charged with failing to comply with a prohibition notice to prove that –
 - [a] he did not know of the existence of the prohibition order and could not reasonably be expected to have known of its existence; and

- [b] he had complied with the prohibition notice within 48 hours of the time that the notice was affixed to the premises in terms of subsection [5].

[20] WITHDRAWAL OF PROHIBITION NOTICE

- [1] The authorized official must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a Prohibition Notice, carry out an investigation of the premises.
- [2] After completing the investigation, the authorized official must inform the person on whom the Prohibition Notice was served or that person's agent in writing, whether or not the prohibition has been removed or withdrawn.
- [3] The Municipality may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection [1], a fee as prescribed in the applicable tariff policy for undertaking the investigation.

[21] DELIVERY OF NOTICES

- [1] A notice, order or other document is to be regarded as having been properly served if –
 - [a] it has been delivered to that person personally;
 - [b] sent by registered post to the person to whom it is addressed at his last known address;
 - [c] it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;
 - [d] if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided for in subsections [1] [a], [b] or [c]; or
 - [e] if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the premises to which it relates.
- [2] A notice, order or other document that may in terms of these by-laws be served on the owner or occupier of premises –
 - [a] may be addressed to the owner or occupier of the specified premises and need not name the owner or occupier; and
 - [b] if the Municipality does not know the address of the owner or occupier of the premises and cannot easily obtain it, the notice, order or other document is to be regarded as having been properly served if it is affixed to a conspicuous place on the premises.

[22] APPEAL

- [1]** A person whose rights are affected by a decision taken by an authorised official under these by-laws may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.
- [2]** The Municipal Manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection [4].
- [3]** The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- [4]** An appeal submitted in terms of this section must be dealt with in the manner prescribed by section 62 of the Municipal Systems Act, 2000 [Act No. 32 of 2000].

[23] OFFENCES

Any person is guilty of an offence if he –

- [a]** contravenes or fails to comply with any provision of these by-laws;
- [b]** contravenes or fails to comply with any notice given or condition imposed in terms of these by-laws;
- [c]** for the purpose of these by-laws, makes a false statement knowing it to be false or deliberately furnishes false or misleading information to an authorized official; or
- [d]** threatens, resists, interferes with or obstructs an authorized official or employee of the Municipality in the performance of his powers, duties or functions as contemplated in these by-laws.

[24] PENALTIES

Any person convicted as contemplated in section 23 is upon conviction liable to a fine or imprisonment for a period not exceeding six months, or to both the fine and the imprisonment.

[25] REPEAL OF BY-LAWS

- [1]** Any by-laws adopted by the Municipality or of a municipality now forming an administrative unit of the Municipality and relating to crèches or nursery schools or any facilities in respect to or with regard to any matter regulated in these by-laws are hereby repealed.
- [2]** Anything done under the provisions of the by-laws repealed by subsection [1] is deemed to have been done under the corresponding provision of these by-laws and such repeal will not affect the validity of any approval, authority, waiver or other act which at the commencement of these by-laws is valid under the by-laws so repealed.

LOCAL AUTHORITY NOTICE 80**TSOLWANA LOCAL MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996] the By-laws Relating to the Establishment and Control over Commonages which by-laws come into operation on the date of publication thereof.

BY-LAWS RELATING TO THE ESTABLISHMENT AND CONTROL OVER COMMONAGES**PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996;
AND WHEREAS the Council in the exercise of its functions has the right to control commonages on land in the jurisdiction of the Municipality and matters connected therewith;
NOW THEREFORE be it enacted by the Council as follows:

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- [1] Definitions
- [2] Reservation of land as common pasture
- [3] Office of the Commonage Manager
- [4] Grazing permit required to graze stock on common pasture
- [5] Application for and issue of grazing permit
- [6] Refusal to renew, withdrawal and transfer of grazing permits
- [7] Duties of the Commonage Manager
- [8] Prescripts
- [9] Waiver of provisions
- [10] Appeal
- [11] Penalty Clause
- [12] Repeal of by-laws

[1] DEFINITIONS

In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context indicates otherwise –

"administrative unit", for the purpose of these by-laws, means a former municipality contemplated in section 14[3] of the Local Government: Municipal Structures Act, 1998 [Act No. 177 of 1998];

"Municipality" means the Tsolwana Municipality, a local municipality established in terms of section 12 of the Local Government: Municipal Structures Act, 1998;

"municipal land" means land situated inside the area of jurisdiction of the Municipality, but outside the boundaries of any township of which the Municipality is the owner, or of which the control, to the entire exclusion of the owner, is vested in the Municipality;

"Municipal Manager" means the person appointed as such in terms of section 82 of the Local Government: Municipal Structures Act, 1998;

"these by-laws" includes the prescripts issued in terms of section [7]; and

"township" means a township as defined in section 1 of the Land Survey Act, 1997 [Act No. 8 of 1997] or any similar legislation.

[2] **RESERVATION OF LAND AS COMMON PASTURE**

[1] The Municipality may, in respect of land owned by the Municipality and subject to the provisions of any law or any restriction regarding the use of land in the title deed of that land, by notice in the Provincial Gazette and with effect from a date mentioned in such notice –

[a] reserve such land as common pasture;

[b] at any time add any additional defined piece or pieces of municipal land to the common pasture so reserved; and

[c] at any time withdraw partly or wholly any land which forms part of the common pasture from the reservation thereof as a pasture.

[2] The Municipality may not alienate or deal with the land referred to in subsection [1], except after notice in the Provincial Gazette –

[a] stipulating which piece or pieces of land it intends to withdraw or alienate;

[b] calling on interested persons to attend a meeting at a venue and on a date mentioned in the notice, to discuss the intended withdrawal or alienation; and

[c] stating –

[i] the intended date or dates of withdrawal or alienation of any such piece or pieces of land has been published; and

[ii] the Municipality has considered all representations received in response to such notice;

[3] The alienation or dealing in land and the public notice referred to in subsection [2] may occur only after the lapse of any permit for grazing of stock on the piece or pieces of land that the Municipality intends to withdraw or alienate.

[3] OFFICE OF THE COMMONAGE MANAGER (Community Services Manager)

- [1]** The Municipality must appoint a person as commonage manager, who must report to a manager designated by the Municipal Manager.
- [2]** The commonage manager must be responsible for the proper management and maintenance of all land forming part of the commonage.
- [3]** In the office of the commonage manager, the Municipality must appoint –
 - [a]** for each piece of land forming part of the commonage, a ranger who must deal with the day-to-day administration of that piece of land;
 - [b]** such persons as may be necessary to maintain proper records regarding land forming part of the commonage, maps, camps, allocation of stock, movement of stock, holders of grazing permits on the commonage, marking of stock, stock disease, payments and other matters regarding the administration of the commonage;
 - [c]** a veterinary surgeon on a full-time or part time basis, to fulfill the functions prescribed by or under any law relating to stock.
- [4]** A single ranger may be appointed for more than one piece of land if the pieces of land are so situated that it is practically possible for one ranger to maintain proper control over each of the pieces of land.
- [5]** A ranger must visit the land for which he is appointed on a regular basis and must be present on the land for at least one full working day during each week of the year.
- [6]** On a regular basis, but at least once every three months, the veterinary surgeon appointed by the Municipality must do an inspection on, report on and make recommendations to the commonage manager regarding the state of health of each animal on the commonage.

[4] GRAZING PERMIT REQUIRED TO GRAZE STOCK ON COMMON PASTURE

No person may graze stock on the common pasture of the Municipality, unless –

- [a]** he is the holder of a grazing permit issued by the Municipality and subject to the conditions of such permit;
- [b]** the animal is the progeny of a female animal grazed in terms of a grazing permit contemplated in subsection [1] [a] and is not older than 6 months; and
- [c]** he has paid the commonage fees, determined by the Municipality, in respect of the period for which the grazing permit was issued;

provided that a permit holder may partly or wholly be exempted of such payment in terms of the Indigent Policy of the Municipality.

(**Highly contested issue that there should be permits that carry payment**)

[5] APPLICATION FOR AND ISSUE OF GRAZING PERMIT

- [1]** An application for a grazing permit must –
- [a]** be directed to the Municipal Manager;
 - [b]** be in writing on the form made available by the Municipality for that purpose;
 - [c]** contain adequate proof that the applicant is a permanent resident within the area of jurisdiction of the Municipality; and
 - [d]** contain such further particulars as the Municipality may require.
- [2]** On receipt of an application for a grazing permit, the Municipal Manager must refer it to the commonage manager, who must verify the particulars contained in the application and report thereon to the Municipal Manager.
- [3]** When considering the application, the Municipal Manager must take into account –
- [a]** the report of the commonage manager;
 - [b]** the availability and condition of land in the common pasture of the Municipality to accommodate the required number of stock for which application is made;
 - [c]** the criteria for categories of preference that applicants must take as set out in a notice published by the Municipality in a newspaper circulating in its area of jurisdiction and by such other means as the Municipal Manager may determine.
- [4]** After consideration of the application, the Municipal Manager must –
- [a]** issue the permit as applied for by the applicant;
 - [b]** issue a permit for a lesser number of stock than applied for; or
 - [c]** in writing notify the applicant that his application was not successful with stated reasons.
- [5]** A person whose rights are affected may appeal to the Municipality against a finding of the Municipal Manager and, in respect of such appeal, the provisions of section 62 of the Local Government: Municipal Systems Act, 2000 are applicable.
- [6]** A permit for the grazing of stock on the municipal common pasture is issued –
- [a]** for a period of one year or less and will lapse on the last day of June of each year;
 - [b]** subject to the conditions set out in the permit;

- [c] subject to prior payment of the fees determined by the Municipality in accordance with the applicable schedule of tariffs;
- [7] A permit for the grazing of stock on the municipal common pasture may be renewed twice without the submission of a new application provided that the permit holder has paid –
 - [a] all fees due to the Municipality under these by-laws; and
 - [b] a permit renewal fee as determined by the Municipality no later than the last day of May of the year in which the permit lapses;

[6] REFUSAL TO RENEW, WITHDRAWAL AND TRANSFER OF GRAZING PERMITS

- [1] The Municipal Manager may refuse to renew the permit referred to in subsection [5] [6] if he is of the opinion that –
 - [a] due to the condition of the land to which the permit holder's stock is allocated, the permit should not be renewed; or
 - [b] there is sufficient evidence that the circumstances of the permit holder have changed to such an extent that the application of any new applicant must take preference in terms of a notice referred to in subsection [5] [3] [c].
- [2] A permit for the grazing of stock on the municipal common pasture may be withdrawn by the Municipality if the holder of the permit contravenes or fails to comply with –
 - [a] a condition subject to which the permit was issued;
 - [b] any provision of these by-laws; or
 - [c] a lawful direction by –
 - [i] the ranger in charge of the land on which his stock is grazed; or
 - [ii] the veterinary surgeon appointed by the Municipality.
 - [iii] A permit to graze stock on the common pasture of the Municipality may not be transferred.

[7] DUTIES OF THE COMMONAGE MANAGER

The commonage manager must –

- [a] divide each piece of land reserved as common pasture in terms of section 2[2] [a] in camps suitable for the grazing of stock and allocate a number to each camp;
- [b] provide, in each camp, such facilities as may be necessary for the maintenance of stock in that camp;
- [c] draft, or cause to be drafted, proper maps of each piece of land reserved as part of the common pasture, indicating at least the boundaries of camps, gates and waterholes;
- [d] allocate the stock of each permit holder to a specific camp or camps and notify such permit holder accordingly;

- [e]** develop, implement and adjust according to changing circumstances, a proper program of rotation of grazing on land reserved as common pasture by the Municipality; and
- [f]** keep proper records, open for inspection by any person who has an interest therein, regarding –
 - [i]** all permit holders;
 - [ii]** dates of expiry of all permits;
 - [iii]** payments or exemptions of payment of all permit holders; and
 - [iv]** any other matter which, in his opinion, needs to be recorded.

[8] PRESCRIPTS

- [1]** The Municipality may issue prescripts relating to the control, management and use of the municipal common pasture, including –
 - [a]** the construction and maintenance of dipping tanks, the monies payable in connection with the use thereof, and the persons responsible for the payment thereof;
 - [b]** the marking of stock kept thereon;
 - [c]** the prohibition of the keeping of dangerous and undesirable animals thereon, and the definition of such animals;
 - [d]** the prevention and treatment of stock diseases in respect of stock kept thereon, and the exclusion of stock which in the opinion of the veterinary surgeon appointed by the municipality may spread such diseases;
 - [e]** the destruction of carcasses of animals;
 - [f]** the impounding of animals trespassing thereon or grazed thereon without a permit;
 - [g]** the planting, care and protection, and the destruction, chopping or cutting off of grass, trees, shrubs or any other plants or crop, and the sale thereof;
 - [h]** the burning of grass and the eradication of noxious weeds;
 - [i]** the hunting of game thereon by any means, including the use of firearms or dogs;
 - [j]** the duties and functions of rangers;
 - [k]** the prohibition to put out poison; and
 - [l]** generally, any matter which the Municipality deems necessary or expedient in connection with the control, management or use of the common pasture or the achievement of the objects of these by-laws.
- [2]** A prescript issued in terms of subsection [1] must be –
 - [a]** published in a newspaper circulating in the area of jurisdiction of the Municipality;
 - [b]** placed on the official notice board of the Municipality; and
 - [c]** filed in the municipal code of the Municipality.

- [3] If the Municipal Manager is of the opinion that it is in the public interest, he may, for such period and subject to such conditions he may deem fit, exempt any person, group or category of persons in writing from compliance with any prescripts issued in terms of subsection [1].

[9] WAIVER OF PROVISIONS

- [1] The Municipality may, if it deems it desirable to do so in the public interest, waive compliance with or relax the provisions of these by-laws; provided that any person whose rights are adversely affected by such waiver or relaxation will not be bound thereby.
- [2] In each case in which such waiver or relaxation has been granted to any person, the Municipality must serve a written notice upon such person citing the relevant provision waived or relaxed and the extent to which such provision has been waived and, in addition, the Municipality must keep a record containing an identical copy of each such notice, which record must be available for inspection by members of the public at the offices of the Municipality.

[10] APPEAL

- [1] A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.
- [2] The Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- [3] When the appeal is against a decision taken by –
- [a] a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - [b] the Municipal Manager, the Executive Committee is the appeal authority; or
 - [c] a political structure or political officer bearer, or a Councillor Council is the appeal authority.
- [4] The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

[11] PENALTY CLAUSE

- [1] Any person who contravenes or fails to comply with any provision of these by-laws or any requirement or condition there-under is guilty of an offence.
- [2] Any person convicted of an offence in terms of subsection 11[1] is liable to a fine or to imprisonment for a period not exceeding one year, or to both a fine and such imprisonment.

[12] REPEAL OF BY-LAW

- [1]** All by-laws relating to a matter regulated in these by-laws proclaimed by an administrative unit now forming part of the Municipality are, with effect from the date of promulgation of these by-laws, hereby repealed.
- [2]** Any permission obtained, right granted, condition imposed, activity permitted or any thing done under a repealed law, are deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

ISSUES CONTESTED

- Payment of grazing fee
- Who would be responsible for appointment of rangers

LOCAL AUTHORITY NOTICE 81**TSOLWANA LOCAL MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996], the By-laws Relating to Liquor Trading Hours that come into operation on the date of publication thereof.

BY-LAW RELATING TO LIQUOR TRADING HOURS**PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996 [Act No. 108 of 1996];

AND WHEREAS the Council of the Municipality in the exercise of its functions has an obligation in terms of section 42 of the Eastern Cape Liquor Act, 2003 [Act No. 10 of 2003] to regulate the hours during which liquor may be sold and regulate the operating hours of premises where on-site consumption of liquor takes place in the demarcated municipal area and to provide for incidental matters;

NOW THEREFORE be it enacted by the Council as follows:

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- [1] Definitions
- [2] Application of By-Laws
- [3] Report by Ward Committee
- [4] Hours of Trading
- [5] Exemptions
- [6] Enforcement
- [7] Appeal
- [8] Offences
- [9] Penalties
- [10] Repeal of by-laws

SCHEDULES**[1] DEFINITIONS**

In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and, unless the context otherwise indicates –

"Act" means the Eastern Cape Liquor Act, 2003 [Act No. 10 of 2003];

"authorized official" means –

- [a] an official who has been authorized by the Council to administer, implement and enforce the provisions of these by-laws;
- [b] a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996;
- [c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995; or
- [d] a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977.;

"Board" means the Eastern Cape Liquor Board established by section [4] of the Act;

"Council" means the Council of the Tsolwana` Municipality or any other political structure or officer bearer as defined in the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998] or official including the authorized official acting by virtue of powers delegated to it or him by the Council with regard to the application and enforcement of these by-laws;

"community" means those residents, governing body of schools or places of worship occupying premises within a 100m radius from the premises in respect of which an application for registration and/or a license or authorization in terms of the Act is made;

"Municipal Manager" means the Municipal Manager of the Municipality appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 and includes any person acting in this position;

"liquor trading establishment" means any fixed property from which liquor is sold or supplied to the public for consumption;

"official" means an official of the Municipality;

"premises" includes any place, land, building or conveyance or any part thereof which is registered or seeking to be registered in order to permit and allow trading in liquor;

"Regulations" means the regulations made under the Act and published in Provincial Notice No. 17 of 2004, dated 28 May 2004 as may be amended from time to time;

"trading hours" means the time when a liquor trading establishment opens to the time that such establishment ceases to trade and, in the case of on-site consumption establishments, the time when they cease to operate and must close in accordance with **SCHEDULE 1** of these by-laws;

"trader" means a person trading in liquor from a liquor trading establishment ;

"ward committee" means a committee as contemplated in the Local Government: Municipal Structures Act, 1998.

[2] **APPLICATION OF BY-LAWS**

These by-laws are applicable in respect of all premises situated within the area of jurisdiction of the Municipality where trading in liquor is conducted

or is intended or permitted to be conducted in terms of any Town Planning Zoning Scheme of the Municipality or made applicable to the Municipality and/or consent usage granted by the Municipality and/or any title deed conditions applicable to such premises.

[3] REPORT BY WARD COMMITTEE

- [1]** A ward committee must, upon receipt of a notice of application for registration in terms of section 22[2] [d] [i] of the Act, hold a consultative meeting with the owners of immovable property and businesses and with residents in the immediate vicinity of the premises in respect of which the application applies and record in writing all comments [if any] with regard to such application;
- [2]** The councillor responsible for the ward in respect of which an application contemplated in subsection [1] has been made must submit a report to the Municipality within 30 days of referral of such application to the ward committee concerned and such report must contain:
- [a]** the details of the consultative process with the community, including the –
 - [i]** dates when the consultation took place; and
 - [ii]** names and addresses of persons who were consulted.
 - [b]** comments on the application;
 - [c]** details of objections received in respect of such application, if any;
 - [d]** comments on such application; and
 - [e]** a recommendation with regard to such application.
- [3]** The Municipal Manager must report the application and the comments of the ward committee concerned to the Council at its first meeting after receipt of the comments of such Committee and thereafter expeditiously inform the Board of the resolution of the ward committee and the Council on such application; provided that the Municipal Manager must provide the applicant with reasons within seven days of such referral to the Council if the application and comments of the ward committee could not, for any reason whatsoever, be considered by the Council.
- [4]** The Council may, when considering an application, appoint an official to conduct further investigation and obtain any further information that it deems necessary from any person deemed necessary by the Council; provided that the Municipal Manager must notify the applicant within seven days of such referral by the Council.
- [5]** An official appointed in terms of subsection [4] must complete the investigation within such period as Council may have deemed necessary and report his findings to the Council at its next meeting.

- [6] The Council must consider the findings contemplated in subsection [5] and thereafter take the steps contemplated in subsection [3].

[4] HOURS OF TRADING

- [1] The trading hours, as listed in Column 2 of **SCHEDULE 1** to this by-law of the different kinds of registrations, as contemplated in section 20 of the Act, as listed in Column 1 of the **SCHEDULE 1**, have been determined by the Municipality and may be reviewed by the Municipality from time to time.
- [2] Subject to section 6, no trader may sell liquor to a person at a time other than those hours stipulated as trading hours under subsection [1]; provided that nothing contained in these by-laws –
- [a] prevents liquor trading premises from remaining open outside liquor trading hours exclusively for the sale of goods other than liquor; and
 - [b] permits a trader to sell liquor to a person who is under the age of eighteen years, or to allow a person under the age of eighteen years to consume liquor on liquor trading premises.
- [3] A trader who contravenes subsection [2] commits an offence.

[5] EXEMPTIONS

- [1] The Municipality may grant written consent to a trader to sell liquor at hours other than those hours stipulated as trading hours in section 5[1] and a trader who wishes to sell liquor at such hours must, before he sells such liquor, obtain such written consent of the Municipality.
- [2] A trader who wishes to obtain the consent of the Municipality must complete a form similar to the APPLICATION FOR CONSENT TO SELL LIQUOR OUTSIDE TRADING HOURS FORM as contained in **SCHEDULE 2** and submit the form and other particulars as the Municipality may request, to the Office of the Municipal Manager.
- [3] The Municipality may, after consideration of the application, refuse to grant consent or grant consent and should the Municipality grant consent, it may do so subject to any condition or restriction it may deem necessary, which consent and condition or restriction, if imposed, must be entered in item C of the form contained in **SCHEDULE 2**.
- [4] A trader who has been granted consent in terms of subsection [3] must display, in a conspicuous place on the premises regarding which the consent has been granted and during those times for which the consent has been granted, a copy of the form on which the consent of the Municipality has been entered.
- [5] A trader who contravenes subsection [1] or [4], or who sells liquor in contravention of a condition or restriction imposed in terms of subsection [3], or who displays a forged form, commits an offence.

[6] ENFORCEMENT

- [1]** The Municipality may appoint, authorize and mandate such officials as it may deem necessary to implement and enforce these by-laws.
- [2]** Each official appointed in terms of subsection [1] must be issued with an identity card containing –
 - [a]** a photograph of that official;
 - [b]** the date of the Council resolution authorizing his appointment;
 - [c]** his designation; and
 - [d]** a brief reference to his duties and obligations in terms of these by-laws;
- [3]** An official, acting within the powers vested by these by-laws must, on demand by a member of the public, produce proof of identity and the capacity in which such official purports to carry out his duties;
- [4]** An official, acting in terms of the authorization or mandate contemplated in subsection [1] may –
 - [a]** at all reasonable times, enter upon premises on which a business is being or is intended to be carried on; and
 - [b]** request any person to provide such reasonable information as the official deems necessary.
- [5]** For purposes of these by-laws, an official appointed in terms of this section will be regarded as the authorized official.

[7] APPEAL

- [1]** A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.
- [2]** The Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- [3]** When the appeal is against a decision taken by –
 - [a]** the authorized official, the Municipal Manager is the appeal authority;
 - [b]** the Municipal Manager, the Mayor is the appeal authority; or
 - [c]** a political structure or political officer bearer, or a Council of the Municipality is the appeal authority.
- [4]** The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

[8] OFFENCES

- [1]** Any person commits an offence if he –

- [a] hinders or interferes with an authorized official in the execution of his official duties in terms of the Act;
- [b] falsely professes to be an authorized official;
- [c] intentionally furnishes false or misleading information when complying with a request of an authorized official;
- [d] fails to comply with a reasonable request of an authorized official;
- [e] fails, refuses or neglects to comply with the trading hours referred to in **SCHEDULE 1**.

[9] PENALTIES

- [1] Any person who commits an offence contemplated in section 6[1] to [5] and 10[a] to [d] of these by-laws is, upon conviction, liable to –
 - [a] a fine or imprisonment for a period not exceeding six months; or
 - [b] such imprisonment without the option of a fine; or
 - [c] both such fine and such imprisonment.
- [2] Any person who is found to be continuously contravening or failing to comply with section 10[a] to [d] of these by-laws is guilty of an offence and liable to –
 - [a] an additional fine; or
 - [b] an additional period of imprisonment of 10 days; or
 - [c] such additional imprisonment without the option of a fine; or
 - [d] both such additional fine and imprisonment for each day on which such offence is continued.
- [3] Any person who commits an offence in terms of section 10[a] to [d] of these by-laws is liable for a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as a result of such contravention or failure.
- [4] Any person who commits an offence in terms section 10[e] of these by-laws is liable upon conviction, to –
 - [a] a fine or imprisonment for a period not exceeding three years; or
 - [b] imprisonment without the option of a fine; or
 - [c] a fine and imprisonment.
- [5] Any person who is found to be continuously contravening or failing to comply with section 10[e] of this by-law is, in respect of each day on which that person contravenes or fails to comply, guilty of an offence, including the day of any conviction for an offence in terms of this subsection or any subsequent day and liable on conviction to –
 - [a] a fine; or
 - [b] imprisonment for a period not exceeding three months; or
 - [c] both such fine and imprisonment.

- [3]** Any person who is convicted of a contravention of section 10[e] of this by-law within a period of five years after he was convicted of contravening this by-law is liable to –
- [a]** imprisonment for a period of six years; or
 - [b]** double the fine for contravening this by-law; or
 - [c]** to both such fine and imprisonment.

[10] REPEAL OF BY-LAWS

- [1]** Any by-laws adopted by the Municipality or of a municipality now forming an administrative unit of the Municipality and relating to crèches or nursery schools or any facilities in respect to or with regard to any matter regulated in these by-laws are hereby repealed.
- [2]** Anything done under the provisions of the by-laws repealed by subsection [1] is deemed to have been done under the corresponding provision of these by-laws and such repeal will not affect the validity of any approval, authority, waiver or other act which at the commencement of these by-laws is valid under the by-laws so repealed.

SCHEDULE 1

[1] TYPE OF REGISTRATION	[2] TRADING HOURS
Section 20[a] - Registration in terms of the Liquor Act for the retail sale of liquor for consumption off the premises where the liquor is being sold. <i>[bottle store, retail shop, wholesaler, house shop]</i>	Monday to Saturday 08:30 to 20:00 Sunday 09:00 to 13:00 Monday to Friday 08:30 – 17:00 Saturday 08:00 13:00
Section 20[b] - Registration in terms of the Liquor Act for the retail sale of liquor for consumption on the premises where liquor is sold. <i>[restaurant, night club, sports club, pool bar, hotel, pub]</i>	Sunday to Thursday 10:00 to 24:00 Friday-Saturday 10:00 to 02:00 Communities not consistent on this one, varied from one area to another
Section 20[c] - Registration in terms of the Liquor Act for the retail sale of liquor on and off the premises on which the liquor is being sold. <i>[taverns, shebeens]</i>	<u>Off-consumption</u> Monday to Saturday 08:30 to 20:00 Sunday 09:00 to 13:00 <u>On-consumption</u> Sunday to Saturday 10h00 to 24:00
Section 20[d] - Registration in terms of the Liquor Act for the retail sale of liquor and consumption at special events. <i>[beer festival, fete, fundraising event]</i>	Trading hours to be determined by resolution of the Council in respect of each application
Section 20[e] - Registration in terms of the Liquor Act for licensed wholesale warehouse.	Monday to Saturday 08:00 to 17:00 Sunday 09:00 to 13:00
Section 20[e] - Registration in terms of the Liquor Act for licensed micro-manufacturing	Trading hours to be determined by resolution of the Council in respect of each application

SCHEDULE 2

APPLICATION TO SELL LIQUOR OUTSIDE TRADING HOURS

A. APPLICANT

Name:

Identity Number:

Address:

Telephone number:

B. PERSONAL PARTICULARS

Address [street name and number] of the premises on which the liquor will be sold or supplied:

Dates and hours on which liquor will be sold or supplied [Be specific, e.g. 14:00 to 23:00 on 3 June, 2005]:

Reason why this application is made:

Anticipated volume of liquor that will be consumed:.....

Nature of liquor that will be sold or supplied:

Other particulars [as requested by the Council]:

Signed Date
[Applicant]

C. CONSENT

Issuing Local Authority:

OFFICIAL
DATE
STAMP

CONDITIONS AND RESTRICTIONS IN TERMS OF SECTION 5(3)

Times and date on which liquor may be supplied or sold:

Other conditions or restrictions:

.....
.....
.....

LOCAL AUTHORITY NOTICE 82**TSOLWANA MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996] the By-laws Relating to the Licensing of and Control over Dogs that come into operation on the date of publication thereof.

BY-LAWS RELATING TO THE LICENSING OF AND CONTROL OVER DOGS**PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996 [Act No. 108 of 1996];

AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to license and control dogs in its municipal area of jurisdiction;

NOW THEREFORE be it enacted by the Council as follows:

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- [1] Definitions
- [2] Imposing of licensing fees
- [3] Exemptions
- [4] When license fees becomes payable
- [5] Issue of dog license fee receipt
- [6] Dog license fee receipt not transferable
- [7] Dog license fee receipt to be produced
- [8] Seizure, impoundment and destruction of dogs
- [9] Dogs must not be a source of danger
- [10] Vicious dogs and bitches on heat
- [11] Dogs causing nuisance
- [12] Dogs on premises where food is sold
- [13] Fencing of property
- [14] Obstruction of employees
- [15] Liability
- [16] Presumptions
- [17] Waiver of provisions
- [18] Compliance notice
- [19] Prohibition notice
- [20] Withdrawal of prohibition notice
- [21] Delivery of notices
- [22] Appeal
- [23] Offences and Penalties

[24] Repeal of by-laws**[1] DEFINITIONS**

In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context indicates otherwise –

"administrative unit" means a former municipality as envisaged in section 14[3] of the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998];

"authorized official" means –

- [a]** an official who has been authorized by the Council to administer, implement and enforce the provisions of these by-laws;
- [b]** a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996;
- [c]** a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995; or
- [d]** a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977;

"Council" means the Council of the Tsolwana Municipality and includes any duly authorised political structure or political office bearer as defined in the Local Government: Municipal Structures Act, 1998 or official thereof;

"dog" means both a male and female dog regardless of whether it has been spayed or castrated;

"licensing fee" means the fee charged for the licensing of dogs as determined by the Council by resolution from time to time;

"nuisance" means any conduct or condition which brings about or may bring about a state of affairs or condition that is obnoxious and/or constitutes a health risk or a source of danger to human lives or property or which interferes or may interfere with the ordinary comfort, convenience, peace or quiet of persons;

"owner" in relation to a dog, means any person who keeps a dog and includes any person to whom the dog has been entrusted or who has control of a dog on any site within the Municipality where such dog is kept or is permitted to live or remain, unless such person is able to prove that he is not the owner of such dog and that the dog was kept or allowed to live or remain on such site without his knowledge or consent;

"public place" includes any public road, sanitary passage, square or open space shown on a general plan of a township or settlement, filed in any Deeds' Registry or Surveyor-General's Office, and all land [other than erven shown on the general plan] the control whereof is vested, to the entire exclusion of the owner, in the Municipality or to which the owners of erven in a township have a common right, and all property belonging to an organ of state;

"premises" means any building, room, maisonette, hut, shed, tent or any other structure above, on or below ground level, together with the land on which it is situated and the adjacent land used jointly therewith or any land without buildings;

"vicious" for the purposes of these by-laws, includes a dog which has bitten or attempted to bite a person or animal other than in defence of itself or its custodian;

"year" or **"annually"** means a calendar year.

[2] IMPOSING OF LICENSING FEES

[1] Subject to the exemptions referred to in section 3, the owner of each dog within the Municipality must pay an annual licensing fee to the Municipality.

[2] Any person who becomes the owner of a dog during the course of a year must pay the licensing fee for such dog within the period prescribed in section 4, notwithstanding the fact that the previous owner may have paid the licensing fee for the year in respect of such dog.

[3] No pro-rata payment or repayment of the annual licensing fee is applicable.

[3] EXEMPTIONS

[1] The annual licensing fee is not payable in respect of –

[a] dogs under the age of six [6] months;

[b] a guide dog kept by a blind person;

[c] a dog temporarily brought into the Municipality for a period not exceeding thirty [30] days;

[d] a dog in respect of which the licensing fee has been paid for the year concerned, while such dog is kept within another municipality within the Province of the Eastern Cape; provided that no such licensing fee is payable if, while the dog was kept elsewhere, there was a change in its ownership;

[e] a dog in possession or in the care of the Society for the Prevention of Cruelty to Animals or a similar organisation approved by the Municipality;

[f] a dog used in the execution of official duties by officials of either –

[i] the Municipality; or

[ii] the South African Police Services; or

[iii] the South African National Defence Force, or

[iv] the South African Department of Correctional Services;

[g] a dog used by private security companies registered at the Security Industry Regulator;

[2] The Municipality may grant the breeders of dogs a reduction in licensing fee per dog, which applications will be considered by the

Council and the granting of which does not create an obligation to approve such an application.

- [3] The onus of proving that any dog is under that age is upon the owner.

[4] WHEN LICENSING FEE BECOMES PAYABLE

- [1] The licensing fee for which the owner of a dog is liable is due –
- [a] in the case where he is the owner of such dog on the first day of January, on that date;
 - [b] in the case where he becomes the owner of such dog after the first day of January during any year, on the day on which he becomes the owner;
 - [c] in the case where such dog attains the age of six months, on the date on which such dog attains that age.
- [2] Any owner of a dog who fails to pay the licensing fee payable in respect of such a dog within 30 days from the date on which it became payable, is liable for a penalty calculated at a rate of 10% of the licensing fee for each month or part of a month during which such licensing fee, with effect from the date on which it became payable, remains unpaid; provided that such penalty may not exceed the licensing fee payable.
- [3] The payment of any amount in terms of the provisions of subsection [2] does not relieve any person of any criminal liability arising from his failure to obtain a licence, nor does the fact that any person has been criminally punished for such failure relieve him from liability to pay any amount in terms of subsection [2].

[5] ISSUE OF DOG LICENSING FEE RECEIPT

Upon payment of the licensing fee by an owner, in respect of any dog, a dog licensing fee receipt must be issued to him .

[6] DOG LICENSING FEE RECEIPT NOT TRANSFERABLE

A dog licensing fee receipt may not be transferred from one owner to another or in respect of one dog to another.

[7] DOG LICENSING FEE RECEIPT TO BE PRODUCED

Any person having possession of any dog must produce the dog licensing fee receipt for such dog whenever requested to do so by the Municipality or a member of the South African Police Services.

[8] SEIZURE, IMPOUNDMENT AND DISCARDING OF DOGS

- [1] The Municipality may seize and impound –
- [a] any ownerless dog; or

- [b]** a dog found in a street, a road, a public place or other land belonging to the Municipality, without being under control of the owner or another person, or
 - [c]** a dog in respect of which the licensing fee has not been paid, or
 - [d]** a dog that is in contravention of the provisions of sections 10 and 11.
 - [2]** The owner of an impounded dog must claim it within 96 hours of impoundment, upon payment of the licensing fee due and a maintenance fee as determined from time to time by the Municipality and reflected in the applicable schedule of tariffs.
 - [3]** In the event that such a dog is not claimed within the period mentioned in subsection [2], it will, at the option of the Municipality, be removed to the Society for the Prevention of Cruelty to Animals or any other society which may have use for dogs, or be sold to interested parties, or be destroyed as a last resort.
 - [4]** The fact that a dog has been impounded, sold or destroyed under the provisions of these by-laws, will not exempt the owner from payment of the licensing fee, pound fees and costs relating to the catching of the dog.
 - [5]** Every dog found in any street, road or public place, which is apparently suffering from any incurable, infectious or contagious disease or which is ferocious, vicious or dangerous, or which is badly injured may be seized and destroyed by the Municipality or South African Police Services.
- [9] DOGS MAY NOT BE A SOURCE OF DANGER**
- [1]** Any person who keeps a dog on any premises must keep such dog in such manner as not to be a source of danger to the Municipality's employees entering upon such premises for the purpose of carrying out their duties.
 - [2]** A notice, to the effect that a dog referred to in subsection [1] is being kept on premises, must be displayed in a conspicuous place in the language[s] prevalent in the area or as a pictograph.
- [10] VICIOUS DOGS AND BITCHES ON HEAT**
- [1]** A dog may not be permitted to be kept unless it is under proper control and supervision if it –
 - [a]** is wild or vicious; or
 - [b]** has acquired the habit of charging passing vehicles, bicycles or persons.
 - [2]** A bitch on heat –
 - [a]** may not be allowed to run loose in public places within the area of jurisdiction of the Municipality;

- [b] must, when not leashed, be locked up by the owner of such dog or the person who has control over such dog;
- [c] must, if found in a public place referred to in subsection 10[2] [a], be impounded by the Municipality or the South African Police Services and the owner of such dog is, in addition to the liability to pay impoundment fees and catch costs, liable to prosecution.

[11] DOGS CAUSING NUISANCES

- [1] It is an offence, within the jurisdiction of the Municipality, to keep dogs that –
 - [a] chase or worry any animal;
 - [b] cause a nuisance by continuous barking, howling or whining;
 - [c] suffer from a contagious disease and are not under veterinary supervision or suitably isolated;
 - [d] pollute premises to such an extent that a health hazard is caused; and
 - [e] stray in any public street, thoroughfare or other public place or in any private open space, private place or private premises, other than that of the owner of such a dog, unless such dog is led by a chain or leash and accompanied by a person.
- [2] No dog may be used to hunt, except –
 - [a] for the hunting of birds or for the purpose of following or searching for any animals that have been wounded; and
 - [b] for the purpose of training hounds maintained by a duly established and registered vermin club in the destruction of vermin.
- [3] No dog may be incited to attack any other animal.

[12] DOGS ON PREMISES WHERE FOOD IS SOLD

Any person who owns or controls any shop or other place where food is prepared or sold or exposed for human consumption, may not permit entry to a dog or allow a dog to be in or remain in such shop or place.

[13] FENCING OF PROPERTY

No person may keep a dog on premises that are not properly and adequately fenced to keep the dog inside such premises when the dog is not on a leash or chain.

[14] OBSTRUCTION OF EMPLOYEES

No person may –

- [a] hinder, obstruct or interfere with any official of the Municipality or a member of the South African Police Services in the performance of any duty relating to these by-laws; or

- [b] refuse to give such information as the Municipality may reasonably require;
- [c] give to the Municipality any information which, to his knowledge, is false or misleading; or
- [d] prevent or obstruct an official of the Municipality or a member of the South African Police Services in any manner whatsoever to obtain free and unobstructed entrance to any premises for the purposes of enforcing these by-laws.

[15] LIABILITY

Neither the Municipality, nor any official of the Municipality will be liable for or in respect of any injury suffered or disease contracted by or damage caused to any dog as a result of or during its seizure or destruction in terms of these by-laws.

[16] PRESUMPTIONS

In the prosecution of the owner of a dog for a contravention of sections 2 and 3, read with section 4, it is presumed that such owner has failed to pay the dog licensing fee in respect of such dog within the prescribed period and that such dog is of the age of six months or older, until the contrary is proved.

[17] WAIVER OF PROVISIONS

- [1] The Municipality may, if it deems it desirable to do so in the public interest, waive compliance with or relax the provisions of these by-laws; provided that any person whose rights are adversely affected by such waiver or relaxation will not be bound thereby.
- [2] In each case in which such waiver or relaxation has been granted to any person, the Municipality must serve a written notice upon such person citing the relevant provision waived or relaxed and the extent to which such provision has been waived and, in addition, the Municipality must keep a record containing an identical copy of each such notice, which record must be available for inspection by members of the public at the offices of the Municipality.

[18] COMPLIANCE NOTICE

- [1] If an authorized official, after inspecting premises on which a dog as contemplated in these by-laws is kept, reasonably believes that a provision of these by-laws is being contravened, he may serve a compliance notice on one or more of the following persons:
 - [a] the owner of the premises;
 - [b] the occupier of the premises;
 - [c] any person apparently in charge of undertaking the aforesaid use on the premises.
- [2] A compliance notice must state –

- [a] why the authorized official believes that these by-laws are being contravened;
 - [b] the measures that must be taken to ensure compliance with these by-laws;
 - [c] the time period within which the measures must be taken;
 - [d] the possible consequences of failing to comply with the notice; and
 - [e] how to appeal against the notice.
- [3] If a person fails to comply with a compliance notice that requires a particular action to be taken, the Municipality may –
 - [a] take the required action specified in the compliance notice; and
 - [b] recover as a debt from the person to whom the notice was given, the costs and expenses reasonably incurred in taking the required action; or
 - [c] direct that a prohibition notice be served on such person in terms of section 19 of these by-laws.

[19] PROHIBITION NOTICE

- [1] An authorized official may, after inspecting premises where a dog as contemplated in this by-law is kept and contrary to these by-laws, serve a prohibition notice on the owner, occupier or user of such premises prohibiting such conduct as may be in contravention of these by-laws and requiring measures to be taken to ensure that this occurs.
- [2] The authorized official must give the person on whom he intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice.
- [3] A prohibition notice must state –
 - [a] the reasons for serving the notice;
 - [b] whether or not the Municipality will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;
 - [c] the possible consequences of failing to comply with the notice; and
 - [d] how to appeal against the notice.
- [4] Unless a prohibition notice provides otherwise, it comes into effect when it is served under subsection [1] and remains in force until it is withdrawn.
- [5] The authorized official must as soon as possible affix a copy of the notice in a conspicuous position on the premises.
- [6] It is a defence for anyone charged with failing to comply with a prohibition notice to prove that –

- [a] he did not know of the existence of the prohibition order and could not reasonably be expected to have known of its existence; and
- [b] he had complied with the prohibition notice within 48 hours of the time that the notice was affixed to the premises in terms of subsection [5].

[20] WITHDRAWAL OF PROHIBITION NOTICE

- [1] The authorized official must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a prohibition notice, carry out an investigation of the premises.
- [2] After completing the investigation, the authorized official must inform the person on whom the prohibition notice was served or that person's agent in writing, whether or not the prohibition has been removed or withdrawn.
- [3] The Municipality may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection [1], a fee as prescribed in the applicable tariff policy for undertaking the investigation.

[21] DELIVERY OF NOTICES

- [1] A notice, order or other document is to be regarded as having been properly served if –
 - [a] it has been delivered to that person personally;
 - [b] sent by registered post to the person to whom it is addressed at his last known address;
 - [c] it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;
 - [d] if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided for in subsections [1] [a], [b] or [c]; or
 - [e] if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the premises to which it relates.
- [2] A notice, order or other document that may in terms of these by-laws be served on the owner or occupier of premises –
 - [a] may be addressed to the owner or occupier of the specified premises and need not name the owner or occupier; and
 - [b] if the Municipality does not know the address of the owner or occupier of the premises and cannot easily obtain it, the notice, order or other document is to be regarded as having been properly served if it is affixed to a conspicuous place on the premises.

[22] APPEAL

- [1]** A person whose rights are affected by a decision taken by an authorised official under these by-laws may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.
- [2]** The Municipal Manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection [4].
- [3]** The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- [4]** An appeal submitted in terms of this section must be dealt with in the manner prescribed by section 62 of the Municipal Systems Act, 2000 [Act No. 32 of 2000].

[23] OFFENCES AND PENALTIES

- [1]** Any person is guilty of an offence and upon conviction by a court liable to imprisonment for a period not exceeding six months if he –
 - [a]** contravenes any provision of these by-laws or fails to comply therewith or with any condition imposed in terms thereof;
 - [b]** deliberately furnishes false or misleading information to an official of the Municipality;
 - [c]** fails to comply with any condition granted or imposed in terms of these by-laws; or
 - [d]** ignores, disregards or disobey any notice, sign or marking displayed or erected for purposes of these by-laws.
- [2]** Any expense incurred by the Municipality as a result of a contravention of these by-laws or in the doing of anything which a person was directed to do under these by-laws and which he failed to do, may be recovered by the Municipality from the person who committed the contravention or who failed to do such thing.

[24] REPEAL OF BY-LAWS

- [1]** Any by-laws adopted by the Municipality or of a municipality now forming an administrative unit of the Municipality and relating to dogs or with regard to any matter regulated in these by-laws are hereby repealed.
- [2]** Anything done under the provisions of the by-laws repealed by subsection [1] is deemed to have been done under the corresponding provision of these by-laws and such repeal will not affect the validity of any approval, authority, waiver or other act which at the commencement of these by-laws is valid under the by-laws so repealed.

LOCAL AUTHORITY NOTICE 83**TSOLWANA LOCAL MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996] the By-Laws Relating to Unsightly and Neglected Buildings and Premises that come into operation on the date of publication thereof.

BY-LAWS RELATING TO UNSIGHTLY AND NEGLECTED BUILDINGS AND PREMISES**PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996 [Act No. 108 of 1996];

AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to regulate practices that detract from the aesthetic appearance of areas within the jurisdiction of the Municipality and to provide for practices and procedures in relation thereto;

NOW THEREFORE be it enacted by the Council as follows:

TABLE OF CONTENTS

- [1] Definitions
- [2] Restore to acceptable standard
- [3] Waiver of provisions
- [4] Compliance notice
- [5] Prohibition notice
- [6] Withdrawal of prohibition notice
- [7] Appeal
- [8] Repeal of by-laws

[1] DEFINITIONS

In these by-laws-

"administrative unit" means a former municipality as envisaged in section 14[3] of the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998];

"authorized official" means –

- [a] an official who has been authorized by the Council to administer, implement and enforce the provisions of these by-laws;
- [b] a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996;

[c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995; or

[d] a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977.

"building" has the meaning assigned thereto in section 1 of the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977], as amended;

"Council" means the Council of the Tsolwana Municipality established in terms of section 12 of the Local Government: Municipal Structures Act, 1998, and includes any employee to whom the Council has delegated powers to enforce and/or perform duties in terms of these by-laws;

"municipal area" means the area under the jurisdiction and control of the Council;

"owner" means -

[a] the person in whom from time to time is vested the legal title to premises;

[b] in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;

[c] in a case where the Council is unable to determine the identity of such person, a person who is entitled to the benefit of such premises with a building thereon;

[d] in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;

[e] in relation to -

[i] a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 [Act No. 95 of 1986], and without restricting the above, the developer or the body corporate in respect of the common property; or

[ii] a section as defined in such Act, the person in whose name such a section is registered under a sectional title deed and includes the lawfully appointed agent of such a person.

[f] any legal person including but not limited to -

[i] a company registered in terms of the Companies Act, 1973 [Act 61 of 1973], a Trust, a Closed Corporation registered in terms of the Closed Corporations Act, 1984 [Act 69 of 1984] and a Voluntary Association;

[ii] a state department;

[iii] a Council or Board established in terms of any legislation applicable to the Republic of South Africa;

[iv] a Embassy or other foreign entity.

"premises" means any land, whether vacant, occupied or with buildings thereon, situated within the municipal area.

[2] RESTORE TO ACCEPTABLE STANDARD

- [1]** The Municipality must serve a notice contemplated in subsection [2] on the owner of premises on which, in the opinion of the Council –
- [a]** a building is unsightly, neglected or offensive and causes the value of surrounding properties to be detrimentally affected;
 - [b]** lawns, trees shrubs or other cultivated vegetation is neglected and overgrown;
 - [c]** unsightly papers, cartons, garden refuse, rubble and/or other waste material has accumulated; or
 - [d]** motor wrecks or used motor parts have accumulated, that –
 - [i]** detracts from the appearance of surrounding properties; or
 - [ii]** is offensive to the owners or occupiers of adjacent premises.
- [2]** A notice in writing on the owner of premises contemplated in subsection 1[a] to [d] must require such owner to improve the condition of such premises to a standard acceptable to the Council which standard must be stated in the notice within a specified period that may not exceed ninety [90] days from the date of such notice.
- [3]** If the owner of premises contemplated in subsection [1] fails to comply with the requirements of the notice contemplated in subsection [2] within the specified period, that owner is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months.
- [4]** Alternatively and instead of instituting criminal proceedings against the owner in terms of subsection [3] of these by-laws and provided no written objections from such owner have been received before the expiry date of the period specified in the notice, the Municipality may assume that such owner has no objection and tacitly agrees that the Municipality may, without any further notice, enter upon such premises and, at such owner's cost and through its officials or a contractor appointed by the Council on a tender or quotation basis, execute the work necessary to comply with the requirements of the said notice.
- [5]** The Municipality is entitled to recover the cost of the work undertaken in terms of subsection [4] in any court of law from the owner so in default.
- [6]** A certificate under the hand of the Municipal Manager of the Municipality stating the cost of the work referred to in subsection [5] is conclusive proof thereof.

[3] WAIVER OF PROVISIONS

- [1]** The Municipality may, if it deems it desirable to do so in the public interest, waive compliance with or relax the provisions of these by-laws; provided that any person whose rights are adversely affected by such waiver or relaxation will not be bound thereby.
- [2]** In each case in which such waiver or relaxation has been granted to any person, the Municipality must serve a written notice upon such person citing the relevant provision waived or relaxed and the extent to which such provision has been waived and, in addition, the Municipality must keep a record containing an identical copy of each such notice, which record must be available for inspection by members of the public at the offices of the Municipality.

[4] COMPLIANCE NOTICE

- [1]** If an authorized official, after inspecting premises contemplated in these by-laws, reasonably believes that a provision of these by-laws is being contravened, he may serve a compliance notice on one or more of the following persons:
- [a]** the owner of the premises;
 - [b]** the occupier of the premises;
 - [c]** any person apparently in charge of undertaking the aforesaid use on the premises.
- [2]** A compliance notice must state –
- [a]** why the authorized official believes that these by-laws are being contravened;
 - [b]** the measures that must be taken to ensure compliance with these by-laws;
 - [c]** the time period within which the measures must be taken;
 - [d]** the possible consequences of failing to comply with the notice; and
 - [e]** how to appeal against the notice.
- [3]** If a person fails to comply with a compliance notice that requires a particular action to be taken, the Municipality may –
- [a]** take the required action specified in the compliance notice; and
 - [b]** recover, as a debt, from the person to whom the notice was given, the costs and expenses reasonably incurred in taking the required action; or
 - [c]** direct that a prohibition notice be served on such person in terms of section 5 of these by-laws.

[5] PROHIBITION NOTICE

- [1]** An authorized official may, after inspecting premises contemplated in and contrary to these by-laws, serve a prohibition notice on the owner, occupier or user of such premises prohibiting the conduct

proscribed in these by-laws and requiring measures to be taken to ensure that this occurs.

- [2] The authorized official must give the person on whom he intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice.
- [3] A prohibition notice must state –
 - [a] the reasons for serving the notice;
 - [b] whether or not the Municipality will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;
 - [c] the possible consequences of failing to comply with the notice; and
 - [d] how to appeal against the notice.
- [4] Unless a prohibition notice provides otherwise, it comes into effect when it is served under subsection [1] and remains in force until it is withdrawn.
- [5] The authorized official must as soon as possible affix a copy of the notice in a conspicuous position on the premises.
- [6] It is a defence for anyone charged with failing to comply with a prohibition notice to prove that –
 - [a] he did not know of the existence of the prohibition order and could not reasonably be expected to have known of its existence; and
 - [b] he had complied with the prohibition notice within 48 hours of the time that the notice was affixed to the premises in terms of subsection [4].

[6] **WITHDRAWAL OF PROHIBITION NOTICE**

- [1] The authorized official must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a prohibition notice, carry out an investigation of the premises.
- [2] After completing the investigation, the authorized official must inform the person on whom the prohibition notice was served or that person's agent in writing, whether or not the prohibition has been removed or withdrawn.
- [3] The Municipality may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection [1], a fee as prescribed in the applicable tariff policy for undertaking the investigation.

[7] **APPEAL**

- [1] A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.

- [2] The Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- [3] When the appeal is against a decision taken by –
 - [a] a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - [b] the Municipal Manager, the Executive Committee is the appeal authority; or
 - [c] a political structure or political officer bearer, or a Councillor Council is the appeal authority.
- [4] The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

[8] REPEAL OF BY-LAWS

- [1] Any by-law adopted by the Municipality or a municipality now forming an administrative unit of the Municipality and relating to any matter regulated by these by-laws are, from date of promulgation of these by-laws, hereby repealed.
- [2] Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law is deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

LOCAL AUTHORITY NOTICE 84**MUNICIPALITY OF TSOLWANA**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996] the By-Laws in respect of the Control of Temporary Advertisements which by-laws come into operation on the date of publication thereof.

BY-LAWS IN RESPECT OF THE CONTROL OF TEMPORARY ADVERTISEMENTS**PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996;
AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to regulate, limit, prohibit, inspect, supervise and levy moneys with regard to the erection, display and use of temporary advertisements of whatever nature, on or visible from any street or public space;
NOW THEREFORE be it enacted by the Council as follows:

TABLE OF CONTENTS

- [1] Definitions
- [2] Permission to display
- [3] Manner of application to obtain permission
- [4] Approval in respect of the display of temporary advertisements
- [5] Deposits and charges
- [6] Refund of deposit
- [7] Exempted advertisements
- [8] Prohibited advertisements
- [9] General requirements regarding temporary advertisements
- [10] General requirements regarding posters
- [11] Election material
- [12] Banners
- [13] Aerial signs
- [14] "For Sale" and "Sold" signs
- [15] Directional signs
- [16] Advertisement trailers
- [17] Failure to remove signs
- [18] Damage to municipal property
- [19] Exemption from liability
- [20] Implementation and enforcement

- [21] Compliance notice
- [22] Prohibition notice
- [23] Withdrawal of prohibition notice
- [24] Delivery of notices
- [25] Appeal
- [26] Offences and penalties
- [27] Repeal of by-law

[1] **DEFINITIONS**

For the purposes of these by-laws, unless the context otherwise indicates –
"**advertisement trailer**" means any trailer on which an advertisement sign is mounted with the sole purpose of displaying the advertisement to the public;

"**advertising**" means the act or process of notifying, warning, informing, making known or any other act of transferring information in a visible manner;

"**aerial sign**" means an aerial sign and includes any sign in the form of an air balloon or a sign which is displayed in the sky by means of balloons, searchlights, aeroplanes or similar aids;

"**authorized official**" means –

- [a] an official who has been authorized by the Council to administer, implement and enforce the provisions of these by-laws;
- [b] a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996;
- [c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995; or
- [d] a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977.

"**banner**" means any flag-type temporary advertisement which is tied to poles with ropes or similar material;

"**commercial poster**" means any temporary advertisement of a commercial nature advertising any event, meeting, gathering, activity, product, service or the sale of any goods;

"**control areas**" means those areas as determined by the municipality from time to time in which degrees of advertising control are applied in accordance with the visual sensitivity of such areas and traffic safety conditions;

"**directional sign**" means any sign with the purpose to make known or which indicates the route to and location of any meeting, gathering, event, exhibition, show house or any property which is for sale or to let, excluding any such sign erected by the municipality;

"**election material**" means any advertisement or advertising device which is displayed or is in any way whatsoever visible from a street or any public place and which is used in connection with a parliamentary or municipal election, referendum or plebiscite;

"Municipality" means the Municipality of Tsolwana established in terms of section 12 of the Municipal Structures Act, 117 of 1998 and includes any political structure, political office bearer, councillor, duly authorised agent or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee.

"non-commercial poster" means any temporary advertisement which is not of a commercial nature announcing or attracting public attention to any meeting, event, function, activity, show, market or undertaking of a sports, welfare, educational, political or religious nature or to the candidature of any person nominated for election to parliament, local government or any similar body or to a referendum;

"public place" includes any road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, foot-path, sidewalk, lane, square, open space, garden, park or enclosed space vested in or under the control of the municipality.

"street" includes any street, road or thoroughfare shown on the general plan of a township, agricultural holdings or other division of land or in respect of which the public have acquired a prescriptive or other right of way and includes a sidewalk adjacent to such a street, a traffic island, bridge or subway forming part of such a street.

"tariff" means any charge or deposit determined from time to time by Municipality in terms of any applicable law in respect of the display or any temporary advertisement in terms of these by-laws;

"temporary advertisement" means any visible representation of a word, name, letter, figure object, mark or symbol or of an abbreviation of a word or name, or of any combination of such elements with the object of transferring information including any non-commercial poster, commercial poster, banner, aerial sign, directional sign, election material, advertisement trailer, "For sale" or "Sold" sign which is not permanently fixed and where it is not intended to be permanently fixed.

[2] PERMISSION TO DISPLAY

[1] The Municipality must from time to time define control areas and allocate the types of temporary advertisements which are allowed and/or prohibited in each of the aforesaid control areas.

[2] Unless the prior written approval of authorised official has been obtained, no person shall affix, attach, secure, place, display, distribute or have displayed or distributed or allow or permit the display or distribution of any temporary advertisement in or in view of any street or public place within the relevant control area where that type of temporary advertisement is allowed.

[3] Where temporary advertisements are prohibited within the control areas as defined by Municipality, no person may in or in view of any

street or public place affix, attach, secure, place, display, distribute or have displayed or distributed or allow or permit the display or distribution of any temporary advertisement.

[3] MANNER OF APPLICATION TO OBTAIN PERMISSION

[1] An application for permission to display or distribute a temporary advertisement must be made on the prescribed application form and be accompanied by the applicable tariff and deposit as determined by the Municipality plus a sketch plan or sample of the temporary advertisement if feasible as the case may be.

[2] Such sketch plan or sample must contain sufficient detail describing the nature, dimensions, wording and method of affixation of the temporary advertisement to which it relates; provided that an authorised official may, at all times, obtain such additional information as he may deem necessary from the applicant.

[4] APPROVAL IN RESPECT OF THE DISPLAY OF TEMPORARY ADVERTISEMENTS

[1] If the Municipality, having considered an application referred to in section 4, is satisfied that the application in question complies with the requirements of these by-laws and any other applicable law, it may grant its approval in respect thereof.

[2] If the Municipality, having considered an application referred to in section 4, is not so satisfied, it must refuse to grant its approval in respect thereof and give the applicant written reasons for such refusal.

[3] If the Municipality must refuse to grant its approval and give the applicant written reasons for such refusal if, having considered an application referred to in section 4, it is satisfied that the temporary advertisement to which the application in question relates –

[i] is to be erected in such manner or will be of such nature or appearance that –

[aa] the area in which it is to be erected will probably or in fact be disfigured thereby;

[bb] it will probably or in fact be unsightly or objectionable;

[cc] it will probably or in fact derogate from the value of adjoining or neighbouring properties; or

[ii] will probably or in fact be dangerous to life or property.

[5] DEPOSITS AND CHARGES

Whether or not permission has been granted in terms of these by-laws, no temporary advertisement may be erected or displayed, unless the prescribed tariff or tariffs have been paid to the Municipality by the applicant.

[6] REFUND OF DEPOSIT

A deposit paid in terms of section 6 must be refunded to the applicant, subject to the provisions of section 18, only when –

- [a]** all the temporary advertisements to which the deposit relates, have been removed to the satisfaction of the authorised official; or
- [b]** an application for approval has been refused by Municipality.

[7] EXEMPTED ADVERTISEMENTS

[1] The following temporary advertisements are exempted from the provisions of these by-laws:

[a] Applications in terms of Municipality's town-planning scheme or other legally prescribed advertisements regarding building or similar activities where such advertisements are erected within the boundaries of the site where the activities are taking place; and

[b] Temporary advertisements which are erected in or on business premises with the previously obtained permission of the owner or tenant of the building.

[2] A temporary advertisement of a newspaper or magazine which is offered for sale to the public at a specific time, is exempted from the other provisions of these by-laws, only if such display is undertaken –

[a] on a stand or container, or place previously approved by Municipality; and

[b] the sign shows only the headlines of the newspaper or magazine concerned.

[3] The Municipality may, in its sole discretion, in writing deviate from or grant an exemption in respect of one or more of the provisions of these by-laws after an application in writing has been received for such exemption and the Municipality may impose such conditions as it may deem fit in granting such exemption.

[8] PROHIBITED ADVERTISEMENTS

No temporary advertisement may be displayed or distributed in any form whatsoever if, in the opinion of Council, it –

[a] is suggestive of anything indecent or which may prejudice the public morals;

[b] is blasphemous or offensive to the religious convictions or feelings of any inhabitant of the municipal area;

[c] brings any section of the inhabitants of the municipal area into ridicule or contempt;

[d] is harmful to the relations between persons or groups of persons;

[e] is prejudicial to the safety, general public welfare or the peace or the good order; or

[f] is repugnant with any other law.

[9] GENERAL REQUIREMENTS REGARDING TEMPORARY ADVERTISEMENTS

- [1]** No temporary advertisement may be placed in such a position or be attached in such a manner that it may, in the discretion of the Council, be dangerous to vehicular traffic or pedestrians in a street or in any other public place.
- [2]** Every temporary advertisement must be maintained by the owner or applicant in a good and safe condition at all times and to the satisfaction of Municipality.
- [3]** No temporary advertisement may be positioned in such a way that any road traffic sign or robot is obscured thereby.

[10] GENERAL REQUIREMENTS REGARDING POSTERS

Unless otherwise specifically specified in these by-laws, every commercial and non-commercial poster and election material must comply with the following requirements:

- [a]** The poster must be affixed to a suitable and solid material, in such a way that it will not become totally or partially detached owing to wind or rain.
- [b]** neither the material nor the poster itself may in extent exceed 600mm by 900mm.
- [c]** the poster must be placed only on or against or be affixed to or against an electrical pole in a street.
- [d]** the poster may be attached to electric poles with wire or string or any other material approved by the Municipality.
- [e]** the top end of all posters which are fixed to an electrical pole in a street may not be closer than 1,5m of the conductors.
- [f]** no poster may be erected lower than 2m from ground level on street corners.
- [g]** no poster may be erected on or against or affixed to or against any tree, road traffic sign or robot pole.
- [h]** no poster may be displayed for a longer period than between fourteen days prior to the day on which the activity to which the poster relates begins to three days after the day of such activity.
- [i]** a sticker for control purposes may be issued by the Municipality for each poster, excluding election material and the applicant must personally affix such sticker to each of the approved posters.
- [j]** with the exception of election material, not more than one hundred posters in respect of any meeting, event, function, activity, show, market or undertaking may be displayed at any one particular time.

[11] ELECTION MATERIAL

- [1]** In respect of any election material, the following further conditions and/or requirements must be compiled with:

- [a]** No election material may be displayed for longer than a period stretching from the announcement of the election, referendum or plebiscite to the end of the fourth day after midnight of the election day or the polling day; provided that nothing contained in this section will have any bearing on specific election material regarding such election that is –
- [i]** displayed in or on a private motor vehicle which is parked or driven in a street or in another public place;
 - [ii]** erected on the premises of the polling station as determined by the Returning Officer on the day before an election, by-election, referendum or plebiscite and which is to be removed not later than the day following the election;
- [2]** no election material by political parties may be erected or affixed on the premises of a polling station at a position determined by the Returning Officer earlier than a day prior to the election day concerned and such material must be removed on the day following the election day by political parties responsible for same;
- [3]** not more than the number of posters as indicated hereunder may be displayed at any one particular time with regard to a parliamentary or municipal election, referendum or plebiscite:
- [a]** Parliamentary election: 1 500 per party.
 - [b]** Municipal election: 300 per candidate per ward and 1 500 per party.
 - [c]** Referendum: 1 500 per party.
 - [d]** Plebiscite:
 - [i]** Municipal: 1500 per party.
 - [ii]** Parliamentary: 1 500 per party.

[12] BANNERS

With regard to banners, the following further conditions and/or requirements must be complied with:

- [a]** The Municipality must from time to time determine such sites where banners may be displayed;
- [b]** only one banner may be displayed per determined site;
- [c]** the Municipality must allocate a specific site to successful applicants for a period of seven days, provided that the periods of allocations do not overlap;
- [d]** the Municipality has the right to remove any banner which becomes unsightly, untidy or which is torn or damaged on account of wind or for any other reason and as a result becomes dangerous to the public and the Municipality has no obligation to refund to the applicant any tariffs paid in respect of a banner so removed;
- [e]** the banner may not exceed 1m x 8m and must be made of a material acceptable to the Municipality;

- [f] only one banner may be erected per candidate or per party during a parliamentary election, referendum or plebiscite irrespective of the number of determined sites.

[13] AERIAL SIGNS

With regard to aerial signs, the following further conditions and/or requirements must be complied with:

- [a] The mooring-ropes must be tied in such a way that no road traffic sign, surrounding construction or overhead electricity lines will be damaged or affected;
- [b] the erection of the aerial sign must be in the discretion of the Municipality and the Municipality may –
 - [i] withdraw its permission should the aerial sign become unsightly or untidy or dangerous to the public; and
 - [ii] request the owner or applicant to remove same at his own cost, if the sign has already been erected;
- [c] should the owner or applicant fail or refuse to remove the aerial sign referred to in subsection [b] the Municipality is entitled to remove same and recover the cost of removal from the owner or applicant as the case may be;
- [d] the Municipality is not obliged to refund to the applicant any tariffs paid in respect of an aerial sign removed in terms of this section;
- [e] The aerial sign may be displayed for a maximum period of twenty one days before the date of the activity to which it relates and must be removed within 48 hours after such activity has ended.

[14] "FOR SALE" AND "SOLD" SIGNS

- [1] The following further conditions and/or requirements must be complied with in respect of "For Sale" and "Sold" signs of fixed property:
 - [a] The sign may not exceed 600 mm x 450mm;
 - [b] the sign must be erected or attached within or on the boundaries of any site or erf; and
- [2] the person who erects a "For Sale" and "Sold" sign on a site or erf is, notwithstanding the provisions of section 6, exempted from the requirement relating to the obtaining of the prior written approval from Municipality in terms of these by-laws as well as from the obligation to pay any tariff to the Municipality in terms of these by-laws.

[15] DIRECTIONAL SIGNS

- [1] With regard to directional signs, the following further conditions and/or requirements must be complied with:
 - [a] A maximum of twenty [20] directional signs in respect of any specific meeting, gathering, event, exhibition, show house or

any property which is for sale or to let may be exhibited at any one time;

[b] no directional sign may be exhibited for more than seven days before and two days after the occurrence of the event to which it relates;

[c] no directional sign may be erected in such a way that the free movement of pedestrians on a pavement may be obstructed thereby.

[2] The person who erects a directional sign is, notwithstanding the provisions of section 6, exempted from the requirement to obtain the prior written approval of Municipality and also from the obligation to pay any tariff to the Municipality in terms of these by-laws.

[16] ADVERTISEMENT TRAILERS

With regard to advertisement trailers, the following further conditions and/or requirements must be complied with:

[a] The Municipality must from time to time determine specific parking bays for the parking of advertisement trailers on municipal and/or private property;

[b] no advertisement trailer may be parked anywhere other than on the designated parking bay determined by Municipality;

[c] only one advertisement trailer may be parked on one parking bay;

[d] an advertisement trailer may be parked on one specific parking bay for a maximum period of seven days;

[e] an advertisement trailer must be properly secured in order to withstand strong winds and weather conditions;

[f] an advertisement trailer may not be towed for the sole purpose of displaying the advertisement sign to the public;

[g] an advertising sign must be mounted on the trailer and may be towed only to and from the designated parking bay;

[h] an advertisement trailer may not be towed in any public street if, in the opinion of Municipality, it is likely to cause a hindrance or an obstruction to any traffic in such street;

[i] an advertisement sign on an advertisement trailer may not be self illuminated; and

[j] the design and construction of any advertisement trailer must conform to the requirements of the Road Traffic Act, 1989 [Act No. 29 of 1989], and SABS Standards for trailers.

[17] FAILURE TO REMOVE SIGNS

[1] After he has displayed or caused to be displayed any temporary advertisement, the owner thereof must remove such sign or cause it to be removed before the permission in respect thereof has lapsed or is withdrawn in terms of these by-laws.

- [2] A person fails to act as contemplated in subsection [1] will forfeit the deposit paid to the Municipality in terms of these by-laws.

[18] DAMAGE TO MUNICIPAL PROPERTY

- [1] No damage may be caused to any tree, electrical pole or any municipal property or services as a result of the erection and or display of any temporary advertising sign in terms of these by-laws.
- [2] Apart from the fine imposed upon him in terms of these by-laws, the person who causes such damage as contemplated in subsection [1], or who negligently fails to prevent such damage from occurring is responsible for the repair at own expense and to the satisfaction of the Municipality of such damage; provided that Municipality may repair such damage and recover the cost thereof from such person.

[19] EXEMPTION FROM LIABILITY

The Municipality will not be responsible for any loss, damage, injury or death to anything or any person in respect of any action taken by such person or the Municipality in terms of these by-laws.

[20] IMPLEMENTATION AND ENFORCEMENT

The Municipality may appoint an authorized official to administer the implementation and enforcement of these by-laws.

[21] COMPLIANCE NOTICE

- [1] If an authorized official, after inspecting premises on which a sign as contemplated in these by-laws is displayed, reasonably believes that a provision of these by-laws is being contravened, he may serve a compliance notice on one or more of the following persons:
- [a] The owner of the premises;
 - [b] the occupier of the premises;
 - [c] any person apparently in charge of undertaking the aforesaid use on the premises.
- [2] A compliance notice must state –
- [a] why the authorized official believes that these by-laws are being contravened;
 - [b] the measures that must be taken to ensure compliance with these by-laws;
 - [c] the time period within which the measures must be taken;
 - [d] the possible consequences of failing to comply with the notice; and
 - [e] how to appeal against the notice.
- [3] If a person fails to comply with a compliance notice that requires a particular action to be taken, the Municipality may –
- [a] take the required action specified in the compliance notice; and

- [b] recover, as a debt, from the person to whom the notice was given, the costs and expenses reasonably incurred in taking the required action; or
- [c] direct that a prohibition notice be served on such person in terms of section 22 of these by-laws.

[22] PROHIBITION NOTICE

- [1] An authorized official may, after inspecting premises displaying any sign contemplated in and contrary to these by-laws, serve a prohibition notice on the owner, occupier or user of such premises prohibiting the sign from being so displayed and requiring measures to be taken to ensure that this occurs.
- [2] The authorized official must give the person on whom he intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice.
- [3] A prohibition notice must state –
 - [a] the reasons for serving the notice;
 - [b] whether or not the Municipality will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;
 - [c] the possible consequences of failing to comply with the notice; and
 - [d] how to appeal against the notice.
- [4] Unless a prohibition notice provides otherwise, it comes into effect when it is served under subsection [1] and remains in force until it is withdrawn.
- [5] The authorized official must as soon as possible affix a copy of the notice in a conspicuous position on the premises.
- [6] It is a defence for anyone charged with failing to comply with a prohibition notice to prove that –
 - [a] he did not know of the existence of the prohibition order and could not reasonably be expected to have known of its existence; and
 - [b] he had complied with the prohibition notice within 48 hours of the time that the notice was affixed to the premises in terms of subsection [5].

[23] WITHDRAWAL OF PROHIBITION NOTICE

- [1] The authorized official must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a prohibition notice, carry out an investigation of the premises.
- [2] After completing the investigation, the authorized official must inform the person on whom the prohibition notice was served or that person's agent in writing, whether or not the prohibition has been removed or withdrawn.

- [3]** The Municipality may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection [1], a fee as prescribed in the applicable tariff policy for undertaking the investigation.

[24] DELIVERY OF NOTICES

- [1]** A notice, order or other document is to be regarded as having been properly served if –
- [a]** it has been delivered to that person personally;
 - [b]** sent by registered post to the person to whom it is addressed at his last known address;
 - [c]** it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;
 - [d]** if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided for in subsections [1] [a], [b] or [c]; or
 - [e]** if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the premises to which it relates.
- [2]** A notice, order or other document that may in terms of these by-laws be served on the owner or occupier of premises –
- [a]** may be addressed to the owner or occupier of the specified premises and need not name the owner or occupier; and
 - [b]** if the Municipality does not know the address of the owner or occupier of the premises and cannot easily obtain it, the notice, order or other document is to be regarded as having been properly served if it is affixed to a conspicuous place on the premises.

[25] APPEAL

- [1]** A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.
- [2]** The Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- [3]** When the appeal is against a decision taken by –
- [a]** a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - [b]** the Municipal Manager, the Executive Committee is the appeal authority; or

- [c]** a political structure or political officer bearer, or a Councillor Council is the appeal authority.
- [4]** The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

[26] OFFENCES AND PENALTIES

- [1]** Any person is guilty of an offence if he –
 - [a]** hinders or interferes with an authorized official in the execution of his duties in terms of these by-laws;
 - [b]** falsely professes to be an authorized official;
 - [c]** furnishes false or misleading information when complying with a request of an authorized official; or
 - [d]** fails to comply with a request of an authorized official.
 - [e]** contravenes any of the provisions of these by-laws or fails to comply therewith; or
 - [f]** contravenes or fails to comply with any order made hereunder or any notice served in connection herewith.
- [2]** Any person convicted of an offence contemplated in subsection [1] is liable to –
 - [a]** a fine or imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment; and
 - [b]** in the case of a continuing offence, to an additional fine or an additional period of imprisonment of 10 days or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued; and
 - [c]** a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as a result of such contravention or failure.

[27] REPEAL OF BY-LAW

- [1]** Any by-law adopted by the Municipality or a municipality now forming an administrative unit of the Municipality and relating to any matter regulated by these by-laws are, from date of promulgation of these by-laws, hereby repealed.
- [2]** Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, is deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

LOCAL AUTHORITY NOTICE 85**TSOLWANA LOCAL MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996] the By-Laws Relating to the Impoundment of Animals that come into operation on the date of publication thereof.

BY-LAWS RELATING TO THE IMPOUNDMENT OF ANIMALS**PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996 [Act No. 108 of 1996];

AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to establish and maintain facilities for the impoundment of animals within the area of jurisdiction of the Municipality;

NOW THEREFORE be it enacted by the Council as follows:

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- [1] Definitions
- [2] Application
- [3] Establishment of pound
- [4] Appointment of pound keeper
- [5] General duties of the pound keeper
- [6] Trespassing or straying animals may be impounded
- [7] Animals too vicious, intractable or wild to be impounded
- [8] Release of animals before removal to pound
- [9] Care of trespassing animals
- [10] Pound to which animals must be taken
- [11] Information to be supplied to pound keeper
- [12] Acceptance at pound of animals to be impounded
- [13] Pound register
- [14] Notice to owners of animals
- [15] Care of impounded animals
- [16] Isolation of infected animals
- [17] Treatment of impounded animals
- [18] Death of or injury to impounded animals
- [19] Copies of by-laws
- [20] Fees and costs payable
- [21] Release of impounded animals
- [22] Sale of impounded animals

- [23] Pound keeper may not purchase impounded animals
- [24] Animals unsuccessfully offered for sale
- [25] Proceeds
- [26] Action for recovery of damages
- [27] Procedure to be followed in application to court
- [28] Appeal
- [29] Offences and penalties
- [30] Schedules 1 and 2 form part of these by-laws
- [31] Repeal of by-laws

SCHEDULES

[1] DEFINITIONS

In these by-laws, any word or expression importing any gender or the neuter includes both genders and the neuter, the singular includes the plural and vice versa and, unless the context otherwise, indicates:-

"animal" includes a horse, bovine, camel, donkey, sheep, goat, pig, ostrich, small bird, dog, cat or the hybrid of any such animal;

"authorized official" means -

[a] an official who has been authorized by the Council to administer, implement and enforce the provisions of these by-laws;

[b] a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996;

[c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995; or

[d] a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977.

"Court" means a Magistrate's Court as referred to in section 166[d] of the Constitution, 1996, having jurisdiction in the area in which the pound is situated;

"Gazette" means the official Provincial Gazette of Eastern Cape;

"Municipality" means the Municipality of Tsolwana and includes the Council of the Municipality and any other duly authorized political structure, political office bearer or official thereof and, where the text so requires, also a pound keeper employed by the Municipality;

"owner" includes an owner who is known, or whose identity, with the exercise of reasonable diligence, can be ascertained and in relation to any

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[a] animal, includes the agent of the owner or other person having the lawful custody or possession of such animal; or

[b] land, includes the owner, lessee or lawful occupier of such land or his agent;

"pound" means a pound established as contemplated in section 3;

"pound keeper" means the person appointed from time to time as contemplated in section 4 and includes any person acting for or on behalf of the appointed pound keeper;

“public place” means any place to which the public has access including, without limiting the generality of the aforesaid, any –

- [a] square;
- [b] park;
- [c] recreation ground;
- [d] sports ground;
- [e] open space;
- [f] beach;
- [g] shopping centre on municipal land;
- [h] unused or vacant municipal land; or
- [i] cemetery;

“public road” means a public road as contemplated in section 1 of the Road Traffic Act, 1996 [Act No. 93 of 1996]; and

“service delivery agreement” means a service delivery agreement as defined in section 1 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000].

[2] APPLICATION

These by-laws apply to the area of jurisdiction of the municipality; provided that nothing prevents any animal detained in terms of these by-laws from being impounded in a pound or any similar facility established by any person or body with whom the Municipality has concluded a service level agreement, another Municipality or duly authorized institution.

[3] ESTABLISHMENT OF POUND

These by-laws must be applied subject to any provincial legislation authorizing a Municipality to establish a pound or regulating a pound and in the event of conflict between these by-laws and such legislation, the provisions of such provincial legislation will apply.

[4] APPOINTMENT OF POUND KEEPER

- [1] Subject to subsection [2], the Municipality –
 - [a] must appoint a suitably skilled and experienced person as a pound keeper; and
 - [b] may appoint an authorized official to administer the implementation and enforcement of these by-laws.
- [2] If a pound is operated by a person or body in terms of a service delivery agreement concluded with the Municipality, the relevant contracting party is obliged to appoint a suitably skilled and experienced person as a pound keeper for each pound for which such party is responsible in terms of the relevant service delivery agreement;

- [3] The provisions of these by-laws will, with the necessary changes, apply to a pound established in terms of a service delivery agreement concluded by the Municipality.

[5] GENERAL DUTIES OF THE POUND KEEPER

- [1] The pound keeper must take all reasonable measures to ensure that a public health hazard or a public health nuisance does not occur on, or rise or emanate and he must take all reasonable measures to ensure that the public health hazard or a public health nuisance is eliminated or reduced as far as possible.
- [2] For the purpose of subsection [1] the following measures must be taken:
- [a] Fly-traps must be installed to catch or kill flies;
 - [b] accumulated water must be covered with oil and drained regularly;
 - [c] containers in which mosquitoes may breed, must be disposed of or kept in such a manner to prevent breeding of mosquitoes;
 - [d] ditches, gutters and pipes must be cleaned regularly so as to prevent the collection of water; and
 - [e] appropriately humane method of vermin control must be adopted.

[6] TRESPASSING OR STRAYING ANIMALS MAY BE IMPOUNDED

- [1] The owner of land upon which any animal is found trespassing may seize such animal; provided that, if the identity of the owner of such animal is known to the owner of land upon which it is found trespassing, such animal may not be removed to a pound before notice is given to the owner thereof in writing no less than 48 [forty-eight] hours prior to its removal to a pound.
- [2] Any animal found straying unattended upon any public road or public place may be seized for impounding by –
- [a] an authorized official; or
 - [b] the owner of any land through or alongside which such road passes or which abuts on such public place.
- [3] No person may keep an animal, seized for purposes of impounding in terms of in subsections [1] and [2], for a period longer than 6 [six] hours without supplying such animal with adequate food and water.
- [4] Any person who has seized an animal for purposes of impounding must comply with the provisions of the Code of Good Practice on the Handling and Transportation of Impounded Animals contained in **SCHEDULE 1** to these by-laws.

[7] ANIMALS TOO VICIOUS, INTRACTABLE OR WILD TO BE IMPOUNDED

If a state veterinarian or official contemplated in section 6[2] [a] to [e] is satisfied that an animal found trespassing on any land, or straying untended upon any public road or public place, is too vicious, intractable or wild to be impounded, he may authorize the humane destruction or other disposal of the animal, after giving written reasons and written notice thereof to the owner of the animal concerned.

[8] RELEASE OF ANIMALS BEFORE REMOVAL TO POUND

[1] The owner of an animal, seized in terms of section 6[1] may apply to the owner of land contemplated in such section for the release of the animal concerned prior to its removal to a pound.

[2] The owner of land referred to in section 6[1] may –

[a] release such animal forthwith; or

[b] refuse the release of the animal; and

[c] in the event that such owner refuses to release the animal as contemplated in subsection [b], apply to Court for authority to –

[i] impound the animal; or

[ii] claim any damages he may have suffered, in which event the Court may make such order, including an order as to costs that it deems just and equitable.

[3] The owner of an animal seized in terms of section 6[2] may apply to the relevant person referred to in section 6[2] for the release of such animal prior to its removal to the pound.

[4] A person referred to in section 6[2] who receives an application contemplated in subsection [3] may either permit or refuse the release of the animal.

[5] In the event that the person referred to in section 6[2] permits the release of the animal, it must be released without undue delay.

[9] CARE OF TRESPASSING ANIMALS

A person may not work, use or ill-treat an animal found trespassing on any land or whilst it is in the process of being removed to a pound.

[10] POUND TO WHICH ANIMALS MUST BE TAKEN

An animal seized for the purposes of impounding as contemplated in section 6, must be removed to the nearest accessible pound by and within the shortest practical route and within the shortest practical time; provided that animals of different species must be separated at all times according to their species.

[11] INFORMATION TO BE SUPPLIED TO POUND KEEPER

Any person sending animals to a pound must advise the pound keeper thereof in writing of –

- [a]** the number and descriptions of the animals;
- [b]** the land upon which they were found trespassing; and
- [c]** the distance in kilometres, by the shortest practical route, between the place on such land where they were seized and the pound.

[12] ACCEPTANCE AT POUND OF ANIMALS TO BE IMPOUNDED

The pound keeper may not refuse to accept an animal for impounding.

[13] POUND REGISTER

The pound keeper must –

- [a]** maintain a pound register containing the information contemplated in **SCHEDULE 2**, which register must be available for public inspection at all reasonable times; and
- [b]** complete the pound register immediately upon the acceptance into the pound of any animal.

[14] NOTICE TO OWNERS OF ANIMALS

[1] The owner of an animal contemplated in section 6[1], 7, 15[4], 16[c], 18[b], 22[1] [b] and 24[a], must be notified by –

- [a]** addressing a written notice to him; or
- [b]** placing a copy of the notice to the owner on the official notice board of the Municipality ; and
- [c]** publishing a copy of the notice on at least two consecutive days in a newspaper of general circulation in the Municipality.

[2] A notice, order or other document is to be regarded as having been properly served if –

- [a]** it has been delivered to that person personally;
- [b]** sent by registered post to the person to whom it is addressed at his, her or their last known address;
- [c]** it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;
- [d]** if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided for in subsections [1][a], [b] or [c]; or
- [e]** if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the premises to which it relates.

[2] A notice, order or other document that may in terms of these by-laws be served on the owner or occupier of premises –

- [a] may be addressed to the owner or occupier of the specified premises and need not name the owner or occupier; and
- [b] if the Municipality does not know the address of the owner or occupier of the premises and cannot easily obtain it, the notice, order or other document is to be regarded as having been properly served if it is affixed to a conspicuous place on the premises.

[15] CARE OF IMPOUNDED ANIMALS

- [1] The pound keeper –
 - [a] is responsible for the proper care of all impounded animals;
 - [b] must ensure that fresh water and sufficient food is available to impounded animals at all times; and
 - [c] is liable to the owner of an impounded animal for any damage caused by his willful or negligent acts or omissions.
- [2] A pound keeper must apply to the Court if he is of the opinion that an impounded animal is dangerously vicious, permanently disabled or terminally ill.
- [3] A Court considering an application contemplated in subsection [2] may, if the Court is satisfied that its condition warrants its destruction or disposal, authorize the destruction or other disposal of such animal.
- [4] Where the Court authorizes the destruction or disposal of an animal on application by the pound keeper, the pound keeper must immediately notify the owner in writing of the order of Court and the destruction or disposal of the animal concerned.

[16] ISOLATION OF INFECTED ANIMALS

If the pound keeper suspects, or is aware, that an impounded animal, or an animal to be impounded, is infected with any disease contemplated in the Animal Diseases Act, 1984 [Act No. 35 of 1984], he must -

- [a] provide separate accommodation for such animal;
- [b] immediately isolate the animal and report the disease to the nearest state veterinarian; and
- [c] immediately notify the owner of the animal of such disease in writing.

[17] TREATMENT OF IMPOUNDED ANIMALS

The pound keeper –

- [a] may not work or in any way make use of an impounded animal or permit any such animal to be worked or made use of by any other person; and
- [b] must ensure that all impounded male animals are at all times kept apart from female animals.

[18] DEATH OF OR INJURY TO IMPOUNDED ANIMALS

Any pound keeper must, upon discovering that an impounded animal is injured or has died –

- [a]** record the injury or cause of death in the pound register referred to in section 13; and
- [b]** notify the owner of the animal in writing of its injury or death.

[19] COPIES OF BY-LAWS

The pound keeper must ensure that legible copies of these by-laws in the languages determined by the Municipality are available at the pound for perusal by interested parties.

[20] FEES AND COSTS PAYABLE

The pound keeper must –

- [a]** charge the owner of an impounded animal the fees as set by the Municipality from time to time as contemplated in section 75A of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000]; and
- [b]** recover from the owner the cost of any dipping, medical treatment, inoculation or other treatment that may be necessary or required in terms of these by-laws or in accordance with any other law.

[21] RELEASE OF IMPOUNDED ANIMALS

- [1]** The pound keeper must immediately release an impounded animal and give the owner thereof a receipt, upon such owner –
 - [a]** providing proof of ownership of such animal; and
 - [b]** paying the fees and costs contemplated in section 20.
- [2]** The pound keeper may retain an animal contemplated in subsection [1] in order to recover such fees or costs as may be due and payable in the event that the owner of an impounded animal is unable to pay the fees or costs contemplated in section 20.

[22] SALE OF IMPOUNDED ANIMALS

- [1]** The pound keeper must –
 - [a]** within 14 days of the impounding of an animal, apply to the Court for authority to sell the impounded animal; and
 - [b]** in the application contemplated in paragraph [a], provide the Court with proof that he lodged a statement as contemplated in subsection [2] with the owner.
- [2]** The statement contemplated in subsection [1] [b] must include –
 - [a]** the fees and costs due in terms of these by-laws; and
 - [b]** the amount of any damages that the owner of the land on which the impounded animal trespassed, may have suffered.
- [3]** The Court, whether the amounts set forth in the statement contemplated in sub-section [1] [b] are disputed or not, must –

- [a] summarily enquire into the matter;
- [b] enquire whether notice was given to the owner of the animal by the pound keeper; and
- [c] make such order as it considers just and equitable, including an order –
 - [i] as to costs; and
 - [ii] on the process to be followed by the pound keeper in the sale of the animal.

[23] POUND KEEPER MAY NOT PURCHASE IMPOUNDED ANIMALS

- [a] The pound keeper, or a family member, or a close associate of such pound keeper, may not purchase an animal offered for sale at a pound sale, either personally or through any other person or either directly or indirectly.
- [b] A pound keeper who contravenes subsection [a] is guilty of an offence.

[24] ANIMALS UNSUCCESSFULLY OFFERED FOR SALE

In the event that any animal is not sold in the manner contemplated in section 23 –

- [a] the pound keeper must immediately advise the Court and the owner of its estimated value and the fees and costs incurred; and
- [b] the Court may make such order as it may deem just and equitable in the circumstances.

[25] PROCEEDS

- [1] All proceeds from the collection of fees and costs contemplated in section 22 must be paid into the municipal revenue fund; provided that the revenue from the sale of any impounded animal that is in excess of the fees and costs incurred and any damages awarded in terms of section 22[3] [c] must be paid to the owner of the sold animal within 30 days of the sale.
- [2] The excess must be paid into the municipal revenue fund if the owner of an animal contemplated in subsection [1] cannot be established.

[26] ACTION FOR RECOVERY OF DAMAGES

Nothing in these by-laws prevents the owner of land or any other person from instituting action against the owner of a trespassing animal, in any Court with jurisdiction, for the recovery of damages suffered by reason of such trespassing animal.

[27] PROCEDURE TO BE FOLLOWED IN APPLICATION TO COURT

- [1]** An application to Court for the impoundment of an animal in terms of these by-laws must comply with the following procedure contemplated in Rule 55 of the Rules of Court; and
- [2]** An application to Court for the sale of an impounded animal in terms of these by-laws must comply with the following procedures:
 - [a]** Section 66 of the Magistrates' Courts Act, 1944 [Act No. 32 of 1944]; and
 - [b]** Rule 41 of the Rules of Court made by the Rules Board for Courts of Law in terms of section 6 of the Rules Board for Courts of Law Act, 1985 [Act No. 107 of 1985] and published under Government Notice No. R.1108 in Regulation Gazette No. 980 of 21 June 1968, as amended from time to time, read with the necessary changes.

[28] APPEAL

- [1]** A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.
- [2]** The Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- [3]** When the appeal is against a decision taken by –
 - [a]** a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - [b]** the Municipal Manager, the Executive Committee is the appeal authority; or
 - [c]** a political structure or political officer bearer, or a Councillor Council is the appeal authority.
- [4]** The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

[29] OFFENCES AND PENALTIES

- [1]** A person is guilty of an offence who contravenes any provision of these by-laws or unlawfully –
 - [a]** releases an animal that was lawfully seized for the purpose of being impounded or which has been lawfully impounded;
 - [b]** seizes an animal for the purpose of impounding it;
 - [c]** impounds an animal;
 - [d]** makes a false entry in the pound register;
 - [e]** destroys or erases any previous entry in the pound register;
 - [f]** delivers a false copy or extract from the pound register to any person;

- [g] hinders or interferes with an authorized official in the execution of his duties in terms of these by-laws;
 - [h] falsely professes to be an authorized official;
 - [i] furnishes false or misleading information when complying with a request of an authorized official; or
 - [j] fails to comply with a request of an authorized official.
- [2] A person convicted of an offence under these by-laws is liable –
- [a] to a fine, or to imprisonment for a period not exceeding one year; and
 - [b] in the case of a continuing offence –
 - [i] to an additional fine; or
 - [ii] to an additional period of imprisonment of 10 days; or
 - [iii] to such additional imprisonment without the option of a fine; or
 - [iv] to both such additional fine and imprisonment for each day on which such offence is continued; and
 - [v] to a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as a result of such contravention or failure.

[30] SCHEDULES 1 AND 2 FORM PART OF THESE BY-LAWS

Schedules 1 and 2 to these by-laws form part thereof for all purposes.

[31] REPEAL OF BY-LAW

- [1] Any by-law adopted by the Municipality or a municipality now forming an administrative unit of the Municipality and relating to any matter regulated by these by-laws are, from date of promulgation of these by-laws, hereby repealed.
- [2] Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, is deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

SCHEDULE 1**CODE OF GOOD PRACTICE ON THE HANDLING AND TRANSPORTATION OF IMPOUNDED ANIMALS****PART I: Paddock Requirements**

- [1] Different species of animals must be kept in separate paddocks.
- [2] Animals may not be penned in overcrowded paddocks and penning space provided for in each paddock must be sufficient to permit all animals to lie down at the same time and must not be less than 1,5 square metres of floor area for each animal.
- [3] Fractious animals may not be kept with other animals.
- [4] Young, weaned juvenile animals may not be penned with adult animals, except in the case of mother and offspring.
- [5] Provision must be made in paddocks for -
 - [a] facilities such as racks, mangers or other suitable feed containers that are easy to clean, which will allow the feeding of an animal off the floor and which can be serviced without disturbing the animals;
 - [b] water troughs with an adequate supply of suitable fresh water at all times;
 - [c] sufficient facilities for the adequate cleaning of paddocks; and
 - [d] facilities for the safe handling of animals.
- [6] The paddocks must at all times be maintained in a good state of repair.
- [7] Sharp points such as wire ends, broken boards, jagged ends or protruding hinges or bolts, which could cause injury to animals, must be removed or otherwise suitably covered.
- [8] The floor of the entire paddock, including the off-loading banks, races and passages, must be so constructed as to provide adequate non-slip surfaces that can be efficiently and suitably cleaned and kept dry and in a condition fit for the holding of animals.

PART II: Handling of Animals

- [1] Animals must at all times be handled humanely and with patience and tolerance.
- [2] The following must be observed when handling animals -
 - [a] animals respond more readily to being driven when the driver stands behind the animal but within its field of vision; and
 - [b] herd animals respond more readily to being driven when in a group rather than singly.
- [3] Animals may not be dragged by their legs or carried by their head, ears or tail.
- [4] Young calves must be carried if they cannot walk with ease, by lifting the calf around the chest and hindquarters, alternatively they

must be guided with one hand on the hindquarters and the other near shoulder or neck and walked in the required direction at an appropriate and comfortable pace.

- [5] Only sticks with canvas or belting flaps may be used when driving animals and it is preferable to strike the ground behind the animal rather than to hit the animal.
- [6] Electric prodders, sticks or goads may not be used on young calves.
- [7] Electric prodders may not be used excessively or indiscriminately or applied to the face, anal or genital areas of animals.

PART III: MOVEMENT OF ANIMALS

- [1] Animals driven on the hoof must at all times be under proper and competent supervision.
- [2] Animals on the hoof must be driven in a calm manner at a gait that is relaxed and comfortable, natural to that animal and not faster than the pace of the slowest animal.
- [3] Animals may not be driven for periods in excess of 10 hours without being given rest of at least one hour and provided with sufficient suitable fresh water that is available to all the animals.
- [4] No animal on the hoof may be moved in excess of the following distances –
 - [a] during a journey of not more than one day's duration -
 - [i] 20 kilometres for sheep and goats; and
 - [ii] 30 kilometres for cattle; and
 - [b] during a journey of more than one day's duration -
 - [i] 20 kilometres during the first day and 15 kilometres during each subsequent day for sheep and goats; and
 - [ii] 25 kilometres during the first day and 20 kilometres during each subsequent day for cattle.
- [5] Animals must be watered and fed immediately on reaching their night camp or final destination, with sufficient food of a quality and of a type compatible with the species.
- [6] Animals may not be moved in the dark.
- [7] No sick, injured or disabled animal may be moved on the hoof.

PART IV: VEHICLES USED IN TRANSPORTING ANIMALS

- [1] Vehicles and all trailers used in the transport of hoofed animals must be suitable for the transport of such animals and in a roadworthy condition.
- [2] All vehicles and trailers referred to in item 1 must have –
 - [a] a suitable non-slip floor which may not impede the cleaning of the floor of the vehicle, with hinged or removable battens or steel grids being permissible;
 - [b] adequate ventilation and light whilst in motion as well as when stationary, with no vehicle being totally enclosed;

- [c] adequate protection from exhaust gasses, as exposure fumes could interfere with the respiration of the animal or cause distress;
- [d] sidewalls high enough to prevent animals from escaping or falling out of the vehicle; provided that –
 - [i] the sides and partitions, when used in a vehicle to separate animals carried therein, must be of a height not lower than the shoulder joint of the largest animal being transported;
 - [ii] in the case of cattle other than calves, the minimum height must be 1 800 millimetres; and
 - [iii] the minimum height must be 750 millimetres in the case of any smaller animals;
- [e] in multi-tier vehicles, heights between decks must be adequate, and in case of sheep and pigs not less than 1 000 millimetres, to enable the larger animals to stand naturally, freely and fully erect and to allow adequate space for the free flow of air above the animals;
- [f] floors that are solid and impervious;
- [g] loading and off-loading openings at the rear of the vehicle that are the full width of the vehicle or, if at the sides, a width not less than 2 400 millimetres; and
- [h] gates, with or without partitions –
 - [i] of a design and construction strong enough and suitable for the conveyance of the intended consignment; and
 - [ii] that open and close freely and are able to be well-secured.
- [3] The density of animals packed into any given space must be such as to ensure the safety and comfort of the animals during transport and the recommended floor space per animal is –
 - [a] 1,4 square metres per large animal; and
 - [b] 0,5 square metres per small animal.

PART V: WATERING AND FEEDING OF LIVE ANIMALS PRIOR TO LOADING

- [1] Animals must be provided with sufficient and suitable food and fresh water until the commencement of the journey.

PART VI: LOADING AND OFF-LOADING PROCEDURE

- [1] Loading and off-loading into or out of a vehicle must be accomplished as quietly and calmly as possible, with patience and tolerance and without undue harassment, terrifying of the animals, bruising, injury, suffering or undue stress.

- [2]** No animal may be loaded or off-loaded by lifting by the head, fleece, skin, ears, tails, horns or legs.
- [3]** No animals may be loaded or off-loaded otherwise than –
 - [a]** by means of a ramp with a non-slip surface, sturdy enough to support the weight of the species of animals being handled, with side panels or bars adequate to prevent animals escaping or falling off the ramp and of an incline not steeper than 25 degrees; or
 - [b]** at a loading bank equal to the height of the floor of the vehicle or, at off-loading, not more than 310 millimetres below the level of the off-loading vehicle and with an incline not exceeding 25 degrees.
- [4]** Where a truck is equipped with an onboard removable loading ramp, it must have a non-slip surface and be of a sufficient length when lowered, that the inclination is no steeper than the inclines referred to in item 28, with the distance from the ground to the heel of the ramp not exceeding 120 millimetres.
- [5]** Ramps must be correctly adjusted to the exact height of the vehicle's floor.
- [6]** Journeys must commence as soon as possible after the live animals have been loaded and the animals must be promptly off-loaded upon arrival at the destination.
- [7]** Unless adequate provision has been made for effective separation, different species of animals may not be loaded and transported in the same vehicle.
- [8]** Animals of different ages, sizes and sexes may not be loaded and transported in the same vehicle unless adequate provision has been made for the effective separation of such animals.
- [9]** Adult horned cattle may not be transported with polled cattle and they must also be penned separately.
- [10]** When there is reason to believe that an animal is likely to give birth in the course of a proposed journey, the animal may not be loaded onto a vehicle.
- [11]** In the case of an animal giving birth during transport, the necessary measures must be taken to ensure the protection of the mother and offspring from being trampled or otherwise injured or harassed by other animals.
- [12]** In the event of –
 - [a]** a breakdown of the transport vehicle;
 - [b]** an accident or collision in which the transport vehicle is involved; or
 - [c]** injury to, or death of, any animal in transit, the carrier must immediately report the details to, and request assistance from

- [i] in the case of paragraph [a], a breakdown service;
- [ii] in the case of paragraph [b], the South African Police and the traffic authorities; or
- [iii] in the case of paragraph [c], a veterinarian.

PART VII: RESTRAINING OF ANIMALS DURING TRANSPORTATION

- [1] Where the transport of any animal may cause injury to itself or any other animal, it must be restrained in such a manner as to prevent such injury.
- [2] No animals may be kept in restraint for more than 4 hours in any 24-hour period.
- [3] No wire or bailing twine may be used for tying the animal's legs or feet.
- [4] To avoid strangulation or neck-break, a slipknot may not be used where animals are secured to the vehicle by horns or neck, and the rope must be attached to the vehicle at the level of the animal's knees so that in the event of the animal falling, the possibility of serious injury or death is reduced, with the rope being long enough to allow the animal to lie comfortably in a natural position with its head upright.

SCHEDULE 2**POUND REGISTER INFORMATION**

A pound register must, at least, contain the following information:

- [1]** Name of pound
- [2]** Date of receipt of animal
- [3]** Number and description of animals
- [4]** Brands or markings on animal
- [5]** Ear tag number assigned by the pound keeper
- [6]** Name and address of person who seized the animal
- [7]** Name and address of person who delivered the animal to the pound
- [8]** Name and address of owner of land
- [9]** Name and address of owner of animal
- [10]** Name and address or description of place where animal was found
- [11]** Distance from location where animal was seized to pound
- [12]** Particulars of damage caused by the animal
- [13]** Transport fees payable
- [14]** Details of destruction or disposal of animal
- [15]** Cause of death or injury of impounded animal
- [16]** Description and amount of pound fees
- [17]** Damages awarded by Court
- [18]** Date of release of animal
- [19]** Date of sale of animal
- [20]** Proceeds of sale of animal
- [21]** Name and address of purchaser
- [22]** Excess amount [if any] paid to owner or municipality
- [23]** Receipt number
- [24]** Details of Order of Court with regard to animal not sold in execution.