



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

**Provincial Gazette  
Igazethi Yephondo  
Provinsiale Koerant**

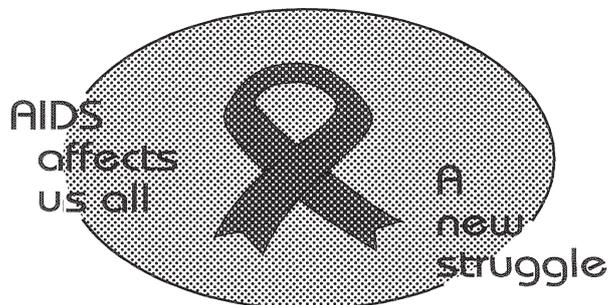
Vol. 23

BISHO/KING WILLIAM'S TOWN  
15 FEBRUARY 2016  
15 FEBRUARIE 2016

No. 3593

**PART 1 OF 2**

**We all have the power to prevent AIDS**



**AIDS  
HELPLINE**

**0800 012 322**

DEPARTMENT OF HEALTH

**Prevention is the cure**

*N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes*

ISSN 1682-4556



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A graphic of a white sticky note pinned to a grey background with the word "Important" written in a black, handwritten-style font.

## A message from Government Printing Works

### Notice Submissions Rule: Single notice, single email

Dear Valued Customer,

Over the last six months, GPW has been experiencing problems with many customers that are still not complying with GPW's rule of **single notice, single email** (with proof of payment or purchase order).

You are advised that effective from **18 January 2016**, all notice submissions received that do not comply with this rule will be failed by our system and your notice will not be processed.

In the case where a Z95, Z95Prov or TForm3 Adobe form is submitted with content, there should be a separate Adobe form completed for each notice content which must adhere to the single notice, single email rule.

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

To those customers who are complying with this rule, we say Thank you!

Regards,

Government Printing Works



# Government Printing Works

## Notice submission deadlines

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

In line with these business rules, GPW has revised the notice submission deadlines for all gazettes. Please refer to the below table to familiarise yourself with the new deadlines.

### ORDINARY GAZETTES

Government Gazette Type	Publishing Frequency	Publication Date	Submission Deadline	Cancellations Deadline
National Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 12h00 - 3 days prior to publication
Regulation Gazette	Weekly	Friday	Friday 15h00, to be published the following Friday	Tuesday, 12h00 - 3 days prior to publication
Petrol Price Gazette	As required	First Wednesday of the month	One week before publication	3 days prior to publication
Road Carrier Permits	Weekly	Friday	Thursday 15h00, to be published the following Friday	3 days prior to publication
Unclaimed Monies (justice, labour or lawyers)	January / As required 2 per year	Any	15 January / As required	3 days prior to publication
Parliament (acts, white paper, green paper)	As required	Any		3 days prior to publication
Manuals	As required	Any	None	None
Legal Gazettes A, B and C	Weekly	Friday	One week before publication	Tuesday, 12h00 - 3 days prior to publication
Tender Bulletin	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 12h00 - 3 days prior to publication
Gauteng	Weekly	Wednesday	Two weeks before publication	3 days <b>after</b> submission deadline
Eastern Cape	Weekly	Monday	One week before publication	3 days prior to publication
Northern Cape	Weekly	Monday	One week before publication	3 days prior to publication
North West	Weekly	Tuesday	One week before publication	3 days prior to publication
KwaZulu-Natal	Weekly	Thursday	One week before publication	3 days prior to publication
Limpopo	Weekly	Friday	One week before publication	3 days prior to publication
Mpumalanga	Weekly	Friday	One week before publication	3 days prior to publication
Gauteng Liquor License Gazette	Monthly	Wednesday before the First Friday of the month	Two weeks before publication	3 days after submission deadline
Northern Cape Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 days after submission deadline
National Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 days after submission deadline
Mpumalanga Liquor License Gazette	2 per month	Second & Fourth Friday	One week before	3 days <b>prior</b> to publication

### CANCELLATIONS



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

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

Your request for cancellation must be accompanied by the relevant notice reference number (N-).



## AMENDMENTS TO NOTICES

take  
note!

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

Until then, amendments to notices must be received before the submission deadline.

## CUSTOMER INQUIRIES



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

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

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

## PROOF OF PAYMENTS



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

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

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

## FORMS AND GAZETTES

The electronic Adobe Forms and published gazettes can be found on our website: [www.gpwonline.co.za](http://www.gpwonline.co.za)

Should you require assistance with downloading forms or gazettes, please contact the eGazette Contact Centre who will gladly assist you.

eGazette Contact Centre

Email: [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za)

Telephone: 012-748 6200



## REMINDER OF THE GPW BUSINESS RULES

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



eGazette



**DISCLAIMER:**

Government Printing Works reserves the right to apply the 25% discount to all Legal and Liquor notices that comply with the business rules for notice submissions for publication in gazettes.

National, Provincial, Road Carrier Permits and Tender notices will pay the price as published in the Government Gazettes.

For any information, please contact the eGazette Contact Centre on 012-748 6200 or email [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za)

**ADVERTISEMENT**

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# Government Printing Works Contact Information

**Physical Address:**

Government Printing Works  
149 Bosman Street  
Pretoria

**Postal Address:**

Private Bag X85  
Pretoria  
0001

For queries and quotations, contact:

**Gazette Contact Centre:****Tel:** 012-748 6200**E-mail:** [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za)

For gazette submissions:

**Gazette Submissions:****E-mail:** [submit.egazette@gpw.gov.za](mailto:submit.egazette@gpw.gov.za)

Contact person for subscribers:

**Mrs M. Toka:****Tel:** 012-748-6066 / 6060 / 6058**Fax:** 012-323-9574**E-mail:** [subscriptions@gpw.gov.za](mailto:subscriptions@gpw.gov.za)

## GPW Banking Details

Bank:	ABSA BOSMAN STREET
Account No.:	405 7114 016
Branch Code:	632-005

IT IS THE CLIENTS RESPONSIBILITY TO ENSURE THAT THE CORRECT AMOUNT IS PAID AT THE CASHIER OR DEPOSITED INTO THE GOVERNMENT PRINTING WORKS BANK ACCOUNT AND ALSO THAT THE REQUISITION/COVERING LETTER TOGETHER WITH THE ADVERTISEMENTS AND THE PROOF OF DEPOSIT REACHES THE GOVERNMENT PRINTING WORKS IN TIME FOR INSERTION IN THE PROVINCIAL GAZETTE.

**No ADVERTISEMENTS WILL BE PLACED WITHOUT PRIOR PROOF OF PRE-PAYMENT**

1/4 Page

**R286.00**

Letter Type: Arial

Font Size: 10pt

Line Spacing: 11pt

**TAKE NOTE OF  
THE NEW  
TARIFFS WHICH  
ARE APPLICABLE  
FROM THE  
1<sup>ST</sup> OF APRIL 2015**

1/2 Page

**R571.80**

Letter Type: Arial

Font Size: 10pt

Line Spacing: 11pt

3/4 Page

**R857.70**

Letter Type: Arial

Font Size: 10pt

Line Spacing: 11pt

Full Page

**R1143.40**

Letter Type: Arial

Font Size: 10pt

Line Spacing: 11pt

## GOVERNMENT PRINTING WORKS BUSINESS RULES

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

1. No hand written notices will be accepted for processing, this includes Adobe forms which have been completed by hand.
2. Notices can only be submitted in Adobe electronic form format, to the email submission address **submit.egazette@gpw.gov.za**. All notice submissions not on Adobe electronic forms will be **rejected**.
3. When submitting your notice request, please ensure that a **purchase order** (GPW Account customer) or **proof of payment** (non-GPW Account customer) is included with your notice submission. All documentation relating to the notice submission must be **in a single email and must be attached separately**. (In other words, your email should have an Adobe Form plus proof of payment/purchase order as 2 separate attachments. Where notice content is applicable, it should also be a 3rd separate attachment).
4. Notices brought to GPW by “walk-in” customers on electronic media can only be submitted in Adobe electronic form format.
5. All “walk-in” customers with notices that are not on electronic Adobe forms will be routed to the Contact Centre where they will be assisted to complete the forms in the required format. Where a customer walks into GPW with a stack of hard copy notices delivered by a messenger on behalf of any organisation e.g. newspaper publisher, the messenger will be referred back to the sender as the submission does not adhere to the submission rules.
6. For National or Provincial gazette notices, the following applies:
  - 6.1 These notices must be accompanied by an electronic **Z95** or **Z95Prov** Adobe form
  - 6.2 The notice content (body copy) **MUST** be a separate attachment.
7. All notice submissions that do not comply with point 2 will be charged full price for the notice submission.
8. The current cut-off of all Gazette’s remains unchanged for all channels. (Refer to the GPW website for submission deadlines – **www.gpwonline.co.za**)
9. Incorrectly completed forms and notices submitted in the wrong format will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email **info.egazette@gpw.gov.za**)
10. All re-submissions will be subject to the standard cut-off times.
11. All submissions and re-submissions that miss the cut-off will be rejected to the customer to be submitted with a new publication date.
12. The electronic Adobe form will be taken as the primary source for the notice information to be published. Instructions that are on the email body or covering letter that contradicts the notice form content will not be considered.
13. Requests for Quotations (RFQs) should be received by the Contact Centre at least 24 hours before the submission deadline for that specific publication.

### GOVERNMENT PRINTER INDEMNIFIED AGAINST LIABILITY

14. The Government Printer will assume no liability in respect of any editing, revision, omission, typographical errors or errors resulting from faint or indistinct copy.

**LIABILITY OF ADVERTISER**

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

**COPY**

16. Copy of notices must be supplied in a separate document and may not constitute part of any covering letter, purchase order, proof of payment or other attached documents.

The content document should contain only one notice. (You may include the different translations of the same notice in the same document).

17. The notice should be set on an **A4 page**, with margins and fonts set as follows:

**Page size** = A4 *Portrait* with page margins: *Top* = 40mm, *LH/RH* = 16mm, *Bottom* = 40mm;  
Use font size: *Arial* or *Helvetica* 10pt with 11pt line spacing;

**Page size** = A4 *Landscape* with page margins: *Top* = 16mm, *LH/RH* = 40mm, *Bottom* = 16mm;  
Use font size: *Arial* or *Helvetica* 10pt with 11pt line spacing;

**PAYMENT OF COST**

18. The Request for Quotation for placement of the notice should be sent to the Gazette Contact Centre as indicated above, prior to submission of notice for advertising.
19. Payment should be then made, or Purchase Order prepared based on the received quotation, prior to the submission of the notice for advertising as these documents i.e. proof of payment or Purchase order will be required as part of the notice submission, as indicated earlier.
20. Where there is any doubt about the cost of publication of a notice, and in the case of copy, an enquiry, accompanied by the relevant copy, should be addressed to the **Gazette Contact Centre, Government Printing Works, Private Bag X85, Pretoria, 0001** email: [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za) before publication.
21. Overpayment resulting from miscalculation on the part of the advertiser of the cost of publication of a notice will not be refunded, unless the advertiser furnishes adequate reasons why such miscalculation occurred. In the event of underpayments, the 1. difference will be recovered from the advertiser, and future notice(s) will not be published until such time as the full cost of such publication has been duly paid in cash, by cheque or into the banking account.
22. In the event of a notice being cancelled, a refund will be made only if no cost regarding the placing of the notice has been incurred by the Government Printing Works.
23. The Government Printer reserves the right to levy an additional charge in cases where notices, the cost of which has been calculated in accordance with the Word Count Table, are subsequently found to be excessively lengthy or to contain overmuch or complicated tabulation.

**PROOF OF PUBLICATION**

24. **Copies of the Provincial Gazette which may be required as proof of publication, may be ordered from the Government Printer at the ruling price.** The Government Printer will assume no liability for any failure to post such Provincial Gazette(s) or for any delay in dispatching it/them

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**GENERAL NOTICES • ALGEMENE KENNISGEWINGS**

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**NOTICE 11 OF 2016****NELSON MANDELA BAY MUNICIPALITY****REMOVAL OF RESTRICTIONS APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 2013 (ACT 16 OF 2013)  
ERF 700, MILL PARK (2 BURTON ROAD) (CF14/00700) (LS) (Ref. 161)**

Notice is given in terms of Section 47 of the above Act that the undermentioned application has been received and is open to inspection at the offices of the Nelson Mandela Bay Municipality, second floor, Lillian Diedericks building, Govan Mbeki Avenue, Port Elizabeth. Any objections, with full reasons therefor, should be lodged in writing with the Municipal Manager, PO Box 116, Port Elizabeth 6000 **within 30 days of the appearance of this notice in the Provincial Gazette (Eastern Cape Gazette)**, quoting the above act and the objector's erf number.

**Applicant:** Ms NA Hurr

**Nature of application:** Removal of title conditions applicable to Erf 700, Mill Park

*Vote 02130135*

**MPILO SAKILE MBAMBISA  
CITY MANAGER**

**KENNISGEWING 11 VAN 2016****NELSON MANDELABAAI MUNISIPALITEIT****AANSOEK OM OPHEFFING VAN BEPERKINGS INGEVOLGE DIE WET OP RUIMTELIKE BEPLANNING EN GRONDBESTUUR, 2013 (WET 16 VAN 2013)  
ERF 700, MILLPARK (BURTONWEG 2) (CF14/00700) (LS) (Verw. 161)**

Kennis word kragtens Artikel 47 van die bogenoemde Wet gegee dat onderstaande aansoek ontvang is en ter insae lê by die kantore van die Nelson Mandelabaai Munisipaliteit, tweede verdieping, Lillian Diedericks-gebou, Govan Mbekilaan, Port Elizabeth. Enige besware, volledig gemotiveer, **moet binne 30 dae van die verskyning van hierdie Kennisgewing in die Provinsiale Koerant (Oos-Kaap)** skriftelik by die Stadsbestuurder, Posbus 116, Port Elizabeth 6000 ingedien word, met vermelding van bogenoemde wet en die beswaarmaker se ernommer.

**Aansoeker:** Me NA Hurr

**Aard van aansoek:** Die opheffing van die titelvoorwaardes van toepassing op Erf 700, Millpark

*Pos 02130135*

**MPILO SAKILE MBAMBISA  
STADSBESTUURDER**

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**PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS**

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**PROVINCIAL NOTICE 14 OF 2016****DEPARTMENT OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS****KOUGA MUNICIPALITY****REMOVAL OF RESTRICTIONS ACT, 1967:****ERF 280 JEFFREY'S**

Under section 2(1) of the Removal of Restrictions Act, 1967 (Act 84 of 1967) as amended, and on application by the owner of Erf 280 Jeffrey's, Conditions C.A. (b) and (e) in Deed of Transfer No. T49288/2003 is hereby removed.

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**LOCAL AUTHORITY NOTICES • PLAASLIKE OWERHEIDS KENNISGEWINGS**

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**LOCAL AUTHORITY NOTICE 5 OF 2016  
INGQUZA HILL LOCAL MUNICIPALITY****PUBLIC NOTICE: CALL FOR INSPECTION OF SUPPLEMENTARY VALUATION ROLL NO.2,  
2015/2016 AND LODGING OF OBJECTIONS**

Notice is hereby given in terms of Section 49 (1) (a) (i) read in conjunction with Section 78 (2) of the Local Government: Municipal Property Rates Act, 2004, (Act 6 of 2004), hereinafter referred to as the "Act" that the 2nd Supplementary Valuation Roll is open for public inspection. The 2nd

Supplementary Valuation Roll can be inspected at the venues listed below from 05 February 2016 to 08 March 2016, from Monday to Friday, between 08:30am and 16:45pm.

Any owner of property or other person who so desires, may lodge an objection with the Municipal Manager at Ingquza Hill Local Municipality in respect of any matter reflected in, or omitted from the Supplementary Valuation Roll within the abovementioned period.

The Supplementary Valuation Roll 2 will be available for inspection at:

1. Flagstaff Municipal Offices, 30 Main Street, P.O Box 14, Flagstaff, 4810
2. Lusikisiki Municipal Offices, 66 main Street, P.O Box 07, Lusikisiki, 4820

Objection forms will accompany the Supplementary Valuation Roll at the abovementioned venues and also on the Municipal Website [www.ihlm.gov.za](http://www.ihlm.gov.za). All objections may be submitted to the above addresses, or to the email address below, for the attention of the Municipal Manager.

In terms of the Municipal Property Rates Act 2004, objections apply to a particular property and not to the Roll itself.

**Queries can be directed to: Owethu Pantshwa and Bonga Nogcinisa, e-mail address: [opantshwa@ihlm.gov.za](mailto:opantshwa@ihlm.gov.za) and [bnogcinisa@ihlm.gov.za](mailto:bnogcinisa@ihlm.gov.za) or Telephone No: 039 252 0131.**

**UMASIPALA WASEKUHLALENI INGQUZA HILL**

**ISAZISO: ISIMEMO SOKUHLOLWA KWE-ROLL YOKUXATYISWA KWESONGEZO SOMHLABA SESIBINI (2), 2015/2016 KWAKUNYE NOKUNGENISWA KWEZICHASO**

Isaziso sikhutshwe ngokweCandelo lama – 49 (1) (a) (i) efundwa ngokungqinelana kweCandelo lama – 78 (2) loRhulumente wasekuHlalani: kuMthetho weRhafu yemiHlaba kaMasipala, 2004, (uMthetho wesi – 6 wonyaka wama – 2004), kwixesha elizayo wabiza ngokuba “nguMthetho” okokuba i-Roll yokuXatyiswa kweSongezo somhlaba wesi – 2 kuvuliwe ukuba sihlolwe luluntu. UkuXatyiswa kweSongezo sesibini (2) se-Roll singahlolwa kwezindawo zidwelisiweyo ezingasezantsi ukusukela kumhla woku – 5 kweyoMdumba 2016 ukuya kumhla wesi – 8 kweyoKwindla 2016, ukusukela ngoMvulo ukuya ngolwesiHlanu, phakathi kweyecala kubethe intsimbi yesibhozo (08:30) ekuseni ukuya kwintsimbi ku – 16:45 emalanga.

Nawuphina umnini-mhlaba okanye omnye umntu onomdla, angangenisa isichaso kwi-Ofisi yoMphathi Masipala kuMasipala wasekuHlalani Ingquza Hill malunga naphina umba ochatshazelweyo apha, okanye oshiywe ngaphandle kwi-Roll yokuXatyiswa kweSongezo somhlaba kwesisithuba sexesha esikhankanywe ngasentla.

I-Roll yesibini (2) yokuXatyiswa kweSongezo somhlaba siyakufumaneka sihlolwe kwezi- Ofisi zilandelayo:

1. *Kwi-Ofisi zoMasipala waseFlagstaff, 130 KwisiTalato esikhulu, P.O. Box 14, Flagstaff, 4810*
2. *Kwi-Ofisi zoMasipala waseLusikisiki, 66 KwiTalato esikhulu, P.O. Box 7, Lusikisiki, 4820*

Iifomu zezichaso ziyakuhamba ne-Roll yokuXatyiswa kweSongezo soMhlaba yaye ziyafumaneka kweziindawo zikhankanyiweyo ngasentla kwakunye nakuPhinyephinye lukaMasipala ku- [www.ihlm.gov.za](http://www.ihlm.gov.za). Zonke izichaso ziyakungeniswa: kwi-Ofisi yaseFlagstaff, okanye kwincwadi yomoya engasentla, ebhalwe ngezantsi, ibhalelwe uMphathi Masipala.

NgokoMthetho weRhafu yemiHlaba kaMasipala, uMthetho wonyaka wama – 2004, izichaso zisebenza kumhlaba othile kwaye hayi kwi-Roll ngokwayo.

**Imibuzo ingabhekiswa ngqo kwi-Ofisi yoCwangciso noPhuhliso lweDolophu, kuMnu. Owethu Pantshwa, kwincwadi yomoya: [opantshwa@ihlm.gov.za](mailto:opantshwa@ihlm.gov.za) nakuMnu. Bonga Nogcinisa [bnogcinisa@ihlm.gov.za](mailto:bnogcinisa@ihlm.gov.za) okanye emnxebeni ku-039-252 0131.**

**LOCAL AUTHORITY NOTICE 6 OF 2016****LOCAL GOVERNMENT NOTICE****EMALAHLENI 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 in the Provincial Gazette.

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

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution;

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 in terms of schedule two of the Constitution.

AND WHEREAS section 28 of the Constitution provides that the best interests of child are paramount in matter involving children.

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 Emalahleni 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, is 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 as near as possible to Form 1 of the Schedule.
- [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 there are 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] The 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 Children Act, 1983 [Act No. 74 of 1983] as amended or any other applicable legislation.
  - [f] The Applicant has submitted a safety plan to the Satisfaction of Council guaranteeing the safety of the Children.
  - [g] Proof to the satisfaction of Council that the applicant is not a person referred to in the sexual Offences Act.
- [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**
- [1] 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 1,8m<sup>2</sup> 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;
- [x] an adequate supply of potable, including hot water and cleaning agents for the cleansing of equipment and eating utensils;
- [xi] kitchen staff wearing personal protective clothing, maintained in a clean and tidy condition at all times; and
- [xii] all foodstuffs protected from contamination by dust, dirt, pests and any contaminating agent.
- [4] Provision must be made for sanitary facilities for children over the age of 2 years, with –
- [a] one toilet and one hand washing facility for every 20 or less children under 5 years of age irrespective of sex; and

- [b]** one toilet and hand washing facility for every 20 or less children above the age of 5 years, separate for each sex; and
  - [c]** one urinal to be regarded as equal to two toilets, provided that urinals should not replace more than 25% of the total toilet facilities;
  - [d]** separate toilet facilities provided for staff as contemplated in the National Building Regulations;
  - [e]** walls and floors of the sanitary facilities of an impervious material rendered to a smooth surface;
- [5]** Provision must be made for sanitary facilities for children under the age of 2 years, where –
  - [a]** nappies and potties are hygienically handled;
  - [b]** adequate containers are provided for the storage of clean and soiled napkins;
  - [c]** a suitable washing facility is readily accessible;
  - [d]** suitable and adequate toilet and wash facilities are available for children who are not toilet trained;
  - [e]** a supply of hot and cold running potable water is available at the wash-hand basins, or if no running water is available, a minimum of 25 litres of potable water, stored in a hygienically clean container;
  - [f]** chamber pots (potties) are available that shall be –
    - [i]** emptied, cleaned and disinfected with a disinfectant immediately after being used; and
    - [ii]** stored in a suitable place when not in use; and
  - [g]** wash basins are closely fitted to the walls at the rear of such basins; and
  - [h]** walls are smooth and washable.
- [6]** Provision must be made for an outdoor play area of at least 2m<sup>2</sup> per child that must –
  - [a]** comprise lawns, shady areas or other safe surfaces;
  - [b]** be fenced or walled to a height of 1,8m;
  - [c]** have approved lockable or child-proof gates; and
  - [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] 1 childcare worker for every 6 or less infants between birth and 18 months of age;
- [b] 1 childcare worker for every 12 or less infants between 18 months and 3 years of age;
- [c] 1 childcare worker for every 20 or less children between 3 and 4 years of age;
- [d] 1 childcare worker for every 30 or less children between 4 and 5 years of age; and
- [e] 1 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][i], 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
    - [ii] that such persons are not allowed to remain on the premises;
- [2] Notwithstanding anything contained in this section, no employee of a childcare or child-minding service who is reasonably suspected to be suffering from, or carrying a communicable disease, may be treated in a manner prohibited in terms of the provisions of the Basic Conditions of Employment Act, 1997 [Act No. 75 of 1997].
- [3] The provisions of the regulations relating to communicable diseases and the Notification of Medical Conditions published under Government Notice R. 2438 dated 30 October 1987, as amended, and or any other similar and applicable law will, mutatis mutandis, apply to the services as if it falls within the scope of the expression "teaching institution" in Regulation 1 of those regulations and –
  - [a] a breach by a certificate holder of a duty placed upon a principal in terms of the regulations is be deemed to be a breach of these by-laws; and
  - [b] the duties placed upon and the powers vested in a medical official of health under the regulations are be placed upon or vested in the authorised official for the purposes of these by-laws.

#### [15] MANAGEMENT RESPONSIBILITIES

- [1] A certificate holder must ensure that –
  - [a] no refuse receptacle or any other potentially harmful or hazardous object or material is stored in the outdoor play area used by the children;
  - [b] children are under adult supervision at all times;
  - [c] each child uses his own sleeping equipment, towel and face cloth, clearly marked and kept separately from that of other children;
  - [d] prepared infant feeds are provided by the parents or guardians of infants, in bottles with covered teats;
  - [e] the facility has access to a telephone at all times;
  - [f] the premises is maintained in a clean, hygienic and safe condition, free at all times of pests and rodents;
  - [g] staff members are clean, healthy and appropriately dressed at all times; and
  - [h] no person smokes or uses any tobacco product –
    - [i] inside a building; or
    - [ii] in the presence of children.

**[16] TRANSPORT**

- [1]** A certificate holder must ensure that –
- [a]** if transport is provided for children to and from the childcare or child-minding facility, the staff members of the facility are held responsible for the child for the period that he is so transported 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 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.

**[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.

**[26] SHORT TITLE**

This by-law shall be called the Childcare Services by-law.

**LOCAL AUTHORITY NOTICE 7 OF 2016****LOCAL GOVERNMENT NOTICE****EMALAHLENI 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 in the Provincial Gazette.

**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 in respect of commonages by virtue of the provisions of schedule two of the Constitution;

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 hereby enacted by the Council as follows:

**TABLE OF CONTENTS**

[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
[13]	Short title

**[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 Emalahleni Local 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**

**[1]** The Municipality must appoint a person as commonage manager, who must report to a manager designated by the Municipal Manager in terms of the organogram and post establishment procedure of the Municipality.

**[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.

#### [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.
  - [e] A certificate issued by a duly accredited veterinary surgeon certifying or attesting the full health of the stock in respect of which a grazing permit is sought.
- [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**

A person whose rights are affected by a decision of the Municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] to the Municipal Manager within 21 days of the date of the notification of the decision.

**[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 9[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 AND TRANSITIONAL PROVISION.**

- [1] All by-laws relating to a matter regulated in these by-laws proclaimed by an administrative unit now forming part of the Municipality or any other former Municipality currently forming part of Emalahleni Local 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.

**[13] SHORT TITLE**

This by-law shall be called the Commonage by-law.

**LOCAL AUTHORITY NOTICE 8 OF 2016****LOCAL GOVERNMENT NOTICE****EMALAHLENI 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 Street Trading which come into operation on the date of publication thereof in the Provincial Gazette.

**BY-LAWS RELATED TO STREET TRADING****PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution;

AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to regulate street trading in the municipal area for the benefit of the public residing in or visiting the Municipality.

NOW THEREFORE be it enacted by the Council as follows:

**TABLE OF CONTENTS**

- [1] Definitions
- [2] Single act constitutes street trading
- [3] Application of this by-law
- [4] Assigning powers of a Council employee to an employee of a service provider, where a service provider has been appointed
- [5] Prohibited conduct
- [6] Restricted conduct
- [7] Cleanliness
- [8] Signs indicating restricted and prohibited areas
- [9] Provision of and lease of verges and stands or areas for the purpose of street trading
- [10] Removal and impoundment
- [11] Disposal of impounded goods
- [12] Vicarious responsibility of persons carrying on business
- [13] Waiver of provisions
- [14] Compliance notice
- [15] Prohibition notice
- [16] Withdrawal of prohibition notice
- [17] Service of notices
- [18] Appeal
- [19] Tariffs
- [20] Offences and penalties
- [21] Presumptions
- [22] Repeal of by-laws
- [23] Short title

**[1] DEFINITIONS**

In these by-laws, any word or expression to which a meaning has been assigned in the Businesses Act, 1991 [Act No. 71 of 1991], has the meaning so assigned and words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates –

**"approval"** means approval by the municipality and "approved" has a corresponding meaning;

**"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.

**"foodstuff"** means any article or substance, except a drug as defined in the Drugs and Drug Trafficking Act, 1992, ordinarily eaten or drunk by persons or purporting to be suitable or manufactured or sold for human consumption and includes –

- [a] any part or ingredient of any such article or substance; or
- [b] any substance used or intended or destined to be used as a part or ingredient of any such article or substance.

**"garden or park"** means a garden or park where the public has a right of access;

**"goods"** means any movable property and includes a living thing;

**"intersection"** means an intersection as defined in the regulations promulgated in terms of the National Road Traffic Act, 1996;

**"kerb line"** means a kerb line as defined in section 1 of the National Road Traffic Act, 1996;

**"litter"** includes any receptacle, container or other matter which has been discarded, abandoned or left behind by street traders or by their customers;

**"motor vehicle"** means a motor vehicle as defined in section 1 of the National Road Traffic Act, 1996;

**"municipal services"** means any system conducted by or on behalf of a Municipality for the collection, conveyance, treatment or disposal of refuse, sewage, storm-water, or for the generation, impounding, storage, purification or supply of water, gas or electricity, or municipal services;

**"municipal service works"** means all property or works of whatever nature necessary for or incidental to any municipal services;

**"Municipality"** means the Emalahleni Municipality established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 and includes any political structure or political office bearer as defined in the said Act, Councillor, duly authorized agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the Municipality and delegated to such political structure, political office bearer, Councillor, agent or employee;

**"prescribed"** means determined, from time to time, by resolution of the Municipality;

**"property"**, in relation to a street trader, means any article, container, vehicle or structure used or intended to be used in connection with such business, and includes goods for trade;

**"public building"** means a building belonging to or occupied solely by an organ of state including the municipality and also includes municipal service works;

**"public monument"** means any one of the "public monuments and memorials" as defined in the National Heritage Resources Act, 1999 or any similar legislation;

**"public place"** means any square, park, recreation ground or open space that is vested in the Municipality or to which the public has the right to use or is shown on a general plan of a township filed in the deeds registry or a Surveyor-General's Office and has been provided for the use of the public or the owners of erven in such township;

**"public road"** means a public road as defined in section 1 of the National Road Traffic Act, 1996;

**"roadway"** means a roadway as defined in section 1 of the National Road Traffic Act, 1996;

**"sell"** and **"sale"** have a corresponding meaning and includes –

- [a] barter, exchange or hire out;
- [b] display, expose, offer or prepare for sale;
- [c] storing on a public road or public place with intention to sell; or
- [d] providing a service for reward;

**"sidewalk"** means a sidewalk as defined in section 1 of the National Road Traffic Act, 1996;

**"street furniture"** means any furniture installed by the Council on a street for public use;

**"street trader"** means a person who carries on the business of street trading and includes any employee of such person;

**"street trading"** means the selling of any goods or the supplying or offering to supply any service for reward, in a public road or public place, by a street trader;

**"the Act"** means the Businesses Act, 1991 [Act No. 71 of 1991] and includes the regulations promulgated in terms thereof; and

**"verge"** means a verge as defined in section 1 of the National Road Traffic Act, 1996.

## [2] SINGLE ACT CONSTITUTES STREET TRADING

For the purpose of these by-laws, a single act of selling or offering or rendering of services in a public road or public place constitutes street trading.

## [3] APPLICATION OF THIS BY-LAW

[1] This by-law applies to anyone who is selling or offering or rendering services in a public road or public place or who carries on a business, whether as principal, employee or agent, by selling any foodstuff in the form of meals or any perishable foodstuff and non perishable foodstuff –

- [a] which is conveyed from place to place, whether by vehicle or otherwise;
- [b] on a public road or at any other place accessible to the public; or
- [c] in, on or from a movable structure or stationary vehicle.

**[4] ASSIGNING POWERS OF A COUNCIL EMPLOYEE TO EMPLOYEE OF A SERVICE PROVIDER, WHERE A SERVICE PROVIDER HAS BEEN APPOINTED**

If any provision in this by-law vests or imposes any power, function or duty of the Municipality in or on an employee of the Municipality and such power, function or duty has in terms of section 81[2] of the Local Government: Municipal Systems Act, 2000, or any other law, been assigned to a service provider, the reference in that provision to that employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorized by it.

**[5] PROHIBITED CONDUCT**

**[1]** No person shall carry on the business of a street trader unless he or she has obtained the written approval of the Municipality to do so.

**[2]** No person may carry on the business of a street trader –

- [a]** at a place or in an area declared by the Municipality in terms of section 6A[2][a] of the Act as a place or area in which street trading is prohibited;
- [b]** in a garden or a park to which the public has a right of access;
- [c]** on a verge near –
  - [i]** a building belonging to or occupied solely by an organ of state including the Municipality;
  - [ii]** a church, mosque, synagogue or other place of worship;
  - [iii]** a building declared to be a public monument;
  - [iv]** an automatic banking machine;
- [d]** at a place where it causes an obstruction to –
  - [i]** a fire hydrant;
  - [ii]** an entrance to or exit from a building;
- [e]** at a place where it could obstruct vehicular traffic;
- [f]** at a place where it could cause significantly obstruct pedestrian use of the sidewalk;
- [g]** on that half of a public road near a building used for residential purposes, if –
  - [i]** the owner or person in control or any occupier of that building objects thereto; and
  - [ii]** an authorized official has informed the street trader accordingly;
- [h]** on a stand or in any area demarcated by the Municipality in terms of section 6A[3][b] of the Act, if the street trader is not in possession of written proof that the stand or area he has hired the stand or area from the Municipality, or that the stand or area has otherwise been allocated to him ;
  - [i]** within 5m of any intersection; and
  - [j]** on a sidewalk near to a building in which business is being carried on by Any person who sells goods of the same or of a similar nature to the goods being sold on such sidewalk by the street trader, if –
    - [i]** the goods are sold without the prior consent of such person; and
    - [ii]** an authorized official has informed the street trader that such consent does not exist,

**[3]** Any person who has hired a stand from, or been allocated a stand by the Municipality in terms of subsection [1][h] may not trade in contravention of the terms and conditions of such lease or allocation.

**[6] RESTRICTED CONDUCT**

- [1]** No person carrying on the business of a street trader may –
- [a]** sleep overnight at the place of such business;
  - [b]** erect any structure for the purpose of providing shelter, other than a device approved by the Municipality;
  - [c]** place property on a public road or public place, with the exception of a motor vehicle or trailer from which trade is conducted and provided that such vehicle or trailer does not obstruct pedestrian and vehicular traffic movement and complies with the provisions of the National Road Traffic Act, 1996;
  - [d]** trade on a sidewalk where the width of such sidewalk is less than 3m;
  - [e]** place or stack property in such a manner that it constitutes a danger to any person or property or is likely to injure Any person or cause damage to any property;
  - [f]** display goods or other property on or in a building, without the consent of the owner, lawful occupier, or person in control of such building or property;
  - [g]** attach any property by any means to any building, structure, pavement, tree, parking meter, lamp, pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or on a public road or public place;
  - [h]** carry on business in such a manner as to –
    - [i]** create a nuisance;
    - [ii]** damage or deface the surface of any public road or public place or any public or private property; or
    - [iii]** create a traffic and/or health hazard, or health risk, or both.
  - [i]** make an open fire on a public road or public place;
  - [j]** interfere with the ability of a person using a sidewalk to view the goods displayed behind a shop display window or obscure such goods from view.
  - [k]** obstruct access to a pedestrian crossing, a parking or loading bay or other facility for vehicular or pedestrian traffic;
  - [l]** obstruct access to, or the use of, street furniture and any other facility designed for the use of the general public;
  - [m]** obscure any road traffic sign displayed in terms of the National Road Traffic Act, 1996, or any marking, notice or sign displayed or made in terms of these by-laws;
  - [n]** carry on business, or take up a position, or place his property on a portion of a sidewalk or public place, in contravention of a notice or sign erected or displayed by the Municipality for the purposes of these by-laws;
  - [o]** other than in a refuse receptacle approved or supplied by the Municipality, accumulate, dump, store, or deposit, or cause or permit to be accumulated, dumped, stored or deposited, any litter on any land or premises or any public road or public place or on any public property;
  - [p]** place on a public road or public place property that is not capable of being easily removed to a storage place away from such public road or public place at the end of the day's business;
  - [q]** store property in a manhole, storm-water drain, public toilet, bus shelter or in a tree;
  - [r]** handle any foodstuffs including meat in a manner contrary to applicable law;
  - [s]** carry on such business in a place or area in contravention of any prohibition or restriction approved by the Council in terms of section 6A[2][a] of the Act.
- [2]** Any person carrying on the business of a street trader must ensure that their property or area of activity –

- [a] does not cover an area of a public road or a public place which is greater than 6m<sup>2</sup> with a maximum length of 3m in extent, unless otherwise approved by the Municipality; and
- [b] in respect of any sidewalk, leaves an unobstructed space for pedestrian traffic, being not less than 1.5m wide when measured from any contiguous building to the property or area of activity, and not less than 0.5m wide when measured from the kerb line to the property or area of activity;

[3] Any person carrying on the business of a street trader must –

- [a] upon request by an authorized official or supplier of telecommunication or electricity or other municipal services, move his property so as to permit the carrying out of any work in relation to a public road, public place or any such service; and
- [b] on concluding business for the day, remove his property, except any structure permitted by the Municipality, to a place which is not part of a public road or public place;

#### [7] CLEANLINESS

[1] Any person carrying on the business of a street trader must –

- [a] keep the area or site occupied by him for the purposes of such business in a clean and sanitary condition;
- [b] keep his property in a clean, sanitary and well maintained condition;
- [c] dispose of litter generated by his business in whatever receptacle is provided by the Municipality for the public or at a dumping site of the Municipality;
- [d] not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter;
- [e] ensure that, on completion of business for the day, the area or site occupied by him for the purposes of trade is free of litter;
- [f] take such precautions in the course of conducting his business as may be necessary to prevent the spilling of any fat, oil or grease onto a public road or public place or into a storm-water drain;
- [g] ensure that no smoke, fumes or other substance, odours, or noise emanating from his activities cause pollution of any kind; and
- [h] on request by an authorized official of the Municipality, move his property so as to permit the cleansing of the space of the area or site where he is trading or the effecting of municipal services.

#### [8] SIGNS INDICATING RESTRICTED AND PROHIBITED AREAS

[1] The Municipality may, by resolution and in terms of section 6A[2] of the Act, declare any place in its area of jurisdiction to be an area in which street trading is restricted or prohibited and must, to enable compliance therewith, prescribe or make signs, markings or other devices indicating –

- [a] specified hours, places, goods or services in respect of which street trading is restricted or prohibited;
- [b] the location of boundaries of restricted or prohibited areas;
- [c] the boundaries of a stand or area set apart for the purposes of the carrying on of the business of street trading;

- [d] any other restriction or prohibition against street trading in terms of these by-laws;
  - [2] The Municipality must display any such sign, including a pictograph marking or device in such a position and manner as will indicate any restriction or prohibition and/or the location or boundaries of the area or stand concerned;
  - [3] Any sign erected in terms of these by-laws or any other law serves as sufficient notice to a street trader of the prohibition or restriction of the area concerned; and
  - [4] Any sign may be amended from time to time and displayed by the Municipality for the purpose of these by-laws and any such sign has the same effect as a road sign in terms of the National Road Traffic Act, 1996.
- [9] **PROVISION OF AND LEASE OF VERGES AND STANDS OR AREAS FOR THE PURPOSE OF STREET TRADING**
- [1] The Municipality may, by resolution, in terms of section 6A[3][a] to [c] of the Act –
    - [a] lease any municipal land, including any verge or any portion of a verge, to the owner or occupier of contiguous land on condition that such owner or occupier must admit a specified number of street traders to trade on stands or places on such land designated by such owner or occupier for informal trading;
    - [b] set apart municipal land in the Municipality and demarcate stands or areas on such land for the purpose of informal trading;
    - [c] let or otherwise allocate any stand or area; and
    - [d] extend, reduce or disestablish any stand or area referred to in the previous subsections.
  - [2] Any land leased by or allocated by the Municipality aforesaid for informal trading must be so let on an economic rental basis.
  - [3] The Municipality may, in addition to setting aside land in its municipal area for informal trading, also make available to informal traders, subject to such conditions as it may determine, suitable structures, shelters and devices for the conduct of the business of informal trading.

[10] **REMOVAL AND IMPOUNDMENT**

- [1] An authorized official may remove and impound any property of a street trader –
  - [a] reasonably suspected of being used or intended to be used or that has been used in or in connection with street trading; and
  - [b] that is found at a place where street trading is restricted or prohibited and that constitutes an infringement of any such restriction or prohibition, regardless of whether or not such property is in possession or under the control of any person at the time of such removal or impoundment.
- [2] The removal and impoundment of property in terms of subsection [1] may be effected irrespective of whether or not such property is in the possession or under the control of any third party at the time.
- [3] Any authorized official acting in terms of subsection [1] must, except where goods have been left or abandoned, issue to the person carrying on the business of a street trader, a receipt for any property so removed and impounded, which receipt must –

- [a]** itemise the property to be removed and impounded;
  - [b]** provide the address where the impounded property will be kept and the period of such impoundment;
  - [c]** state the conditions for the release of the impounded property;
  - [d]** state the terms and conditions relating to the sale of unclaimed property by public auction;
  - [e]** state the terms and conditions relating to the sale of unclaimed property by public auction; and
  - [f]** provide the name and address of a municipal official to whom any representations regarding the impoundment may be made and the date and time by which this must be done.
- [4]** If any property about to be impounded is attached to any immovable property or a structure, and such property is under the apparent control of a person present thereat, any authorized official of the Municipality may order such person to remove the property, and any such person who refuses or fails to comply is guilty of an offence.
- [5]** When any person fails to comply with an order to remove the property referred to in subsection [4], any authorized official of the Municipality may take any necessary steps to remove such property.
- [6]** The Municipality must provide sufficient and adequate storage facilities for the storage of any property impounded in terms of this section.
- [7]** In the event that an authorized official removes and impounds any property in terms of the preceding subsections, all reasonable steps must be taken to ensure that such property is not damaged or lost.
- [8]** The Municipality is not liable for any damage or loss caused to any such property that is removed and impounded unless such damage or loss is caused as a result of the negligence of the Municipality.

#### **[11] DISPOSAL OF IMPOUNDED GOODS**

- [1]** Any perishable goods removed and impounded in terms of section 9(1) may at any time after the impoundment thereof be sold or destroyed by the Municipality and in the case of a sale of such goods the proceeds thereof less any expenses incurred by the Municipality in connection with the removal, impoundment and sale of such goods, shall, upon presentation of the relevant receipt issued in terms of section 9(3), be paid to the person who was the owner of such goods when such goods were impounded. If such owner fails to claim the said proceeds within three months of the date on which such goods were sold, such proceeds shall be forfeited to the Municipality.
- [2]** The owner of any goods (other than perishable goods), dealt with by the Municipality in terms of sub section 1, impounded in terms of section 9(1) who wishes to claim the return of such goods shall, within a period of one month of the date of the impoundment of such goods, apply to the Municipality and shall present the relevant receipt issued in terms of section 9(3), failing which such goods may be sold by the Municipality and in the event of sale of such goods the provisions of sub section (1) relating to the proceeds of a sale shall apply.
- [3]** If the owner of any goods impounded in terms of section 9(1) claims the return of such goods from the Municipality and such owner is unable or refuses to refund any expenses incurred by the Municipality in connection with the removal and impoundment of such

goods, such goods may be sold by the Municipality and proceeds of any sale of such goods less any such expenses and the cost of such sale shall be paid to such owner.

- [4] in the event of the proceeds of any sale of goods contemplated by this section not being sufficient to defray any expenses incurred by the Municipality in connection with the removal, impoundment and sale of such goods, the owner of such goods shall remain liable for so much of such expenses as is not defrayed by the proceeds of the sale of such goods.
- [5] Employees and councillors of the municipality, or a family member, or a close associate of any municipal employee or councillor, may not purchase any goods offered for sale in terms of this by-law, either personally or through any other person, directly or indirectly.

## [12] VICARIOUS RESPONSIBILITY OF PERSONS CARRYING ON BUSINESS

- [1] When an employee or agent of a street trader contravenes a provision of this by-law, the street trader is deemed to have personally committed such contravention unless he satisfies the court that reasonable steps were taken to prevent such contravention.
- [2] The fact that a street trader issued instructions to the employee or agent mentioned in subsection [1] to prevent a contravention is not in itself sufficient proof of reasonable steps to prevent a contravention.

## [13] 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 this by-law: 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.

## [14] COMPLIANCE NOTICE

- [1] If an authorized official reasonably believes that a provision of this by-law is being contravened, he may serve a compliance notice on an offender, or any one or more of the following persons:
- [a] the owner of any premises;
  - [b] the occupier of any 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 this by-law is being contravened;
  - [b] the measures that must be taken to ensure compliance with this by-law;
  - [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 15 of this by-law.

#### [15] PROHIBITION NOTICE

- [1] An authorized official may, after inspecting any premises, thing or any place contemplated in section 14 of this by-law, serve a prohibition notice on the owner, occupier or user of such place, premises or thing.
- [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].

#### [16] 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.

**[17] 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 this by-law 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.

**[18] APPEAL**

- [1]** A person whose rights are affected by a decision taken by an authorised official under this by-law 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].

**[19] TARIFFS**

- [1]** The Municipality may impose tariffs or fees for street trading.
- [2]** Tariffs or fees may be amended by Municipal Council resolution.

**[20] OFFENCES AND PENALTIES**

- [1]** Any person is guilty of an offence who, in respect of this by-law –
- [a]** contravenes or fails to comply with any provision;

- [b]** fails to comply with any notice; or
- [c]** fails to comply with any lawful instruction; or
- [d]** fails to comply with any condition imposed by the Municipality in any authorization or permit; or
- [e]** obstructs or hinders any authorized official of the Municipality in the execution of his duties; or
- [f]** furnishes false, incorrect or misleading information when applying for permission from the Municipality in terms of the provisions of this by-law.

**[2]** Any person guilty of an offence in terms of subsection [1] is liable on conviction –

- [a]** to a fine not exceeding R3000.00; or
- [b]** in default of payment of a fine mentioned in subsection [2][a], to imprisonment for a period not exceeding six months; and
- [c]** in the case of a continuing offence, to a further fine not exceeding R50; or
- [d]** in default of payment of the amount mentioned in subsection [2][c], to imprisonment not exceeding one day for every day during the continuance of such offence after a written notice has been issued by the Municipality and served on the person concerned requesting the discontinuance of such offence.

**[3]** A court sentencing a street trader who is found guilty of a contravention of this by-law may also order the convicted street trader to pay the Municipality the reasonable costs it may have incurred in impounding and storing any goods impounded under these by-laws.

**[4]** An admission of guilt fine as contemplated in terms of sections 56 and 57 of the Criminal Procedure Act, 1977 may be paid in respect of a summons or written notice issued for any contravention of this by-law.

## **[21] PRESUMPTIONS**

**[1]** In any criminal proceedings for a contravention of this by-law, where it is shown that-

- [a]** any goods were displayed in a public place, such goods shall be presumed to have been offered for sale;
- [b]** any property used in the provision of any service was available in a public place, such services shall be deemed to have been offered or supplied.

## **[22] 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 this by-law is, from date of promulgation of this by-law, 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 this by-law, as the case may be.

## **[23] SHORT TITLE**

**[1]** This by-law shall be called the Street Trading by-law.

**LOCAL AUTHORITY NOTICE 9 OF 2016****LOCAL GOVERNMENT NOTICE****EMALAHLENI 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 which come into operation on the date of publication thereof in the Provincial Gazette.

**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;

AND WHEREAS the Council of the Municipality, in the exercise of its functions, must promote the habitat and atmosphere of the communities residing within the municipal boundaries by regulating the appearance and condition of buildings and premises.

NOW THEREFORE be it enacted by the Council as follows:

**[1] Definitions**

In this by-law, unless the context proves otherwise means –

**"building"** has the meaning assigned thereto in section 1 of the National Building Regulations and Building Standard Act, 1977 [Act 103 of 1977] and includes fencing;

**"municipality"** or **"council"** means the Emalahleni Local Municipality or its successor(s) in-law or any Officer employed by the Municipality or any committee designated by the Municipality, acting by virtue of a delegated authority vested in him/her or it by the Municipality in connection with these By-laws;

**"municipal area"** refers to the area under the jurisdiction and control of the Municipality;

**"premises"** refers to any land whatsoever, whether vacant, occupied or with buildings thereon, situated within the municipal area.

**[2] Unsightly Buildings**

Where any premises, in the opinion of the Municipality –

- [a]** have a building thereon which is unsightly, neglected or offensive and which causes the value of surrounding properties to be detrimentally affected;
- [b]** is neglected and overgrown;
- [c]** has an unsightly accumulation of papers, cartons, garden refuse, rubble and/or other waste material thereon;
- [d]** has an accumulation of motor wrecks or used motor parts thereon which –
  - [i]** detracts from the appearance of surrounding properties; or
  - [ii]** is offensive to the owners or occupiers of adjacent premises;
- [e]** is unsafe and may constitute a danger to any person or property;

the Municipality must give notice in writing to the owner or occupier of such premises requiring him or her to improve such building or the condition of such premises within a period of thirty days (30) so that the appearance or condition of such building or premises will comply with the standards required by the Municipality.

**[3] Offences and Penalties**

If the owner of the premises fails to comply with the requirements of the notice served in terms of section 2 within the period specified in such notice, such owner is guilty of an offence and, on conviction, is liable to a fine not exceeding R 3,000.00 or imprisonment for a period not exceeding 6 months or to both such fine and such imprisonment, and in the case of a continuing offence, to an additional fine not exceeding R 1,000 or an additional period of imprisonment not exceeding 30 days or to both such additional fine and additional imprisonment for each day during which such failure or offence continues.

**[4] Repeal**

Any by-laws relating to Unsightly and Neglected Buildings and Premises adopted by the Council is repealed from the date of promulgation of these by-laws.

**[5] Short Title**

These by-laws are called the Unsightly and Neglected Buildings and Premises By-laws.

**LOCAL AUTHORITY NOTICE 10 OF 2016****EMALAHLENI 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 Heritage Resources that come into operation on the date of publication thereof in the Provincial Gazette.

**BY-LAWS RELATING TO HERITAGE RESOURCES****PREAMBLE**

WHEREAS the National Heritage Resources Act, 1999 [No. 25 of 1999] empowers local authorities, with conditions, to formulate by-laws for managing local heritage resources, or other higher order heritage resources where a responsibility may be delegated.

AND WHEREAS the Council of the Municipality, acting within the framework of the principles, and striving to realize the objectives expressed in the National Heritage Resources Act, hereby adopts these by-laws to protect, manage and control those sites and objects of the national estate, as set out in section 3 thereof, entrusted to it under section 26 (1) (f) of the said Act.

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**SCHEDULES****[1] Interpretation**

In these by-laws, unless the context indicates otherwise –

**“Heritage facility”** means a heritage site as defined in section 1 of the National Heritage Resources Act, 1999 (Act No.25 of 1999);

**“Municipality”** means the Emalahleni Municipality, established in terms of section [12] of the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998] and includes any political structure, political office bearer, duly authorized agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the Municipality and delegated to such political structure, political office bearer, agent or employee;

“Official” means a person appointed in accordance with the provisions of section 14 of this bylaw;

“The Act” means the National Heritage Resources Act, 1999 [Act No.25 of 1999].

## **[2] Application**

These by-laws apply to those heritage resources, heritage sites and heritage objects to which powers and functions of a heritage resource to which powers and functions of a heritage resources authority were delegated in terms of section 26(1)(f) of the Act in respect of such Grades as contemplated in section 7, within the Emalahleni municipal area.

## **[3] Powers and functions of theMunicipality**

The Municipality has:

- [1]** all such powers and functions of a heritage resources authority as delegated to it in terms of section 26 (1) (f) of the Act in respect of such Grades as contemplated in section 7 of the Act, and such responsibilities and competence as contemplated in section 8 of the Act; and
- [2]** Such rights and duties as contemplated in section 9 of the Act, and hereby acts in accordance with the provisions of section 54 of the Act.

## **[4] Compilation of an inventory of heritage resources**

- [1]** In compliance with Section 30(5) of the Act, the Municipality must, within six months of the promulgation of this bylaw, adopt an inventory of heritage resources which fall within its area of jurisdiction and submit the inventory to Eastern Cape Provincial Heritage Resources Council.
- [2]** If Eastern Cape Provincial Heritage Resources Council includes the heritage resources listed in the inventory in the Provincial Heritage Register, upon its listing each heritage resource will become subject to the controls set out in Section 30(1) of that Act.

## **[5] Designation and management of heritage areas**

- [1]** The Municipality may by notice in the Provincial Gazette, designate any area or land to be a heritage area on the grounds of its environmental and cultural interest, or by the presence of heritage resources subject to consultation with the Provincial Heritage Authority and the relevant property owners.
- [2]** No person may alter or demolish any structure or part of a structure which is older than 60 years without a permit issued by the relevant provincial heritage resources authority.

## **[6] Protection of heritage resources**

The Municipality must provide for the protection of heritage areas through its zoning scheme/by-laws, and may make by-laws regulating access, use, protection, management, incentives and fines for resources protected under the Act.

**[7] Admission to heritage facility**

- [1] A heritage facility is open to the public at the times, dates and subject to such conditions regarding the entry to and activities that may be undertaken upon the heritage and cultural facility, as determined by the Council of a the Municipality by resolution in respect of different heritage facilities, including conditions regarding the driving of a motor vehicle and different classes of motor vehicles in heritage sites.
- [2] The Municipal Manager may from time to time grant to any person or person, during such hours and for such period as he or she may deem fit, the exclusive use of a heritage facility.
- [3] The heritage authority or the Council of the Municipality may by resolution for reasons of maintenance, development, security, safety or public healthy, temporarily or permanently:
- [a] Close a heritage facility or a portion thereof; or
  - [b] Suspend all or any activities thereon.
- [4] Where a person in a heritage facility has committed an offence in terms of these by-laws or any other law, an official may order such person to leave the heritage facility, and a person so ordered to leave:
- [a] Must forthwith leave the heritage facility by the shortest route available to the public;
  - [b] May not enter any heritage facility during the period of six months immediately succeeding the relevant order, unless:
    - [i] the Municipal Manager has authorized him or her thereto in writing; or
    - [ii] He or she has not, within three months of being so ordered, been prosecuted and found guilty of an offence contemplated above.
- [5] Where an official on reasonable grounds suspects that a person wishing to enter a heritage facility intends to commit an offence in terms of these by-laws or any other law in or at the heritage facility, he or she may refuse entry to such person.
- [6] A person who fails to obey an order issued in terms of subsection (4) commits an offence.

**[8] Entrance fees**

- [1] The Municipal Council may by resolution levy different entrance fees and issue entrance tickets in respect of person or different classes of vehicles, which entitle such person, groups or vehicles (the "ticket holder") to enter upon a heritage and cultural facility and grants concessions in respect of entrance fees payable.
- [2] An entrance fee is payable at the entrance to a heritage and cultural facility and for each person, group or vehicle as contemplated in subsection (1).
- [3] An entrance ticket contemplated in subsection (1) is valid for the period, as contemplated in subsection (4) in respect of which an entrance fee has been paid.
- [4] An entrance fee contemplated in subsection (1) is payable in respect of each day or portion thereof during which a person, group or vehicle is or remains in

heritage and cultural facility, provided that no fee is payable in respect of the day on which such heritage and cultural facility is left, heritage and cultural facility is left before 10:00 of such day and such day is not the day of arrivals in such heritage and cultural facility.

- [5] No fee contemplated in subsection (1) is payable, however, where the whole or any portion of the period in respect of which such fee has been paid has not been or cannot be utilized, the fee which has been paid in respect of each full day which has not been utilized may, with the approval of the Municipal manager, be repaid, and for the purposes of this subsection "full day" means a period of 24 hours commencing at 10:00 of any day.
- [6] An official may require any person in a heritage and cultural facility to produce forthwith to such official the entrance ticket issued to the person in terms of subsection (1), and a person who fails to produce such entrance ticket or person who enters a heritage and cultural facility without having paid the entrance fee as contemplated in subsection (1) commits an offence.

**[9] Consent required for certain activities**

- [1] No person may, without the written consent of the Municipal Manager first having been obtained at, in or upon a heritage and cultural facility:
- [a] Arrange, hold present or attend—
    - [i] A public entertainment;
    - [ii] A meeting;
    - [iii] a public gathering or procession, exhibition or performance; or
    - [iv] An auction;
  - [b] From the general public, collect money or any other goods for charity or any other purpose;
  - [c] Display or distribute a pamphlet, placards, painting, book, handbill or a painted, written or painted work;
  - [d] Conduct any trade, occupation or business;
  - [e] Display, sell or rent out present for sale or rent any wares or articles;
  - [f] Tell fortunes for compensation;
  - [g] Play any musical instruments or sign;
  - [h] Have in his or her possession a firearm, air pistol, bow, knife, slingshot, or fireworks; or
  - [i] In any manner disturb such heritage and cultural facility.
- [2] No person may, without the written consent of the Municipal Manager first having been obtained bring into a heritage and cultural facility an alcoholic beverage, and a person who has obtained such consent may consume such beverage, at a designated area set aside for this purpose only.
- [3] No person may, without the written consent of the Municipal Manager first having been obtained, prepare or sell, in a heritage and cultural facility, food of any kind, and a person who has obtained such consent may cook, prepare or sell such food at a designated area set aside for this purpose, but a person who has obtained such consent must ensure that the preparation and cooking of food is done in a clean and sanitary manner so as not to give rise to excessive smoke or other nuisance or entail any danger to health.
- [4] No person may, without the written consent of the Municipal Unit Manager first having been obtained, kindle a fire in a heritage and cultural facility, except for the purpose of barbecuing food, and a person who has obtained such consent may not leave any fire which he or

she has kindle or used without completelyextinguishing the fire or the embers thereof.

- [5] No person may, without the written consent of the Municipal Manager first having beenobtained erect or establish in or on a heritage and cultural facility any fence, structure, dam, shelter or anything else and a person and a person who has obtained such consent erect suchfence, structure, dam, shelter or anything else, park such or pitch such tent at a designatedarea set aside for this purpose only.
- [6] No person may, without the written consent of the Municipal Manager first having beenobtained bring into, have in his or her possession in a cultural facility a firearm.
- [7] A person who wishes to obtain the consent of the Municipal Manager contemplated in subsection (1) and (2), must complete and submit to the Municipal Managera form similar to the form in Schedule 1, and the Municipal Manager mayrefuse consent, or grant consent, which consent will be indicated on the said form, subject toany such conditions as he or she deems necessary and subject to the prescribed fee ascontemplated in section 8 having been paid, and a person who wishes to sell food must, inaddition to the provisions of any and applicable by-laws in force in the Emalahleni municipalarea relating to-
- [a] The licensing and control of undertakings that sell food to the public; or
- [b] The hawing of food by street traders or pedlars.
- [8] A person who has been granted consent in terms of subsection (7) must at all times whenundertaking an activity for which consent has been granted, keep the form in his or herpossession, and must forthwith produce the form on request of an official.
- [9] A person who contravenes a provision of subsection (1) to (6) or (8) commits an offence.
- [10] **Permit**
- [1] Despite the provisions of section 6, 7, and 8, the Municipal Manager may, on writtenapplicationsubmitted to him or her in a form similar to the form in Schedule 2, which schedule refers, and subject to any such conditions as he or she may deem necessary to be imposed, issue a permit in a form similar to the form in Schedule 2, free of charge-
- [a] To a group of people, such as, but not limited to,a group of bona fide students; or
- [b] To a person who is undertaking scientific, educational or similar research.
- [2] The holder of a permit issued in terms of subsection (1) or section 48 of the NationalHeritage Resources Actmust, on arrival at the heritage facility concerned, display such permit to the control official, and a person who fails to do so, commits an offence.
- [3] The holder of a permit who undertakes an activity in contravention of a condition imposedon him or her commits an offence.
- [11] **Appeal**
- [1] A person whose rights are affected by a decision of an official of the Municipality acting in terms of this bylaw 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 appeal authority contemplated in subsection (3) 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 Mayor is the appeal authority; or
  - [c] a political structure or political officer bearer, or a Councillor, the Council is the appeal authority.
- [4] The appeal authority must commence with an appeal within six weeks of receipt of the notice of appeal and decide the appeal within a reasonable time.
- [12] Formal protection of privately owned heritage sites**
- [1] In the instance where a heritage sites has not been put under the control of the Municipality in terms of the Act, the Municipality may formally protect the site in a manner contemplated in part 1 of Chapter II of the Act, and may, with the consent of the owner of the site, make regulations with the aim of –
- [a] safeguarding the site from destruction, damage, disfigurement, excavation or alteration;
  - [b] regulating the use of the site;
  - [c] imposing conditions for any development of the site; and
  - [d] regulating the admission of members of the public to site, and the fees payable for such admission.
- [2] The Council may, by agreement with the owner of heritage site:
- [a] conserve or improve the site;
  - [b] construct fences, walls or gates around or on the site;
  - [c] acquire or construct and maintain an access road to the site over any land, and construct upon such land fences, walls or gates;
  - [d] erect signs on the near the site; or
  - [e] obtain all reproduction rights either in two or three dimensions.
- [13] Protection and management of protected areas, heritage areas and heritage objects**
- [1] The Municipality must make provision in its planning scheme to provide for the protection and management, and in these by-laws provide for the protection and management of:
- [a] a protected area, in accordance with section 28(5) and (6) of the Act;
  - [b] a heritage resource listed in terms of section 30(3) of the Act and subject to the provisions of said section;
  - [c] a heritage area designated in terms of section 31(5) of the Act; and
  - [d] heritage objects as contemplated in section 32 of the Act.

- [2] The Municipality shall protect and manage the areas, resources and objects contemplated in subsection (1) in accordance with the provisions of Chapter II of the Act, and may for these purposes enter into any heritage agreement contemplated in the said Chapter, or issue any permit contemplated in Chapter III of the Act, and may provisionally protect a heritage resource in accordance with the provisions of section 31 of the Act

**[14] Enforcement officials**

- [1] The Municipality must within its powers contemplated in section 3(1) of this bylaw appoint an official as Heritage Inspector as contemplated in section 50 of the Act, and such official has such powers, duties and functions as delegated to it in terms of the said section to implement and manage the provisions of these by-laws and such official has such powers, duties and functions as delegated to him or her by the Council, and a person commits an offence if he or she:
- [a] assaults, resists, obstructs, hinders, delays or interferes with an official in the exercise of his or her powers or the performance of his or her duties or functions or in any other way attempt to prevent the exercise of such powers or the performance of such duties or functions;
  - [b] offers any inducement to an official or makes any threat, whether of violence or otherwise, in relation to such official or a member of his or her family or a person dependent on him or her or her property in order to persuade or prevent such official from exercising any of his or her powers or performing any of his or her duties or functions;
  - [c] not being an official, by words, conduct or demeanour pretends that he or she is an official; or
  - [d] not being an official, wears a uniform or part of uniform or an insignia designed and intended for use by an official of the Emalahleni Municipality, or an imitation of such uniform or insignia.

**[16] Penalties**

A person who has committed an offence in terms of these by-laws is, on conviction, and subject to penalties prescribed in any other law, liable to a fine, or in default of payment, to imprisonment for a period not exceeding six months, or to such imprisonment without the option of fine, or to both such fine and such imprisonment and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment for period not exceeding one month.

**[17] Repeal of by-laws**

Any by-laws relating to heritage resources adopted by the Municipality or any erstwhile municipal council now comprising an administrative unit of the Municipality will be repealed from the date of promulgation of this bylaw.

**[18] Short title**

This by-law is called the Heritage Resources by-law.

**SCHEDULE 1  
[Section 9(7)]**

**APPLICATION FOR CONSENT TO UNDERTAKE CERTAIN CTIVITIES**

..... (full name of applicant)

Hereby applies in terms of the Heritage Resources bylaw, for consent to undertake at

.....  
(description of heritage facility)

For the purpose of

.....  
(give the reason why you wish to undertake the activity)

The activity of

.....  
(full description of activity)

Date.....

Signed..... (for applicant)

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

(address of applicant)

**CONSENT**

Above-mentioned person is hereby granted consent to undertake the activity as specified subject to the following conditions:

**CONDITIONS**

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

Name of authorised official.....

Date.....

**SCHEDULE 2  
(Section 10(1))**

**APPLICATION FOR PERMIT**

..... (full name of applicant)

Hereby apply, in terms of the Heritage Resources by-laws, for a permit to undertake at

.....  
(description of heritage facility)

For the purpose of

.....  
(give the reason why you wish to undertake the activity)

The activity

.....

(full description of activity such as the species and number or mass of the fauna or flora or the name or description of anything else and the number thereof in respect of which the permit is granted)

During

.....  
(specify the date and time)

Date.....

Signed..... (for applicant)

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

(address of applicant)

**PERMIT**

Above-mentioned person is hereby granted a permit to undertake the activity as specified in the specified public amenity.

**CONDITIONS**

.....  
.....

(specify in the activities which the permit holder is allowed to undertake)

Name of Official.....

Rank.....

Date.....

**SCHEDULE 3  
(Section 9)**

**FEES**

- 1. Entrance fees:  
(name of facility) RXX,xx per person

**LOCAL AUTHORITY NOTICE 11 OF 2016****EMALAHLENI 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 Waste Management that comes into operation on the date of publication thereof in the Provincial Gazette.

**BY-LAWS RELATING TO WASTE MANAGEMENT****PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution;

AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to regulate waste management in the municipal area for the benefit of the public residing in or visiting the Municipality.

NOW THEREFORE be it enacted by the Council as follows:

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- [40] Offences and penalties
- [41] Revocation of by-laws
- [42] Short title

## [1] Definitions

For the purposes of these By-laws, unless the context otherwise indicates-

**“Act”** means the National Environmental Management: Waste Act 59 of 2008

**“Bin”** means a standard type waste bin with a capacity between a minimum of 85 litres and a maximum of 100 litres, or a standard type wheelie bin with a maximum capacity of 240 litres;

**“Bin liner”** means a disposable plastic bag provided by the Municipality or approved by the Waste Management Officer with a storage capacity between a minimum of 85 litres and a maximum of 100 litres;

**“Building and demolition waste”** means waste, excluding hazardous waste, produced during the construction, alteration, repair or demolition of any structure, and includes rubble, earth, rock and wood displaced during that construction, alteration, repair or demolition;

**“Bulky waste”** means waste, other than industrial waste, hazardous waste, building and demolition waste or health care risk waste, which cannot by virtue of its mass, shape, size or temporary extraordinary generation be conveniently or practically stored in a container;

**“Business waste”** means waste; excluding garden waste, bulky waste hazardous waste and any waste collected separately for re-use or recycling; that emanates from premises or facilities that are used wholly or mainly for commercial, retail, wholesale, entertainment, administration purposes, or an accommodation establishment as defined in section 1 of the, Tourism Act (Act 72 of 1993);

**“Confidential information”** means trade, business or industrial information that belongs to a person, has a particular economic value, and is not generally available to or known by others;

**“Container”** means a disposable or re-usable vessel in which waste is placed for the purposes of storing, accumulation, handling, transporting, treating or disposing of that waste, and includes bins, bin-liners and skips;

**“Disposal”** means the burial, deposit, discharge, abandoning, dumping, placing or placing of any waste into, or onto, any land;

**“Disposal facility”** means a facility or site for the disposal of waste; including any landfill site, forwarding facility, transfer facility, drop-off centre or container yard used partially or solely for disposal of waste, and which is owned by the Municipality or has been approved for the purpose by the Municipality

**“Domestic waste”** means waste; excluding garden waste, bulky waste hazardous waste and any waste collected separately for re-use or recycling; that emanates from premises that are used wholly or mainly for residential, educational, health care, sport or recreational purposes;

**“Garden waste”** means waste which is generated as a result of normal gardening activities on any premises, such as grass cuttings, leaves, plants, flowers, weeds, clippings of trees, hedges or fences and other similar small and light matter;

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

**“Health care risk waste”** means hazardous waste originating at a health care facility which includes, but is not limited to:

- [a] “infectious waste”, i.e. waste that may contain pathogenic micro-organisms;
- [b] “sharps”, i.e. sharp and pricking objects that may cause injury as well as infection;
- [c] “pathological waste”, i.e. parts that are sectioned from a body;
- [d] “chemical waste”, i.e. all kinds of discarded chemicals, including pharmaceuticals that pose a special risk to human health and environment; and/or
- [e] “radioactive waste” i.e. solid, liquid and gaseous waste contaminated with radionuclide;

**“Inert waste”** means waste that does not-

- [a] undergo any significant physical, chemical or biological transformation;
- [b] burn, react physically or chemically biodegrade or otherwise adversely affect any other matter or environment with which it may come into contact; and
- [c] impact negatively on the environment, because of its pollutant content and because the toxicity of its leachate is insignificant;

**“Industrial waste”** means waste (in solid form) generated as a result of manufacturing, maintenance, fabricating, processing or dismantling activities, but does not include building and demolition waste, business waste, hazardous waste, health care risk waste, domestic waste, garden waste, or waste collected separately for re-use or recycling;

**“Licensed disposal facility”** means a disposal facility which has been licensed in terms of section 19 and 50 of the Waste Act or which in terms of section 80 of the Waste Act may continue to operate under a license issued under the Environmental Conservation Act (Act 73 of 1989);

**“Licensed incinerator”** means a disposal facility which uses an incinerator for incineration of waste which has been licensed in terms of section 19 and 50 of the Waste Act or which in terms of section 80 of the Waste Act may continue to operate under a license issued under the Environmental Conservation Act (Act 73 of 1989);

**“Medical Officer of Health”** means the person who from time to time is appointed to such position either substantively or in an acting capacity by the Municipality and includes any Deputy Medical Officer of Health so appointed;

**“Municipality”** means the council of the Emalahleni Municipality and its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any powers and duties with regard to these by-laws;

**“Occupier”** means-

- [a] any person in actual occupation of premises without regard to the title under which he or she occupies, if any; or

- [b] the owner of unoccupied premises; or
- [c] the owner of premises at which the owner permits occupation by more than one occupant; or
- [d] the owner in cases where the occupants fail to fulfill their obligation in terms of these by-laws

“**Owner**” in relation to premises means-

- [a] the person who from time to time is registered as such in a deeds registry as defined in the Deeds Registries Act, 1937 (Act 47 of 1937); or
- [b] in cases where such person is insolvent or diseased, or is under any form of legal disability whatsoever, the person in whom the administration of his property is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative; or
- [c] where a sectional title register has been opened in terms of section 12 of the Sectional Titles Act, 1986 (Act 95 of 1986), the body corporate as defined in that Act; and
- [d] includes any persons receiving rent for such premises whether on his own account or as a agent for a person entitled thereto;

“**Premises**” means any premises which are located within the area of jurisdiction of the Municipality;

“**Recycle**” means a process where waste is reclaimed for further use, which process involves the separation of waste from a waste stream further use and the processing of such separated material as a product or raw material;

“**Residential**” means used for the purpose of human habitation, but excludes use of accommodation establishment as defined in section 1 of the Tourism Act, 1993 (Act 72 of 1993);

“**Re-use**” means to utilise articles from the waste stream again for a similar or different purpose without changing the form or properties of the article;

“**Skip**” means a large bulk container which is temporary stored on premises for collection of wastes;

“**Tariff charge**” means the appropriate charge as set out in the tariff of charges adopted by resolution of the Municipality from time to time;

“**Waste**” means any substance defined as such in terms of the Waste Act;

“**Waste Act**” means the National Environmental Management: Waste Act (Act No. 59 of 2008);

“**Waste Management Officer**” means the officer who in terms of section 10 (3) of the Waste Act is designated in writing by the Municipality to be responsible for coordinating matters pertaining to waste management in the Municipality; and includes any other official to whom a power delegated or a duty assigned to the Waste Management Officer has been sub delegated or further assigned in writing by the Waste Management Officer in terms of section 10 (4) of the Waste Act;

“**Waste service provider**” means any service provider who renders a service with regards to the treatment, segregation, collection, removal, transportation, recycling and/or disposal of waste which was generated on premises which are not owned or operated by the service provider.

## PURPOSE OF BY-LAW

### [2] Purpose of by-law

- [1] The purpose of these by-laws is:
- [a] to promote the achievement of a safe and healthy environment for the benefit of the residents in the area of jurisdiction of the Municipality;
  - [b] to provide for procedures, methods, practices and standards to regulate the disposal of solid waste and the removal thereof within the area under the jurisdiction of the Municipality;
  - [c] to give effect to sections 9 (1), 9 (3), 10 (3), 24 and other sections of the Waste Act that relate to the Municipality's executive authority to deliver waste management services; and
  - [d] to promote compliance with the Waste Act.
- [2] These by-laws must be read with the Waste Act.

## MUNICIPALITY'S ROLE AND WASTE SERVICE PROVISION

### [3] Municipality services for collection, removal and disposal of waste

- [1] The Municipality shall provide services for the collection, removal and disposal of domestic and business waste from premises in terms of these by-laws and in areas and in a manner determined by the Municipality.
- [2] The Municipality may, at its sole discretion, provide services for the routine collection, removal and disposal of garden and recyclable waste from any premises in any areas for which services are rendered in terms of subsection (1).
- [3] The Municipality may, at the request of an occupier of premises and at the sole discretion of the Waste Management Officer, render services for bulk collection, removal and disposal of any garden waste, bulky waste, building and demolition waste and recyclable waste from such premises.
- [4] The Municipality may, at the request of an occupier of premises and at the sole discretion of the Waste Management Officer collect, remove or dispose of any industrial or hazardous waste from any premises, subject to the Municipality having made specific contractual arrangement with the occupier or owner of the premises to do so.
- [5] Any services rendered in terms of subsections (1) to (4) are subject to these by-laws and subject to payment of the applicable tariff charge(s) by the occupier of the premises.
- [6] The Municipality may, at its sole discretion, exempt an occupier, or occupiers within a specified area, to whom services are provided in terms of subsection (1), (2), (3) or (4), from paying the applicable tariff charge(s) for a specified period of time, by issuing a written notice to the occupier or by public notice.

### [4] Municipality engagement and responsibilities with regards to waste service providers

- [1] The Municipality may contract a waste service provider who has been registered in terms of section 12 (1) (c) of these by-laws to provide any specific waste service the Municipality may require.

- [2] Any service which a waste service provider renders in terms of subsection (1) shall, in terms of these by-laws, be deemed to have been rendered by the Municipality.
- [3] The Waste Management Officer shall keep and maintain a register of all waste service providers registered in terms of section 12 (1) (c).

**[5] Municipality notices and guidelines**

- [1] The Municipality may publish notices and guidelines from time to time as may be necessary with regards to any aspects or impacts concerning waste management within the Municipality's area of jurisdiction.
- [2] The Waste Management Officer shall upon reasonable request make available information published in terms of subsection (1) or give direction as to where such information can be viewed or obtained.

**[6] Municipality powers in relation to waste management**

- [1] The Waste Management Officer may serve a written notice to a person, including but not limited to an occupier or waste service provider, who in his opinion does not comply with the Waste Act or these By-laws, and give directions as to any aspect of the generation, treatment, storage, keeping, handling, transportation or disposal of any waste, provided such directions are in compliance with all relevant legislation, including these By-laws.
- [2] The Municipality may treat, collect, remove, store, keep, handle, transport and/or dispose of any waste from any premises or public place, in order to remedy any damage, remediate any impact or to abate any nuisance, where, in the opinion of the Waste Management Officer, such waste poses or may potentially pose an immediate and unacceptable health, safety or environmental risk; or if a person has failed to comply with any direction given in terms of subsection (1);
- [3] The Municipality may in addition to any applicable tariff charge, recover all costs incurred as a result of it acting under subsection (2) from the occupier of the relevant premises.
- [4] The Waste Management Officer may, at his/her discretion and having regard of the impact or potential impact of a waste or a waste management activity-
  - [a] serve an occupier, or waste service provider who operates within the area of jurisdiction of the Municipality, with a notice to provide him/her with information and/or a waste management plan related to such waste or activity for which the occupier or waste service provider is responsible, as the case may be;
  - [b] specify the information to be provided, the format in which such information is to be provided and the time by which and frequency at which such information is to be provided in terms subsection (a);
  - [c] specify that the information provision contemplated in terms of subsection (b) be in the form of information or a copy of a waste management plan, which is required by law or initiative of another authority; and
  - [d] use or publish any information provided in terms of subsection (a) for research and analysis of any waste management aspect or impact, integrated waste management planning, and/or public comment; unless the information is regarded as confidential information, in which case the

consent of the owner of that information is required prior to such use or publication.

### **OCCUPIERS' DUTIES**

#### **[7] General duties of occupiers**

- [1]** The occupier of premises shall comply with all relevant legal requirements, including these by-laws, with regards to the generation, treatment, storage, keeping, handling and disposal of any waste.
- [2]** Requirements contemplated in subsection (1) specifically includes but are not limited to-
  - [a]** the general duty in respect of waste management in terms of section 16 of the Waste Act;
  - [b]** the general duty in respect of reduction, re-use, recycling and recovery of waste in terms of section 17 of the Waste Act;
  - [c]** the requirements and standards imposed on waste management activities in terms of section 19 and 20 of the Waste Act; and
  - [d]** the general requirements for storage of waste in terms of section 21 and 22 of the Waste Act.
- [3]** Every occupier of premises upon which any solid waste is generated, kept or stored, shall in compliance the Waste Act and section 15 of these by-laws-
  - [a]** make provision for the safe keeping or storage of such waste until collection or removal thereof from the premises; and
  - [b]** ensure that no such waste accumulates on the premises in such a manner or to such an extent as to cause litter, odour, unacceptable visual impact, or any other nuisance; or a potential health, safety or environmental risk.
- [4]** The occupier of any premises on which compactable and loose waste of any kind is produced, kept, or accumulated, shall, when necessary or required thereto under notice in writing from the Waste Management Officer, tie up securely or cause to be tied up securely, or compact such waste into bales or bundles of convenient size subject to such specifications as the Waste Management may provide.

#### **[8] Occupier's duty with regards to domestic and business wastes**

- [1]** The occupier of premises shall make use of the services contemplated in section 3 (1), for all domestic waste or business waste generated on such premises, unless
  - [a]** the premises on which such waste is generated is located in an area for which the Municipality has not formally implemented a waste removal service; or
  - [b]** the occupier of a premises, has received formal written approval from the Waste Management Officer to use specified alternative services for the collection and removal of such waste for a period specified in the said approval and under conditions determined by the Waste Management Officer; or

- [c] the premises on which such waste is generated is located in an area which the Municipality has specifically and by public notice declared to be an area in which the occupier of a premise is permitted to use alternative services for the collection and removal of such waste for a specified duration and under conditions determined by the Municipality.

**[9] Occupier's responsibilities when appointing a waste service provider**

- [1] No occupier shall employ a person, who is not registered in terms of section 12 (1) (c) of the Waste Act, to provide a waste service for the collection, removal or disposal of any waste from or at the occupier's premises.
- [2] Every occupier, who intends to engage the services of a waste service provider for the collection, removal or disposal of waste from his premises, shall ensure that such waste is collected and removed in terms of the provisions of these by-laws within a reasonable time, but not later than 90 days after the generation thereof or any other date to which the Waste Management Officer has agreed in writing.

**[10] Occupier's responsibilities with regards to notification of change**

- [1] Whenever there is a change in the occupation or ownership of premises, the new occupier, who is liable in terms of section 8 to comply with the requirements of that section, shall forthwith notify the Waste Management Officer in writing of such change within 14 days of such change.
- [2] The occupier of premises, who is liable to comply with the requirements of section 8, shall notify the Waste Management Officer in writing of any change in the nature of the use to which such premises are put or any change in the nature, mass or volume of waste generated thereon, which in any way affects or may affect the application of these by-laws or the tariffs for any service rendered by the Municipality in terms thereof.
- [3] Every occupier of new premises or premises on which the generation of domestic or business waste is about to be commenced, shall prior to the commencement of the generation of such waste notify the Waste Management Officer in writing
  - [a] that the premises are being occupied;
  - [b] whether business waste or domestic waste will be generated on the premises; and
  - [c] what number of households or businesses will occupy the premises.
- [4] The occupier of premises, who in terms of this section are required to notify the Waste Management Officer, shall do so by furnishing him with such information and in such a form as the Waste Management Officer may prescribe.

**[11] Occupier's liabilities in terms of served notices**

- [1] Every occupier who has been served a notice in terms of section 6 (1) shall be liable to comply with all the directions given therein.
- [2] Every occupier who has been charged tariffs or issued an invoice in terms of section 6 (3) is liable to the Municipality for payment thereof.

**WASTE SERVICE PROVIDERS****[12] General duties and registration of waste service providers**

- [1]** Any waste service provider who operates within the area of jurisdiction of the Municipality; or who owns or operates a facility used for any waste service operations; may only do so subject to-
- [a]** compliance with any relevant legislation, including but not limited to the waste management standards and licence requirements in terms of section 20 of the Waste Act;
  - [b]** compliance with the provisions of these By-laws; and
  - [c]** being registered as a waste service provider with the Waste Management Officer, for the provision of any waste service or related operation, subject to such registration coming into effect after 12 month of the date of publication of these by-laws.
- [2]** Registration in terms of subsection (1) (c) shall be made by-
- [a]** furnishing the Waste Management Officer with such information and in such a form as the Waste Management Officer may prescribe; and
  - [b]** payment of any administration fee as the Waste Management Officer may publish from time to time.
- [3]** Registration contemplated in terms of subsection (1) (c) may be granted or refused or withdrawn at the discretion of the Waste Management Officer and shall be subject to such conditions, whether as to period of validity, the type of waste which may be dealt with thereunder, the premises from where waste may be collected, or otherwise, as the Waste Management Officer may impose.
- [4]** A person who is not registered as a waste service provider in terms of subsection (1) or whose registration has expired or has been withdrawn or who is unable to meet the conditions imposed by the Waste Management Officer as contemplated in subsection (3), shall not hold himself out to be, or act as, a waste service provider within the Municipality's area of jurisdiction.
- [5]** Every waste service provider registered in terms of subsection (1) (c) shall-
- [a]** maintain any vehicle, equipment, facility and site used for treating, collection, removal, transporting, keeping, storing and disposal of waste in reasonably hygienic condition and in good working order;
  - [b]** keep records of all quantities and associated classification of any waste he/she treated, collected, transported, stored for longer than 90 days, or disposed of; and shall retain such records and any landfill disposal facility consignment notes for a period of at least 3 years;
  - [c]** provide the Waste Management Officer with copies of the records contemplated in subsection (b) on at least an annual basis, or at such other frequency as the Waste Management Officer may require;
  - [d]** shall progressively contribute to and participate in activities associated with the recycling of any recyclable waste and shall, on an annual basis, provide the Waste Management Officer with a plan to do so; and

- [e] make available himself; or any premises or equipment he uses for his business and/or any information regarding any aspect of waste service he provides within the area of jurisdiction of the Municipality, for auditing by the Waste Management Officer or any person contracted by him to do so.

**[13] Prohibition of removal of waste**

- [1] No person may remove waste from any premises unless he is the lawful occupier of the premises; or has been specifically appointed or instructed by occupier or the Municipality or the Medical Officer of Health to do so.

**CONTAINERS AND CONTAINER MANAGEMENT**

**[14] Occupier's duties with regard to container management**

- [1] Every occupier referred to in section 8 (1) shall, provide on his premises such number of containers as is adequate and suitable for the purpose of the temporary safe storage of all domestic and business waste as may be generated on his premises pending its removal and shall place and keep the relevant waste in such containers and in such a manner until its removal.
- [2] Every occupier of premises on which industrial, hazardous waste or building and demolition waste is generated shall, provide on his premises such number and type of containers as is adequate and suitable for the purpose of the temporary safe storage of such waste pending its removal; unless the waste is of such nature or quantity that it cannot be reasonably containerised.
- [3] Any occupier referred to in subsection (1) or (2) shall ensure that all containers that are in use are-
  - [a] placed in a location which is safe and suitably accessible for its intended use and removal; and which is not visible from any street or other public place, unless the latter is not reasonably practical or the Municipality has approved of another placement, or the container has been placed on a day for collection on the same day or subsequent day;
  - [b] maintained in a sound and serviceable condition and that any containers which are no longer capable of being so maintained are replaced;
  - [c] kept reasonably clean and hygienic; and
  - [d] kept closed, covered or maintained in a manner that would prevent displacement of its content and emission of odours, fumes, dust or any other nuisance.

**[15] Containers provided by the Municipality**

- [1] The Municipality may at its sole discretion
  - [a] supply to occupiers of premises, as part of the services in terms of section 3 (1), containers which the Waste Management Officer, at his/discretion, considers more appropriate for the collection, storage and removal of waste than containers referred to in section 14 (1), if any; or
  - [b] supply occupiers of premises with containers for the specific use of specified recyclable waste or garden waste; or

- [c] provide any occupier of premises, at the occupier's request, with bins or skips for temporary storage of any specified waste subject to payment by the occupier of the applicable tariff charge; or
      - [d] provide communities with containers in the form of bins or skips at strategically placed locations on Municipality property, or by written consent from an occupier on his/her premises, for communal use and collection of specific waste subject to the applicable tariff charge.
  - [2] The provisions of these by-laws shall mutatis mutandis apply to containers supplied in terms of subsection (1) as if they were containers referred to in section 14 (1), provided that-
    - [a] such containers shall remain the property of the Municipality or Municipality appointed waste service provider, and may at any time either be replaced or removed by the Municipality; and
    - [b] in the event of their removal for a purpose other than one of a temporary nature, the occupier shall forthwith comply with the requirements of section 14 (1).
  - [3] The occupier or owner of premises shall be responsible for the safekeeping of any containers supplied to his premises in terms of subsection (1) and shall be liable to the Municipality for the loss thereof or any damage thereto except such as has been caused by the Municipality, or except where such a container is a disposable bin liner.
  - [4] Where, in terms of subsection (1) and in areas specified by the Waste Management Officer, the Municipality supplies occupiers with containers in the form of bin liners as part of the Municipality's routine waste collection and removal services contemplated in terms of section 3 (1), the occupier in such an area shall-
    - [a] use such bin liners exclusively for storing of the specific waste for which the bin liners are specified and intended;
    - [b] ensure that any glass or sharp object that may damage the bin-liner or may cause an injury to any person while carrying out a duty in terms of the Municipality's services, is separately wrapped before placement in the bin-liner; and
    - [c] purchase any bin-liners the occupier may require in addition to the bin-liners which the Municipality provides, for storing of waste intended for collection by the Municipality, provided that such bin liners meet any specification which the Waste Management Officer may publish from time to time.
- [16] **Prohibited use of containers**
  - [1] No container supplied by the Municipality in terms of section 15(1) may be used for-
    - [a] any purpose other than the intended storage of the specified waste;
    - [b] disposal or keeping of any hazardous substances at any time, unless the container is specifically intended and conspicuously and legibly labeled for such use;

- [c] disposal or keeping of any waste, substance or object which may damage the container or which may cause an injury or harm to any person while carrying out a duty in terms of the Municipality's services provided for in these by-laws;
- [d] disposal or keeping of any material, including any liquid, which by reason of its mass or other characteristics is likely to render such containers unreasonably difficult to handle or carry by any person while carrying out a duty in terms of the Municipality's services provided for in these by-laws;
- [e] disposal of hot ash or lighting a fire in.

**17. Disposal of waste in containers**

- [1] No person shall dispose of any waste, substance or item in a container-
  - [a] which is located on any premises; unless such person is the occupier of the premises, or has approval from the occupier or owner of the premises to do so, or the container has been specifically placed in a public space for such disposal; or
  - [b] which the Municipality has provided in terms of section 15 (1) (d); unless such person occupies premises within the community for which the container is intended.

**18. Removal of waste in containers**

- [1] No person shall remove any waste, substance or item from a container which is located on any premises; unless such person is the occupier of the premises, or has approval from the occupier or owner of the premises to do so, or where such removal forms part of a waste service provided by the Municipality.

**ROUTINE COLLECTION AND REMOVAL OF WASTE**

**19. Determination and notification of Municipality routine services**

- [1] The Waste Management Officer shall, for services contemplated in terms of section 3 (1), and from time to time-
  - [a] determine the manner in which, the week day or days upon which, and the frequency at which waste is to be removed from a certain area; and
  - [b] notify affected occupiers of the arrangements contemplated in subsection (a) by way of written notices distributed to the relevant premises, or by way of notice boards displayed conspicuously at the main entrance roads to the affected areas at least seven (7) days prior to such arrangement coming into effect.

**[20] Duty of occupiers in terms of use routine services**

- [1] Every occupier of premises, within an area and on the day or days which have been determined in terms of subsection (1), and-
  - [a] to whom in terms of section 15 (1) and subject to 15 (4) bin-liners have been supplied, shall make exclusive use of such bin liners to place any waste for which the bin liners are intended outside the boundary of the premises and adjacent to either the pedestrian or the vehicular access to the premises from a public street; or

- [b]** to whom containers have been supplied in terms of section 15 (1) or who uses containers in terms of section 14(1) and where such a container is in the form of a bin, shall place such a container immediately outside the boundary of the premises and adjacent to either the pedestrian or the vehicular access to the premises from a public street; or
- [c]** to whom containers have been supplied in terms of section 15 (1) or who uses containers in terms of section 14 (1), and/or whose domestic or business waste is to be collected from the premises by the Municipality in terms of specific agreement with or direction from the Waste Management Officer, shall provide suitable and convenient vehicular access to the area in which waste containers are stored for the emptying or collection and removal of such containers, as the case may be, subject to section 22.

**[21] Disposal of waste in containers**

Every occupier of premises, on which any waste other than domestic or business waste is generated, and where such waste is generated on an ongoing or regular basis, shall dispose of such waste in accordance with these By-laws; and make arrangements with the Municipality or a waste services provider who has been registered in terms of section 12 (1) (c), for the regular or routine collection, removal and disposal of such waste.

**ACCESS TO PREMISES****[22] Removal of waste in containers**

- [1]** The occupier of premises to which the Municipality provides a waste removal service, shall, where necessary, grant the Municipality convenient access to the premises for the purpose of collecting and removing waste and shall ensure that nothing obstructs, frustrates or hinders the Municipality and its employees in the carrying out of its service.
- [2]** If in the opinion of the Waste Management Officer the collection or removal of waste from any premises is likely to result in damage to the premises or the Municipality's property, or injury to the waste collectors or any other person, it may as a condition of rendering a waste collection service in respect of the premises, require the occupier to indemnify it in writing in respect of any such damage or injury or any claims arising there from.
- [3]** The Municipality may, at its own discretion, include standard access specification for waste collection and removal as part of their planning and building plan approval.

**GARDEN AND BULKY WASTE****[23] Additional responsibilities for garden and bulky waste**

- [1]** The occupier of every premises upon which there is generated garden waste (other than garden waste which in terms of section 24 (1) (a) is used for making compost at the premises) or bulky waste, and subject to these by-laws-
  - [a]** shall, ensure that such waste, is removed from the premises and disposed of within a reasonable time after the generation thereof;
  - [b]** shall, unless it is garden waste which is collected and removed from the premises by the Municipality in terms of the section 3 (2) or section 3 (3), ensure that such waste, once it has been removed from the premises on which it was generated, be disposed of at a site designated by the

Municipality as a disposal facility for such waste; subject to meeting all the requirements the legal owners or operators of the disposal facility may prescribe and subject to payment of the relevant tariff charge; and

- [c] shall ensure that any such waste which is intended for disposal in terms of subsection (b) is transported to the disposal facility subject to section 30.

**[24] Use and disposal of garden waste**

- [1] The occupier of every premises upon which garden waste is generated-
  - [a] may use such garden waste on the premises, or provide it to any person, for the making of compost, provided such composting does not cause a nuisance or health risk;
  - [b] may collect such garden waste for removal in containers which the Municipality has in terms of section 15 (1) (b) supplied to the occupier for such specific collection;
  - [c] shall not dispose any garden waste in any container which the Municipality has, in terms of section 15 (1), supplied to the occupier for use other than for collection of garden waste.

**BUILDING AND DEMOLITION WASTE**

**[25] Additional responsibilities for building and demolition waste**

- [1] The occupier of premises on which building and demolition waste is generated and the person engaged in the activity which causes such waste to be generated shall ensure that-
  - [a] all hazardous waste (including, but not limited to, asbestos-containing materials, mercury-containing fluorescent tubes and lamps, paints, thinners, fuel, polychlorinated biphenyls (PCB)-containing equipment or substances, and pesticides) be segregated from any building and demolition waste and be treated, kept, stored and/or disposed of in terms of these By-laws and any other legal requirement, within a reasonable time after the generation thereof;
  - [b] any waste which the occupier intends to recycle is segregated from any building and demolition waste and recycled in terms of section 39;
  - [c] building and demolition waste is disposed of in terms of section 26 within a reasonable time after the generation thereof; and
  - [d] until such time as building and demolition waste is disposed of in terms of subsection (c), such waste together with the containers used for the storing or removal thereof, if any, is kept on the premises on which it was generated.
- [2] Building and demolition waste may be removed by the builder; or occupier; or in terms of 3 (3) by the Municipality; or subject to section 9 by a waste service provider.

**[26] Disposal of building and demolition waste**

- [1] Subject to the provisions of subsection (2), all building and demolition waste shall be deposited at a disposal facility specifically designated or approved in writing

by the Municipality for that purpose and the person depositing the waste shall be liable to pay any relevant tariff or fee charge therefore.

- [2] Building and demolition waste may, with the written consent of the Waste Management Officer, be deposited at a place other than a disposal facility for the purpose of reclamation of land, landfill top cover, road surfacing or other purposes connected with such site, as the Waste Management Officer may specify.
- [3] Any consent given in terms of subsection (2) shall be subject to such conditions as the Waste Management Officer may deem necessary; provided that in giving or refusing his consent or in laying down conditions the Waste Management Officer shall have regard to-
- [a] the safety of the public;
  - [b] the environment of the proposed disposal facility;
  - [c] the suitability of the area including the drainage thereof;
  - [d] the expected manner and times of depositing of waste at the site;
  - [e] the levelling of the site;
  - [f] the control of dust; and
  - [g] other relevant factors.

#### **INDUSTRIAL WASTE, HAZARDOUS WASTE, HEALTH CARE RISK WASTE AND PRIORITY WASTE**

##### **[27] Provision of information on industrial waste, hazardous waste, health care risk waste and priority waste**

- [1] The occupier of premises on which industrial waste, hazardous waste, health care risk waste and/or priority waste is generated shall notify the Waste Management Officer of such production; and shall within twelve months of publication of these by-laws and on an annual basis thereafter, provide the Waste Management Officer in writing, and for every waste stream or type, with detailed information on-
- [a] the classification of the waste produced, where this classification shall be in accordance with the SANS 10228 (SABS 0228): The identification and classification of dangerous substances and goods, or any amendment thereto, or a classification as may be regulated in terms of section 69 (1) of the Waste Act;
  - [b] the composition of the waste, as substantiated by an analysis certified by a suitably and duly qualified chemist or a South African National Accreditation System accredited laboratory;
  - [c] the quantity of waste generated;
  - [d] the method and period of keeping or storage of the waste;
  - [e] the method of removal, transportation and disposal of the waste;
  - [f] the persons appointed for the removal, transportation and disposal of the waste;

- [g] the disposal facility which is used for the disposal of the waste; and
  - [h] documented proof of waste disposal at the disposal facility.
- [2] Having notified the Waste Management Officer in terms of subsection (1), the occupier shall notify the Waste Management Officer forthwith and in writing of any substantial change in the composition and quantity of the waste occurring thereafter.
- [3] Any occupier or waste service provider operating within the area of jurisdiction of the Municipality, who is required in terms of section 29 of the Waste Act to prepare an industry waste management plan, shall submit a copy of such a plan to the Waste Management Officer, at the time of submission of the plan to the relevant authority or prior to commencement of any activity for which the plan is required.
- [28] Prohibition of provision of waste service activities for industrial waste, hazardous waste, health care risk waste and priority waste**
- [1] The occupier of premises on which industrial waste, hazardous waste, health care risk waste and/or priority waste is generated, shall not (except where the waste is inert waste) allow any person to remove from the premises, transport, treat away from the premises, or dispose of any such waste, unless the person is a waste service provider who is registered in terms of section 12 (1) (c) and who-
- [a] is in terms of sections 20 and 49 (2) of the Waste Act specifically licensed to carry out such an activity; and
  - [b] applies all standards or requirements that have been set in terms of the Act or a relevant waste management licence; or
  - [c] acts under specific instructions of or notifications by the Waste Management Officer or the Medical Officer of Health to carry out such an activity.
- [29] The Waste Management Officer's right to enter premises on which industrial waste, hazardous or health care risk waste is generated**
- [1] The Waste Management Officer may enter premises at any reasonable time to ascertain whether industrial waste, hazardous waste, health care risk waste or priority waste is generated on such premises and may take samples and test any waste found on the premises to ascertain its composition.

#### **TRANSPORTATION OF WASTE**

- [30] Transportation of waste**
- [1] Any person removing or conveying any waste or other offensive matter shall-
- [a] do so subject to compliance to any relevant legislation including, but not limited to, the National Road Traffic Act, Act No. 93 of 1996 and section 25 of the Waste Act;
  - [b] do so by means of an appropriately licensed, constructed and enclosed vehicle;
  - [c] do so in such a manner as will comply with all legal requirements and as will prevent any nuisance arising from such conveyance or the escape of

the contents there from to a public area or any other environment not intended for the keeping, storage or disposal of the waste;

- [d] contain, collect and remove any content that accidentally escaped from a vehicle contemplated in subsection (a), immediately upon becoming aware of such accidental escape;
  - [e] contain any accidental escape of a hazardous object or any spillage or leakage of any hazardous substance immediately; secure the affected area appropriately to avoid injury and reduce the immediate health and environmental risk effectively; and report such incident to the appropriate emergency services and Waste Management Officer as soon as possible; and
  - [f] follow any instructions, specification or conditions of written notices for the removal of objects or substances contemplated in subsection (c) and remediation of the affected environment which the emergency services, the Waste Management Officer, the Medical Officer of Health, or any other relevant authority may give or impose.
- [2] The Waste Management Officer or Medical Officer of Health may serve a written notice upon any person restricting or stipulating the means to be adopted and specifying the times during which waste may be conveyed through or along any street or public place if of the opinion that the conveyance of such waste is likely to be objectionable or give rise to a nuisance, or health risk.

#### **PROHIBITED DISPOSAL AND CONDUCT AT DISPOSAL FACILITIES**

##### **[31] Prohibitions on burning of waste**

- [1] No occupier of premises may within the area of jurisdiction of the Municipality, dispose of any waste through burning, unless-
- [a] a licensed incinerator is used for that purpose; or
  - [b] the waste is burned in an industrial facility that has been specifically designed to do so and/or which does not cause any hazard or offence, or generate any emissions, that are in contravention with any relevant legislation; or
  - [c] the waste consists of domestic waste generated in a rural area for which the Municipality has not formally implemented a waste removal service, where there is a lack of any other acceptable or affordable means of waste disposal, and where such waste may otherwise potentially constitute a health or safety risk; or
  - [d] the Waste Management Officer or Medical Officer of Health give specific instructions or written approval to do so.

##### **[32] Prohibited disposal at disposal facilities**

- [1] No person shall use any disposal facility within the area of jurisdiction of the Municipality to discharge or dispose of-
- [a] any waste, object or substance, unless the facility is specifically licensed **and equipped for such disposal**;
  - [b] any liquid or sludge waste, except with the prior written permission of the Waste Management Officer and in accordance with such conditions as

the Waste Management Officer may impose; unless such disposal concerns normal domestic and sewage wastewater disposed into a municipal sewage system;

- [c] any inflammable waste (i.e. waste which will ignite when exposed to a naked flame), putrescible waste, waste which will chemically attack the disposal facilities, and waste which separately or in a mixture with other waste will create a health hazard or a nuisance, unless specific provisions have been made for such disposal by the operator of the disposal facility, and provided such provisions are clearly labeled or signed as such;
- [d] any waste with toxic or other harmful properties, unless it is suitably pre-treated prior to delivery to the disposal facility to render it non-toxic or harmless, or unless the disposal facility provides for the suitable treatment, keeping, storage and/or disposal of such waste; and
- [e] any object that by its shape, size or characteristics could potentially cause injuries to any person operating or using the disposal facility or damage to the disposal facility, without taking precautions to prevent such injury or damage; or inform the operator of such potential hazard prior to disposal and follow any instructions the operator may give.

**[33] Conduct at disposal facilities**

- [1] Every person who, for the purpose of disposing of waste, enters a disposal facility controlled by the Municipality, shall-
  - [a] enter the disposal facility at an authorised access point indicated as such;
  - [b] present the waste for weighing or other means of quantification in the manner required by the legal operator of the disposal facility, if any;
  - [c] provide the legal operator of the disposal facility with all the particulars required in regard to the composition of the waste;
  - [d] follow all instructions which the legal operator of the disposal facility may give with regard to access to the actual disposal point, the place where and the manner in which the waste should be deposited; and
  - [e] provide the legal operator of the disposal facility with full information as to the person who is liable to pay the relevant tariff charge, if any, for the waste deposited to enable an account to be rendered to such person.
- [2] No person shall, with regards to any disposal facility controlled by the Municipality and unless the Municipality has specifically appointed such person to do so-
  - [a] enter such a disposal facility for any purpose other than the disposal of waste in terms of these by-laws;
  - [b] enter such a disposal facility at a time other than between such hours as the Municipality may determine from time to time;
  - [c] cause or allow a vehicle in such person's charge to remain at such a disposal facility for longer than is necessary for the discharge of waste;
  - [d] cause any damage to any facilities, plant or equipment at the disposal facility or property of any other user of the disposal facility;

- [e] cause any obstruction to any other users or with regards to any operations of such a disposal facility, whether intentional or accidental; and
- [f] bring any intoxicating liquor onto a disposal facility.

#### **OWNERSHIP OF WASTE**

##### **[34] Ownership of Waste**

All waste removed by the Municipality and all waste on disposal facilities controlled by the Municipality shall be the property of the Municipality and no person who is not duly authorised by the Municipality to do so shall remove or interfere therewith.

#### **LITTERING, DUMPING AND ANCILLARY MATTERS**

##### **[35] Littering**

- [1] No person shall
  - [a] throw, let fall, deposit, spill or in any other way discard, any waste into or onto any public place, vacant erf, farm portion, stream or watercourse, other than into a container or onto a disposal facility specifically provided for the purpose;
  - [b] sweep any waste into a gutter, on a road reserve or any other public place; and
  - [c] allow any person under his/her/its control to do any of the acts contemplated in (a) and (b).

##### **[36] Dumping**

- [1] Subject to any provision to the contrary in the by-law contained, no person shall leave any item or substance under his control at a place where such item or substance has been brought with the intention of abandoning it.
- [2] Any person who contravenes the provisions of subsection (1), shall be liable (over and above the prescribed penalties provided for in section 40) to pay the Municipality the tariff charge in respect of such removal and disposal.

##### **[37] Abandoned items or substances**

Any item or substance which, having regard to such factors as the place where it is found, the period it has been lying at such place, and the nature and condition of such thing, is reasonably regarded by the Municipality as having been abandoned, may be removed and disposed of by the Municipality as it may deem fit.

##### **[38] Liability of responsible person**

- [1] Where anything has been removed and disposed of by the Municipality in terms of section 37 the person responsible shall be liable to pay the Municipality the tariff charge in respect of such disposal.
- [2] For the purpose of subsection (1) the person responsible shall be-
  - [a] the last owner of the abandoned thing, before it was collected by the Municipality, and shall include any person who is entitled to be in possession of the thing by virtue of a purchase agreement or an agreement of lease at the time when it was abandoned or put in the place

from which it was so removed unless such person can prove that he/she/it was not concerned in and did not know of it being abandoned or put in such a place; or

- [b] any person by whom it was put in the place aforesaid; or
- [c] any person who knowingly permitted the putting of the abandoned thing in the place aforesaid.

### WASTE MINIMISATION AND RECYCLING

#### [39] Waste administration and recycling

- [1] Any occupier of premises upon which any reusable or recyclable waste is generated, and which the occupier intends to make available for reuse or recycling
  - [a] shall make provisions for the safe keeping or storage of such waste until collection and removal thereof from the premises, or recycling thereof on the premises;
  - [b] shall ensure that no such waste accumulates on the premises in such a manner or to such an extent as to cause litter, odour or any other nuisance or a potential health, safety or environmental risk, without treatment thereof that would render it reasonably harmless;
  - [c] may make use of the services which the Municipality provides in terms of sections 3 (2) and/or 3 (3) for the collection, removal and disposal of such waste for which the Municipality provides such service;
  - [d] may dispose of any such waste at any disposal facility which the [Municipality may, at the discretion of the Municipality, specifically provide for the collection, storage or disposal of such waste, subject to any relevant tariff charge; and
  - [e] may make use of the services provided by a waste service provider who has registered in terms of 12 (1) (c) and who specifically provides for the collection, removal and disposal of such waste for recycling.
- [2] The Waste Management Officer may include in the information required in terms of section 6(4)(a) information related to waste minimisation and recycling.

### OFFENCES AND PENALTIES

#### [40] Offences and penalties

- [1] Any person who-
  - [a] contravenes any provision of these by-laws; or
  - [b] contravenes any conditions imposed upon the granting of any application, consent, approval, concession, relaxation, permit or authority in terms of these by-laws; or
  - [c] fails to comply with the terms of any notice served upon such person in terms of these by-laws, shall be guilty of an offence and liable, upon conviction, to a fine not exceeding R 5,000.00 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment, as well as be liable to the Municipality for the applicable

tariff charge in respect of any remediation, treatment, removal and disposal.

- [2] Failure to comply with the terms of any condition or notice referred to in subsection (1) (b) or (1)(c) above shall constitute a continuing offence and a person failing to comply with the terms of such condition or notice shall be guilty of a separate offence for each day during which such person fails to comply with such terms.

#### **REVOCATION OF BY-LAWS**

**[41] Revocation of by-laws**

- [1] All previous by-laws are hereby repealed, provided that such repeal shall not affect the continued validity of charges determined by the Municipality under those by-laws.

#### **SHORT TITLE**

**[42] Short Title and Commencement**

- [1] These by-laws shall be called the Waste Management by-laws.

**LOCAL AUTHORITY NOTICE 12 OF 2016****EMALAHLENI LOCAL MUNICIPALITY**

Emalahleni Local Municipality 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 Public Amenities By-Laws that come into operation on the date of publication thereof in the Provincial Gazette.

**BY-LAWS FOR PUBLIC AMENITIES****PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution;

AND WHEREAS the Council of the Municipality in the exercise of its functions must promote the achievement of a safe and peaceful environment and provide for procedures, methods and practices to regulate the use and management of public amenities;

NOW THEREFORE be it enacted by the Council as follows:

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- [1] Definitions
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- [25] Short title

**[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 –

**"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.

**"municipality"** means the Emalahleni Municipality established in terms of section 12 of the Municipal Structures Act, 1998 [Act No. 117 of 1998] and includes any political structure, political office bearer, councillor, duly authorised agent thereof 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;

**"notice"** means an official notice displayed at every entrance to or at a conspicuous place at or on a public amenity and in which the Municipality must make known provisions and directions adopted by it in terms of these by-laws;

**"public amenity"** means –

- [a] any land, square, camping site, swimming bath, river, public resort, recreation site, nature reserve, zoological, botanical or other garden, park or hiking trail which is the property of the Municipality, including any portion thereof and any facility or apparatus therein or thereon;
- [b] any building, structure, hall, room, or office including any part thereof and any facility or apparatus therein, which is the property of, or is possessed, controlled or leased by the Municipality and to which the general public has access, whether on payment of admission fees or not but excluding:
  - [i] any public road or street;
  - [ii] any public amenity contemplated aforesaid if it is lawfully controlled and managed in terms of an agreement concluded by any person with the municipality, and
  - [iii] any public amenity hired from the Municipality;

## [2] MAXIMUM NUMBER OF VISITORS

- [1] The Municipality may determine the maximum number of visitors who may be present at a specific time in or at a public amenity;
- [2] The number contemplated in subsection [1] must be made known by the Municipality by means of a notice.

## [3] ADMISSION TO AND SOJOURN IN A PUBLIC AMENITY

- [1] A public amenity is, subject to the provisions of these by-laws, open to the public during the times determined by the Municipality and made known in a notice;
- [2] No visitor may enter or leave a public amenity at a place other than that indicated for that purpose.

## [4] ENTRANCE FEES

The Municipality may require members of the public to pay –

- [a] a reasonable prescribed fee to use public amenities;
- [b] a reasonable prescribed fee for entrance to public amenities which are significantly more expensive to maintain than other public amenities;
- [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; and
- [f] a prescribed fee for processing applications for permits or letters of permission under these by-laws.

**[5] NUISANCES**

No person in or at a public amenity may perform or permit –

- [a]** the use of language or the performance of any other act which disturbs the good order;
- [b]** the firing of firearms, airguns, air pistols, fireworks or the use of sling-shots or catapults without the Municipality's written consent;
- [c]** the burning of rubble or refuse;
- [d]** the causing of unpleasant or offensive smells;
- [e]** the production of smoke nuisances;
- [f]** the causing of disturbances by –
  - [i]** fighting, shouting, arguing, singing or the playing of musical instruments; or
  - [ii]** the use of loudspeakers, radio reception devices, television sets, or similar equipment;
- [g]** the begging for money, food, work or the offering of services; or
- [h]** any form of nuisance, obstruction, disturbance or annoyance to the public.

**[6] HEALTH MATTERS**

No person in or at a public amenity may –

- [a]** dump, drop or place any refuse, rubble, material or any object or thing or permit it to be done, except in a container provided for that purpose in or at the amenity;
- [b]** pollute or contaminate in any way the water in any bath, swimming pool, dam, spruit, river or water-course;
- [c]** enter any bath or swimming pool while suffering from an infectious or contagious disease or having an open wound on his body as may be prohibited by the by-laws of the Municipality pertaining to swimming pools;
- [d]** perform any act that may detrimentally affect the health of any visitor to a public amenity.

**[7] STRUCTURES**

No person may without the written consent of the Municipality having first been obtained, erect or establish in or on a public amenity any structure, shelter or anything similar, except the parking of a caravan or tent erected for camping purposes on a site specifically set aside for that purpose by notice.

**[8] LIQUOR AND FOOD**

- [1]** No person may, contrary to a provision of a notice, bring into a public amenity any alcoholic or any other liquor or any food of whatever nature.
- [2]** No person may on, in or at a public amenity, contrary to a provision of a notice, cook or prepare food of any kind whatsoever, except at places set aside for such purposes by notice; provided that –
  - [a]** the preparation and cooking of food in or at a public amenity must be done in a clean and hygienic manner so as not to give rise to excessive smoke or other nuisances or entail any danger to health; and
  - [b]** no live animals, poultry or fish may be killed or skinned on, in or at a public amenity.

**[9] ANIMALS**

- [1]** No person may bring any live animal, bird, fish or poultry into a public amenity except in accordance with the directions of the Municipality.
- [2]** The directions contemplated in subsection [1] must be made known by means of a notice.

**[10] USE OF PUBLIC AMENITIES**

- [1] No person may without the consent of the Municipality or contrary to any condition which the Municipality may impose when granting such consent –
- [a] arrange or present any public entertainment;
  - [b] collect money or any other goods for charity or any other purpose from the general public;
  - [c] display or distribute any pamphlet, placard, painting, book, handbill or any other printed, written or painted work;
  - [d] arrange, hold or address any meeting;
  - [e] arrange or hold a public gathering or procession, exhibition or performance;
  - [f] conduct any trade, occupation or business;
  - [g] display, sell or rent out or present for sale or rent any wares or articles;
  - [h] hold an auction;
  - [i] tell fortunes for compensation;
- [2] For the purposes of these by-laws **"public gathering or procession"** shall mean a procession or gathering of 15 or more persons and which is not regulated by national or provincial legislation.

**[11] SAFETY AND ORDER**

- [1] No person may, subject to subsection [2], in or at a public amenity –
- [a] damage or disfigure anything within such amenity;
  - [b] use or try to use anything within such amenity for any purpose other than that for which it is designated or determined by notice;
  - [c] light a fire or prepare food, except at a place indicated for that purpose by notice;
  - [d] throw away any burning or smouldering object;
  - [e] throw or roll down any rock, stone or object from any mountain, koppie, slope or cliff;
  - [f] pull out, pick or damage any tree, plant, shrub, vegetation or flower;
  - [g] behave himself in an improper, indecent, unruly, violent or unbecoming manner;
  - [h] cause a disturbance;
  - [i] wash, polish or repair a vehicle;
  - [j] walk, stand, sit or lie in a flower bed;
  - [k] kill, hurt, follow, disturb, ill-treat or catch any animal, bird or fish or displace, disturb, destroy or remove any bird nests or eggs;
  - [l] walk, stand sit or lie on grass contrary to the provisions of a notice;
  - [m] lie on a bench or seating-place or use it in such a manner that other users or potential users find it impossible to make use thereof;
  - [n] play or sit on play park equipment, except if the person concerned is a child under the age of 13 years;
  - [o] swim, walk or play, contrary to the provisions of a notice, in a fish-pond, fountain, stream or pond;.
- [2] The Municipality may by way of notice, subject to section 17 and 22 and to such conditions as it deems necessary and mentioned in a notice, authorise any of the actions contemplated in subsection [1].

**[12] WATER**

No person may misuse, pollute or contaminate any water source or water supply or waste water in or at any public amenity.

**[13] LAUNDRY AND CROCKERY**

No person may in or at a public amenity wash any crockery or laundry or hang out clothes, except at places indicated by notice for that purpose.

**[14] VEHICLES**

[1] No person may bring into a public amenity any truck, bus, motorcar, motor cycle, motor tricycle, bicycle or any other vehicle, craft or aeroplane, whether driven by mechanical, animal, natural or human power, except in accordance with the directions of the Municipality;

[2] The Municipality must determine the speed limit applicable in a public amenity;

[3] The directions contemplated in subsection [1] and the speed limit contemplated in subsection [2] must be made known by the Municipality by way of notice.

**[15] GAMES**

No game of any nature whatsoever may be played or conducted in or on a public amenity by any person or persons except at places set aside for that purpose by notice and in accordance with the directions of the Municipality and which is made known by way of notice.

**[16] RESTORATION OR REMOVAL NOTICES**

[1] Unless permission or a permit to do so has been obtained under section 17, an authorised official may issue a restoration or removal notice to any person who has directly or indirectly in a public amenity –

[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.

**[17] 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 6 of this by-law.

#### [18] 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 amenity specified on the permit to the exclusion of any other person during the period specified in the permit.

[5] Council may, subject to any national legislation governing public gatherings, impose such security measures as may be necessary for the protection of the members of the public.

#### [19] IMPLEMENTATION AND ENFORCEMENT

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

[2] Anyone 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.
- [e] Destroys, defaces or mutilates any documents issued by council in terms of this by-law whilst such documents is still used in for the purpose of administering this by-law.

#### [20] POWERS OF AUTHORISED OFFICIALS

In relation to any public amenity, 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 17;
- [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].

## [21] PENALTIES

Any person who contravenes or fails to comply with a provision of these by-laws, a notice issued in terms of these by-laws or a condition imposed under these by-laws, irrespective of whether such contravention or failure has been declared as an offence elsewhere in these by-laws, 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.

## [22] 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].

## [23] 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 –

- [a] give notice of the proposed administrative action, which notice must –
- [i] 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;
  - [ii] contain a clear statement of the proposed administrative action;
  - [iii] invite comments and objections within a specified period; and
  - [iv] consider the comments and objections received in response to the notice.

## [24] 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.

**[25] SHORT TITLE**

This By-Law shall be referred to as the Public Amenities By-Law.

**LOCAL AUTHORITY NOTICE 13 OF 2016****EMALAHLENI 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 Community Fire Safety that come into operation on the date of publication thereof in the Provincial Gazette.

**BY-LAWS RELATING TO COMMUNITY FIRE SAFETY****PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution;

AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to promote the achievement of a fire-safe environment and to provide for procedures, methods and practices to regulate fire safety for the benefit of all persons residing within the boundaries of the Municipality;

NOW THEREFORE be it enacted by the Council as follows:

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## CHAPTER 1 - DEFINITIONS

### [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 –

**"above ground storage tank"** means a tank situated above ground for the storage of a flammable liquid;

**"automatic releasing hold-open device"** means a device used to hold open a fire door and which operates on the detection of a fire to close the fire door;

**"boundary"** means any lateral or street boundary of a site;

**"building"** means –

- [a] any structure, whether of a temporary or permanent nature and irrespective of the materials used in the construction thereof, erected or used for or in connection with –
  - [i] the accommodation or convenience of human beings or animals;
  - [ii] the manufacture, processing, storage or sale of any goods;
  - [iii] the rendering of any service;
  - [iv] the destruction or treatment of combustible refuse or combustible waste; or
  - [v] the cultivation or growing of any plant or crop;
- [b] any wall, swimming pool, reservoir or bridge or any other structure connected therewith;
- [c] any fuel pump or any tank used in connection therewith;
- [d] any part of a building, including a building as defined in subsections [a], [b] or [c];
- [e] any facilities or system, or part or portion thereof, within or outside but incidental to a building, for the provision of a water supply, drainage, sewerage, storm water disposal, electricity supply or other similar service in respect of such building;

**"bund wall"** means a containment wall surrounding an above ground storage tank, constructed of an impervious material and designed to contain 110% of the contents of the tank;

**"chief fire officer"** means the person in charge of a service, or the acting chief officer, as contemplated in the Fire Brigade Services Act, 1987 [Act No. 99 of 1987];

**"combustible material"** means combustible refuse, combustible waste or any other material capable of igniting;

**"combustible refuse"** means combustible rubbish, litter or material that is discarded, refused, rejected, or considered worthless;

**"combustible waste"** means combustible waste material which is salvageable, retained or collected for scrap or reprocessing and includes all combustible fibres, hay, straw, hair, feathers, down, wood shavings, turnings, all types of paper products, soiled cloth trimmings and cuttings, rubber trimmings and buffing, metal fines, and any mixture of the above items, or any other salvageable combustible waste material;

**"Constitution"** means the Constitution of the Republic of South Africa Act, 1996 No. 108 of 1996];

**"controlling authority"** means either a chief fire officer, the Municipal Manager or their respective delegates as contemplated in sections [2] and [3] of these by-laws;

**"dangerous goods"** means a flammable gas, liquid or solid as contemplated in SABS 0228;

**"division separating element"** means a building element or component which separates one area in a building from another and has a fire resistance of not less than that required by the National Building Regulations [T1] read with the SABS 0400;

**"emergency evacuation plan"** means a plan specifically designed to aid in the evacuation of occupants from a building in the event of a fire or other threatening danger and assigns responsibility to various staff, indicates escape routes to be used and provides for general contingencies for a safe and quick evacuation from a building;

**"emergency route"** means that part of an escape route that provides fire protection to the occupants of any building and which leads to an escape door;

**"emergency vehicle"** means any fire, rescue or other vehicle intended for use at fires and other threatening dangers;

**"entertainment and public assembly occupancy"** means a place where people gather to eat, drink, dance or participate in other recreation;

**"escape door"** means the door in an escape route, which at ground level leads directly to a street or public place or to any approved open space which leads to a street or public place;

**"escape route"** means the entire path of travel from the furthest point in any room in a building to the nearest escape door and may include an emergency route;

**"escape route plan"** means a diagram indicating the floor layout, the occupant's current position and the route of travel to the nearest primary and secondary escape routes in the building, as well as the action to be taken in the event of a fire or other threatening danger;

**"Explosives Act"** means the Explosives Act, 1965, (Act 26 of 1956);

**"Fire Brigade Services Act"** means the Fire Brigade Services Act, 1987 [Act No. 99 of 1987];

**"fire damper"** means an automatic damper and its assembly that complies with the requirements contained in SABS 193;

**"fire door"** means an automatic or self-closing door or shutter assembly especially constructed to prevent the passage of fire for a specific length of time;

**"fire extinguisher"** means a portable or mobile rechargeable container which has a fire extinguishing substance that is expelled by the action of internal pressure for the purposes of extinguishing a fire;

**"fire hazard"** means any situation, process, material or condition which may cause a fire or explosion or provide a ready fuel supply to increase the spread or intensity of the fire or explosion and which poses a threat to life or property;

**"fire lanes"** means the road, path or other passageway constructed or designated to allow access for emergency vehicles;

**"fire protection system"** means any device or system designed and installed to:

[a] detect, control or extinguish a fire, or

[b] alert occupants or the fire service, or both, to a fire, but excludes portable and mobile fire extinguishers;

**"fire wall"** means a wall that is able to withstand the effects of fire for a specific period of time as contemplated in the National Building Regulations [T1] read with SABS 0400;

**"fire works"** means an item prescribed in the Explosives Act as well as the relevant regulations.

**"fire works display"** means the discharge of fireworks as part of a public, religious and private function.

**"flammable gas"** as contemplated in SABS 0228, means a gas which at 20°C and at a standard pressure of 101,3 kilopascals –

[a] is ignitable when in a mixture of 13% or less [by volume] with air; or

[b] has a flammable range with air of at least 12 percentage points, regardless of the lower flammable limit;

**"flammable liquid"** means a liquid, or mixtures of liquids, or a liquid containing solids in solution or in suspension that gives off a flammable vapour at or below 60,5°C and also includes a liquid within the danger groups as determined in SABS 0228;

**"flammable solid"**, as contemplated in SABS 0228, means a solid that is easily ignited by external sources, such as sparks and flames, solids that are readily combustible, solids that are liable to cause, or contribute to, a fire through friction or solids that are desensitised [wetted] explosives that can explode if not diluted sufficiently;

**"flammable substance"** means a flammable liquid or a flammable gas;

**"flammable store"** means a store that is used for the storage of flammable liquids and complies with the criteria set out in section [46] of these by-laws;

**"Hazardous Substances Act"** means the Hazardous Substances Act, 1973 [Act No. 15 of 1973];

**"Municipality"** means the Emalahleni Municipality, established in terms of section [12] of the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998] and includes any political structure, political office bearer, duly authorized agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the Municipality and delegated to such political structure, political office bearer, agent or employee;

**"Municipal Manager"** means a person appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998];

**"Municipal Structures Act"** means the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998], as amended from time to time;

**"Municipal Systems Act"** means the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], as amended from time to time;

**"National Building Regulations"** means the regulations promulgated in terms of section 17[1] of the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977] and:

- [a] National Building Regulations [A2] mean the provisions regulating the submission of building plans and particulars to the Municipality;
- [b] National Building Regulations [A20] mean the provisions regulating the classification and designation of occupancies;
- [c] National Building Regulations [A21] mean the provisions regulating the population of a building;
- [d] National Building Regulations [T1] mean the provisions regulating general requirements for fire protection of a building; and
- [e] National Building Regulations [T2] mean the provisions regulating the offences for non-compliance with the National Building Regulations [T1];

**"National Road Traffic Act"** means the National Road Traffic Act, 1996 [Act No. 93 of 1996];

**"non-combustible"** means a substance or material classified as non-combustible when tested in accordance with SABS 0177 : Part 5;

**"occupancy"** means the particular use or type of use to which a building, or portion thereof, is normally put or intended to be put as provided for in the National Building Regulations [A20];

**"occupancy separating element"** means a building element or component which separates one occupancy in a building from another and has a fire resistance of not less than that required by the National Building Regulations [T1] read with the SABS 0400;

**"Occupational Health and Safety Act"** means the Occupational Health and Safety Act, 1993 [Act No. 85 of 1993];

**"operator"** means the person responsible for the use of a motor vehicle and who has been registered as the operator of such a vehicle in terms of the National Road Traffic Act;

**"owner"** means –

- [a]** in relation to premises, other than a building, either a natural or juristic person whose identity is determined by operation of law;
- [b]** in relation to a building, either a natural or juristic person in whose name the land on which such building was or is erected or such land, as the case may be, is registered in the deeds office in question;
- [c]** in relation to an installation, either a natural or juristic person in whose name a contract is entered into regarding approval, erection and maintenance of the installation, provided that such a person is not the owner mentioned in subsection [b]; and
- [d]** in the event of the controlling authority being unable to determine the identity of a person mentioned in subsections [a], [b] and [c], any person who is entitled to the benefit of the use of such premises, building or installation or who enjoys such benefit;

**"person in charge"** means –

- [a]** in relation to premises, either a natural or juristic person who is permanently or temporarily responsible for the management, maintenance or utilization of the premises;
- [b]** in relation to a building, either a natural or juristic person who is permanently or temporarily responsible for the management, maintenance or utilization of the building;
- [c]** in relation to an installation, either a natural or juristic person who is permanently or temporarily responsible for the management or utilization of the installation, provided that such a person is not the person mentioned in subsection [a]; and
- [d]** in the event of the controlling authority being unable to determine the identity of a person mentioned in subsections [a], [b] and [c], any person who is in the reasonable opinion of the controlling authority deemed to be in charge of such premises, building or installation;

**"population"** means the population determined in accordance with the National Building Regulations [A21];

**"premises"** means any building, beach, land, terrain, road, vehicle and can include a vessel, train or aircraft;

**"public place"** means any square, park, recreation ground or open space which –

- [a]** is vested in the Municipality; or
- [b]** the public has the right to use; or
- [c]** is shown on a general plan of a township filed in a deeds registry or a Surveyor-General's office and has been provided for or reserved for the use of the public or the owners of erven in such township;

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

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

**"SABS Codes"** means the South African Bureau of Standards Codes of Practice and Specifications issued in terms of the Standards Act;

**"service"** means a fire brigade service as defined in the Fire Brigade Services Act;

**"site"** means any erf, lot, plot, stand or other piece of land on which a building has been, is being or is to be erected;

**"Standards Act"** means the Standards Act, 1998 [Act No. 29 of 1998];

**"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 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 judicial officer;

**"storage vessel"** means a pressure vessel as defined in the regulations for pressure vessels promulgated in terms of the Occupational Health and Safety Act;

**"summary abatement"** means to immediately judge a condition to be a fire hazard or other threatening danger to life or property and to order immediate correction of such condition;

**"tank"** for purposes of Chapter 9 of these by-laws, means a container mounted permanently or temporarily on or embodied in a vehicle and so constructed to be suitable for the containment of flammable liquid or gas cargo;

**"these by-laws"** includes any schedules published in terms of these by-laws;

**"underground tank"** means a tank used or intended to be used for the storage of flammable liquid and which is wholly sunk into and below the surface of the ground;

**"vehicle"** means a vehicle as defined in the National Road Traffic Act and includes the following –

- [a] **"road tank vehicle"** means a tank truck, tank trailer or truck-tractor and tank-semi-trailer combination;
- [b] **"tank-semi-trailer"** means a vehicle with a tank mounted on it or built as an integral part of it and so constructed that the semi-trailer is drawn by a truck-tractor or another trailer, through a fifth wheel connecting part of the load rest to the towing vehicle;
- [c] **"tank trailer"** means a vehicle with a tank mounted on it or built as an integral part of it and so constructed that, when the tank trailer is drawn by a tank truck, practically all of its load rests on its own wheels;
- [d] **"tank truck"** means a single, self-propelled vehicle with a tank mounted on it;
- [e] **"truck-tractor"** means a self-propelled vehicle used to pull a tank-semi-trailer; and
- [f] any other vehicle which in the reasonable opinion of the controlling authority, is a vehicle contemplated in Chapter 9 of these by-laws.

## CHAPTER 2 - ADMINISTRATIVE PROVISIONS

### [2] ADMINISTRATION AND ENFORCEMENT

- [1] The chief fire officer is responsible for the administration and enforcement of these by-laws.
- [2] Where no chief fire officer has been appointed in terms of the Fire Brigade Services Act, the Municipal Manager is responsible for the administration and enforcement of these by-laws.
- [3] Where there is no service established in the area of jurisdiction of the Municipality, the Municipal Manager is responsible for the administration and enforcement of these by-laws; provided that –
  - [a] A chief fire officer may delegate any power granted to him in terms of these by-laws, in accordance with section 19 of the Fire Brigade Services Act.
  - [b] A Municipal Manager may delegate any power granted to him in terms of these by-laws, in accordance with the system of delegation of the Municipality developed in terms of section 59 of the Local Government: Municipal Systems Act.

### [3] ENFORCEMENT PROVISIONS

- [1] A controlling authority may, whenever he regards it as necessary or expedient to do so, enter any premises at any reasonable time to ensure compliance with these by-laws.

- [2] A controlling authority has the authority to summarily abate any condition that is in violation of any provision of these by-laws and that presents an immediate fire hazard or other threatening danger.
- [3] A controlling authority must remedy any violation mentioned in subsection [2] by performing any reasonable and necessary act and may also –
- [a] call for the immediate evacuation of the premises;
  - [b] order the closure of the premises until such time as the violation has been rectified;
  - [c] order the cessation of any activity; and
  - [d] order the removal of the immediate threat.
- [4] The costs of an action referred to in subsection [3] must be borne by the person reasonably deemed by a controlling authority to be responsible for the existence of such condition.

**[4] AUTHORITY TO INVESTIGATE**

Notwithstanding anything to the contrary contained in any other law, a controlling authority has the authority to investigate the cause, origin and circumstances of any fire or other threatening danger.

**[5] FAILURE TO COMPLY WITH PROVISIONS**

- [1] A controlling authority must, in response to non-compliance with the provisions of these by-laws, excluding the situation in subsection 3[2], issue a written notice that must include the following –
- [a] confirmation of the findings;
  - [b] provisions of these by-laws that are being contravened;
  - [c] the remedial action required; and
  - [d] stipulate a time for compliance.
- [2] An order or notice issued under these by-laws must be served either by personal delivery or registered mail upon a person who is, in the reasonable opinion of the controlling authority, deemed to be the appropriate person.
- [3] For unattended or abandoned premises, a copy of such order or notice must be posted on the premises in a conspicuous place at or near the entrance to such premises and the order or notice must be mailed by registered mail to the last known address of the owner, the person in charge of the premises or both.

**[6] DENIAL, SUSPENSION OR REVOCATION OF AN APPROVAL OR A CERTIFICATE**

A controlling authority may refuse, suspend or revoke an approval or a certificate required by these by-laws for –

- [a] failure to meet the provisions of these by-laws for the issue of the approval or certificate; or

[b] non-compliance with the provisions of the approval or certificate.

#### [7] RECORDS REQUIRED

The safekeeping of all relevant records and documents is the responsibility of the controlling authority.

#### [8] CHARGES

[1] The Municipality may determine the fees payable by a person on whose behalf the controlling authority has rendered a service, as provided in section 10 of the Fire Brigade Services Act.

[2] The Municipality may charge a fee, provided for in the schedule of tariffs, for –

[a] the provision of an inspection or re-inspection or any other service; and

[b] the issuing of permits, approvals or certificates.

#### [9] INDEMNITY

The Municipality, controlling authority or a member of a service will not be liable for damage or loss as a result of, but not limited to, bodily injury, loss of life or loss of or damage to property or financial loss, or consequential loss, which is caused by or arises out of or in connection with anything done or performed or omitted in good faith in the exercise or performance of a power, function or duty conferred or imposed in terms of these by-laws.

#### [10] REPORTING A FIRE HAZARD AND OTHER THREATENING DANGER

An owner or the person in charge of any premises, upon discovering evidence of a fire hazard or other threatening danger pertaining to these by-laws, must immediately notify the controlling authority.

### CHAPTER 3 - FIRE PROTECTION OF BUILDINGS

#### [11] GENERAL

The controlling authority must, in terms of subsection 3[3] or subsection 5[1] of these by-laws, abate a contravention of the National Building Regulations relating to fire and safety of buildings.

#### [12] ACCESS FOR EMERGENCY VEHICLES

[1] If, in the reasonable opinion of the controlling authority, premises are not readily accessible from public roads, then the premises must be provided with emergency vehicle access and, notwithstanding the provisions in the National Building Regulations [T1], may be required to comply with any or all of the following –

[a] an access road must be constructed so that it is capable of supporting the mass of the heaviest emergency vehicle required to cater for the risk of the premises;

- [b]** a motorised or electronically operated gate must be equipped in such a manner that access to the premises can be gained without the use of a motor or any other electronic device;
- [c]** fire lanes must be provided for all premises which are set back more than 45m from a public road or which exceed 9m in height and are set back more than 15m from a public road;
- [d]** fire lanes must be at least 4m in width, the position of which must be decided upon after consultation with the controlling authority, and the area from ground level to a clearance height of 4m above the fire lane must remain unobstructed; and
- [e]** a cul-de-sac which is more than 90m in length must be provided with a minimum turning circle at the closed end of the road capable of accommodating the largest emergency vehicle which is required to cater for the risk of the premises.

**[2]** The design, marking, use and maintenance of fire lanes not forming part of a public road must comply with the requirements of the controlling authority.

**[3]** It is unlawful for any person to park a vehicle in or otherwise obstruct a fire lane.

#### **[13] DIVISION AND OCCUPANCY SEPARATING ELEMENTS**

An owner or any person in charge of a building may not alter a division or occupancy separating element in any way that would render it less effective or allow flame, heat or combustion products from penetrating into the adjacent compartment or structure.

#### **[14] FIRE DOORS AND ASSEMBLIES**

- [1]** Subject to the provisions of SABS 1253, a fire door and assembly must be maintained in such a manner that in the event of a fire it retains its integrity, insulation and stability for the time period required for that particular class of door.
- [2]** A fire door may be kept open only when it is equipped with an automatic releasing hold-open device approved by the Municipality.
- [3]** A fire door and assembly may not be rendered less effective by –
  - [a]** altering the integrity, insulation or stability of a particular class of door;
  - [b]** disconnecting the self-closing mechanism;
  - [c]** wedging, blocking or obstructing the door so that it cannot close;
  - [d]** painting the fusible link actuating mechanism of a door;
  - [e]** disconnecting or rendering less effective an electric or electronic release mechanism; or
  - [f]** any other action that renders a fire door or assembly less effective.

**[15] ESCAPE ROUTES**

- [1]** A component which forms part of an escape route, such as the feeder routes, access doors, emergency routes or escape doors, must not be obstructed or rendered less effective in any way such that it could hinder or prevent the escape of any person from a building in the case of fire or any other emergency.
- [2]** A locking device fitted to an access or escape door in an escape route must be of a type approved by the Municipality.
- [3]** Where required by the controlling authority, an escape route must be clearly indicated with signage which complies with SABS 1186 and which indicates the direction of travel in the event of fire or any other emergency.

**[16] TENTS**

- [1]** Prior to the erection and usage of a tent as an occupancy contemplated in the National Building Regulations [A20], the person intending to erect and use such tent must –
  - [a]** submit an application in terms of the National Building Regulations [A2] to the Municipality for the erection and usage of the tent; and
  - [b]** submit an application in terms of section 22 of these by-laws to the controlling authority for a temporary population certificate.
- [2]** The application submitted in terms of subsection [1] must comply with the following –
  - [a]** the tent must be erected at least 4.5m from a boundary, combustible store or material and the controlling authority may require that this distance be increased should the situation require it;
  - [b]** where tents are erected adjacent to one another, an unobstructed minimum distance of 4,5m must be provided between them and where applicable between the stakes and guys of the adjacent tents, in order to ensure emergency vehicle access;
  - [c]** the requirements set out in the National Building Regulations [T1] must be complied with in the following instances:
    - [i]** where the population of a tent exceeds 25 people;
    - [ii]** where a tent is occupied during the hours of darkness;
    - [iii]** for seating arrangements and aisle dimensions; and
    - [iv]** for the provision of fire extinguishers;
  - [d]** the population density of a tent must comply with the National Building Regulations [A21];
  - [e]** no cooking may be carried out in a tent occupied by the public and if cooking is required then it must be carried out in a separate tent or an area to which the public does not have access;

- [f]** no open fire is permitted in a tent, provided that any flame emitting device, such as a candle, lantern or torch, but not limited thereto, is only permitted in a tent after approval by the controlling authority;
  - [g]** no open fire or flame is permitted within 5m of a tent, stake or guy of a tent;
  - [h]** smoking is prohibited in a tent and a "No Smoking" sign must be prominently displayed at each entrance and must comply with SABS 1186: Part 1; and
  - [i]** lighting and wiring installed in a tent must comply with the requirements set out in SABS 0142 in such a manner that direct contact is not made with combustible material and radiated heat does not pose an ignition hazard.
- [3]** Notwithstanding the provisions in subsections [1] and [2], the controlling authority may request the applicant to fulfil additional requirements for the erection and usage of a tent.

#### CHAPTER 4 - FIRE SAFETY EQUIPMENT

##### [17] FIRE EXTINGUISHERS

- [a]** Fire extinguishers must be provided and installed on premises as required by the controlling authority and in accordance with National Building Regulations [T1] and [T2].
- [b]** Fire extinguishers must be maintained strictly in accordance with the requirements of the Occupational Health and Safety Regulations, SABS 1475: Part 1, SABS 1571, SABS 1573 and SABS 0105: Part 1.
- [c]** A juristic or a natural person may not fill, recharge, recondition, modify, repair, inspect or test a fire extinguisher, in terms of SABS 1475: Part 1, unless such a person is the holder of a permit issued by the South African Bureau of Standards or a certificate of competence issued by the South African Qualifications Certification Committee.
- [d]** The owner or person in charge of the premises may not allow a fire extinguisher to be filled, recharged, reconditioned, modified, repaired, inspected or tested by a person not in possession of a permit or a certificate mentioned in subsection 18[3].
- [e]** If the controlling authority finds that a fire extinguisher has been filled, recharged, reconditioned, modified, repaired, inspected or tested by a person not in possession of a permit mentioned in subsection 18[3], then the controlling authority must instruct the owner or person in charge of such premises to have the work carried out by a person who is in possession of such a permit or certificate.
- [f]** If, in the reasonable opinion of the controlling authority, a fire extinguisher is unsafe or ineffective either by reason of deterioration, design or construction, then the controlling authority must instruct the owner or the person in charge of the premises to have the appliance inspected and tested in terms of SABS 1475: Part 1 and SABS 1571.
- [g]** A fire extinguisher may not be removed from the premises for filling, recharging, reconditioning, modification, repair, inspection or testing unless the appliance is replaced temporarily with a similar appliance in good working condition.

- [h]** A fire extinguisher may not be installed, dismantled, recharged, disconnected, serviced, modified, repaired or tested in an area where such action would create a danger or hazard.

**[18] TESTING AND MAINTENANCE OF FIRE PROTECTION SYSTEMS**

- [1]** A fire protection system must be tested and maintained on a regular basis and the owner or person in charge of the premises must keep a detailed record of the testing and maintenance of the system.
- [2]** No person may test a fire protection system before notifying the occupants of the premises concerned of the starting and completion times of the test and, where applicable, the parties who monitor the fire protection system.
- [3]** A fire protection system designed for detecting, fighting, controlling and extinguishing a fire must be maintained in accordance with the National Building Regulations [T2] read in conjunction with a recognised national code or standard and, in the absence of a national code or standard, an applicable international code or standard must be used.
- [4]** A fire protection system may not be installed, dismantled, recharged, disconnected, serviced, modified, repaired or tested in any area where such action would create a danger or hazard.
- [5]** Any person carrying out the maintenance of a fire protection system must inform the owner or person in charge of the premises in writing of any defects discovered and maintenance performed or still outstanding, and when someone in charge receives such notice then he must inform the owner accordingly and without delay.
- [6]** The owner or person in charge of the premises must immediately notify the controlling authority when the fire protection system or a component thereof is rendered inoperable or taken out of service and must notify the controlling authority as soon as the system is restored.
- [7]** The owner or person in charge of the premises must take all steps deemed necessary by the controlling authority to provide alternate equipment to maintain the level of safety within the premises.

**[19] INTERFERENCE WITH AND ACCESS TO FIRE PROTECTION SYSTEMS AND FIRE EXTINGUISHERS**

No person is permitted to render less effective, inoperative, inaccessible, or tamper and interfere with a fire extinguisher or fire protection system, except as may be necessary during emergencies, maintenance, drills or prescribed testing.

**[20] FIRE ALARMS AND FIRE HYDRANTS**

- [1]** Without compensation to the owner of the premises concerned and provided that reasonable care is taken with regard to the installation, the controlling authority may cause to be affixed to any building, wall, fence, pole or tree –
- [a]** a fire alarm;
- [b]** a transmission instrument for calls of fire or other emergencies; or

- [c]** a transmission instrument for warning residents of a fire or other emergency.
- [2]** Without compensation to the owner of the premises concerned and provided that reasonable care is taken with regard to the marking, the controlling authority may cause the position of a fire hydrant and fire alarm or any other fire protection information to be marked on any building, wall, fence, pole, tree, road, pavement or hydrant cover with a board, decal, metal plate or painted marker or by any other means.
- [3]** The controlling authority may at any time cause a fire alarm, other transmission instrument mentioned in subsection [1], board, decal, metal plate or painted marker to be removed without compensating the owner of the premises concerned.
- [4]** An unauthorised person is prohibited from removing, defacing, altering, tampering or damaging a fire alarm, other transmission instrument mentioned in subsection [1], board, decal, metal plate or painted marker.
- [5]** No person may render less effective, inoperative, inaccessible, tamper or interfere with a fire hydrant.

## **CHAPTER 5 - PUBLIC SAFETY**

### **[21] PREVENTION AND CONTROL OF OVERCROWDING**

- [1]** Prior to the usage of the premises for entertainment or public assembly, the owner or person in charge of such premises must submit an application for a population certificate to the controlling authority, as may be prescribed.
- [2]** The controlling authority may request additional information from the applicant.
- [3]** Notwithstanding the provision in subsection [1], the controlling authority may instruct the owner or person in charge of the premises to apply for either a temporary or a permanent population certificate, should the premises be used in respect of any other occupancy contemplated in the National Building Regulations [A20J].
- [4]** A temporary population certificate is valid for a period not exceeding 30 calendar days.
- [5]** The controlling authority must refuse to issue the temporary or permanent population certificate if the premises do not comply with the requirements of the National Building Regulations [T1].
- [6]** If the controlling authority is of the reasonable opinion that the non-compliance contemplated in terms of subsection [5] can be remedied, then he must instruct the owner or person in charge of the premises in writing to take all reasonable steps to render the premises safe prior to the usage of the premises and the issuing of a temporary or permanent population certificate.
- [7]** If at any time the controlling authority becomes aware that the usage of the premises is not in accordance with a temporary or permanent population certificate, then he must act in terms of sections 3[2] or 5[1] and section 7 of these by-laws.
- [8]** A temporary or permanent population certificate is valid only for the premises or portion of the premises for which it was issued and when changes of occupancy occur or alterations are made to the premises for which the certificate was issued,

the owner or person in charge of the premises must re-apply for the certificate in accordance with subsection [1].

- [9] A temporary or permanent population certificate must be displayed in a clearly visible and conspicuous position in or on the premises for which the certificate was issued.
- [10] The owner or the person in charge of the premises must prevent overcrowding by limiting the maximum population to that which is specified on a temporary or permanent population certificate.
- [11] A person must vacate the premises that are overcrowded when instructed to do so by the controlling authority, the owner or person in charge of the premises.

## **[22] AVAILABILITY OF A SERVICE**

- [1] When the controlling authority is of the reasonable opinion that a service is required to be available during a function in a place used for entertainment or public assembly, he may ensure that, in the interest of public safety and subject to the requirements of the service, one or more members, a vehicle or equipment will be available on the premises for the duration of the function or part thereof.
- [2] When the availability of a service during a function in a place used for entertainment or public assembly involves costs, the costs incurred by the Municipality may be recovered from the person in charge of the function in accordance with section 8 of these by-laws.

## **[23] FORMULATION OF AN EMERGENCY EVACUATION PLAN**

- [1] The owner or person in charge of a school, hospital, residential institution, hotel, guest house, hostel or other similar occupancy which has a population in excess of 25 persons, including staff, must formulate an emergency evacuation plan detailing the appropriate action to be taken by the staff or the occupants in the event of a fire or other threatening danger.
- [2] The controlling authority may order the owner or person in charge of premises, other than those premises contemplated in subsection [1], to formulate an emergency evacuation plan detailing the appropriate action to be taken by the staff or the occupants in the event of a fire or other threatening danger.
- [3] The plan mentioned in subsections [1] and [2] must be revised if an aspect thereof is no longer applicable or if the building for which the plan was designed has changed.
- [4] The emergency evacuation plan must be tested in its entirety at a maximum of six-monthly intervals or when the plan has been revised and a record of the testing must be kept in a register.
- [5] The register mentioned in subsection [4] must contain the following information –
  - [a] the date and time of the test;
  - [b] the number of participants;
  - [c] the outcome of the test and any corrective actions required; and
  - [d] the name and signature of the person supervising the test.

- [6] The register, together with the emergency evacuation plan, must be available on the premises for inspection by the controlling authority.
- [7] The controlling authority may evaluate the formulation and implementation of the emergency evacuation plan and may officially communicate any recommendations or remedial actions to improve or rectify faults in the plan.

#### [24] **DISPLAYING OF ESCAPE ROUTE PLANS**

- [1] In a hospital, residential institution, hotel, guest house, hostel or other similar occupancy designed or intended for or used by patients, residents or transient persons, the escape route plan must be displayed in a conspicuous position in any room designed for sleeping purposes.
- [2] The displaying of escape route plans for any other premises is subject to the approval of the controlling authority.

#### [25] **BARRICADING OF VACANT BUILDINGS**

The owner or person in charge of a building or portion thereof that is vacant must remove all combustible waste or refuse there from and lock, barricade or otherwise secure all windows, doors and other openings in the building, to the satisfaction of the municipality, so as to prevent the creation of a fire hazard caused by the entering of an unauthorized person.

### **CHAPTER 6 - DOMESTIC PRECAUTIONS**

#### [26] **COMBUSTIBLE WASTE AND REFUSE**

- [1] The owner or person in charge of a premises or a portion thereof must not allow combustible waste or refuse to accumulate in any area or in any manner so as to create a fire hazard or other threatening danger.
- [2] Combustible waste and refuse must be properly stored or disposed of to prevent a fire hazard or other threatening danger as prescribed in applicable legislation dealing with the storage and disposal of that specific type of combustible waste and refuse or, in the absence of applicable legislation, as determined by the controlling authority.

#### [27] **DUST**

The owner or person in charge of a premises or a portion thereof may not allow the accumulation of dust in quantities sufficient to create a fire or other threatening danger and must store or dispose of dust as prescribed in the applicable legislation dealing with the storage and disposal of that specific type of dust.

#### [28] **COMBUSTIBLE OR FLAMMABLE SUBSTANCES AND SWEEPING COMPOUNDS**

- [1] Notwithstanding anything to the contrary contained in any other law, only approved water-based solutions or detergents, floor sweeping compounds and grease absorbents must be used for cleaning purposes.
- [2] The use of sawdust or similar combustible materials to soak up spilled combustible or flammable substances is prohibited.

**[29] ACCUMULATIONS IN CHIMNEYS, FLUES AND DUCTS**

The owner or person in charge of a premises or a portion thereof must not allow soot or any other combustible substance to accumulate in a chimney, flue or duct of the premises in such quantities or in such a manner as to constitute a fire hazard or other threatening danger.

**[30] SOURCES OF IGNITION**

- [1]** Smoking, the carrying of matches, the use of heating or other flame-emitting devices or the use of any spark-producing equipment is prohibited in areas containing combustible or flammable substances.
- [2]** Hot ashes, cinders or smouldering coals must be placed in a non-combustible container and the container must be placed on a non-combustible surface or stand.
- [3]** An adequate distance, as deemed appropriate by the controlling authority, must be ensured and maintained between combustible substances and heating or lighting equipment or other sources of ignition.
- [4]** A portable heater must be secured so that it cannot be overturned and the controlling authority may prohibit the use of a portable heater in respect of occupancies or situations where such use or operation would present a fire hazard or other threatening danger.

**[31] SMOKING**

- [1]** If conditions exist where smoking creates a fire hazard on the premises, then smoking is prohibited and "No Smoking" signs must be displayed as directed by the controlling authority and the signs must comply with SABS 1186: Part 1.
- [2]** No person shall remove a "No Smoking" sign, unless instructed to do so by the controlling authority.
- [3]** A person may not light or smoke a cigar, cigarette, pipe, tobacco or other substance or ignite or otherwise set fire to other material, nor hold, possess, throw or deposit any lighted or smouldering substance in any place where expressly prohibited.
- [4]** Where smoking is allowed, provisions must be made for the safe disposal of the smoking material and matches to prevent the creation of a fire hazard or other threatening danger.
- [5]** A person may not throw, put down or drop a burning match, burning cigarette or other burning material or any material capable of spontaneous combustion or self-ignition in a road or any other public place.

**[32] ELECTRICAL FITTINGS, EQUIPMENT AND APPLIANCES**

- [1]** No person may cause or permit an electrical supply outlet to be overloaded.
- [2]** No person may cause or permit an electrical appliance or extension lead to be used in a manner which is likely to create a fire hazard or other threatening danger.

**[33] FLAME-EMITTING DEVICE**

No person may cause or permit a flame-emitting device, such as a candle, lantern or torch, but not limited thereto, to be used in a manner which is likely to create a fire hazard or other threatening danger.

**CHAPTER 7 - FIRE HAZARDS****[34] COMBUSTIBLE MATERIAL**

- [1]** No person may store, transport, use or display or cause or permit to be stored, transported, used or displayed, whether inside or outside a premises, any combustible material or a flammable substance in quantities or in a position or in a manner likely to cause or create a fire hazard or other threatening danger.
- [2]** The owner or person in charge of premises may not permit vegetation to grow or accumulate thereon or permit other combustible material to accumulate thereon in a manner likely to cause a fire hazard or other threatening danger.

**[35] LIGHTING OF FIRES AND BURNING OF COMBUSTIBLE MATERIAL**

- [1]** The lighting of fires and the disposal of combustible material by burning is prohibited, save in the circumstances set out in this section.
- [2]** Any person may light a fire or use a flame-emitting device for the purpose of preparing food or for any other domestic purpose in a manner that will not cause a fire hazard or other threatening danger or where such a fire is not precluded by any other legislation.
- [3]** The owner or person in charge of the premises used in respect of occupancy of entertainment or public assembly must ensure that a cooking fire or flame-emitting device is placed in designated areas so as to prevent a fire hazard or other threatening danger.
- [4]** Burning may take place on state land, a farm, a smallholding, or land within a proclaimed township that is not utilized for residential purposes; provided prior approval is obtained from the controlling authority, which approval must be applied for in writing, subject to compliance with any other applicable legislation and provided further that the controlling authority may exempt the owner or lawful occupier of rural land or premises from having to obtain approval.

**CHAPTER 8 - FLAMMABLE SUBSTANCES****[36] APPLICATION OF THIS CHAPTER**

Notwithstanding the provisions in either the Hazardous Substances Act or the Occupational Health and Safety Act, this chapter regulates flammable substances within the municipal boundaries of the Municipality so as to prevent and reduce fire hazards or other threatening dangers.

**[37] STORAGE AND USE OF A FLAMMABLE SUBSTANCE**

- [1]** Prior to the construction of a new installation or the alteration of an existing installation, whether temporary or permanent, for the storage of a flammable substance, the owner or person in charge of the installation must submit a building

plan to the Municipality in accordance with the National Building Regulations and a copy of the approved plan must be available at the site where the installation is being constructed.

- [2]** Prior to the commissioning of an above ground or underground storage tank installation, liquid petroleum gas installation or associated pipe-work, the owner or person in charge of the installation must ensure that it is pressure-tested in accordance with the provisions of the National Building Regulations [T1], SABS 0131: Parts 1 and 2, SABS 089: Part 3 and SABS 087: Parts 1,3 and 7, whichever may be applicable, in the presence of the controlling authority.
- [3]** Notwithstanding subsection [2], the controlling authority may require an existing above ground or underground storage tank installation, liquid petroleum gas installation or associated pipe-work to be pressure-tested in accordance with the provisions of the National Building Regulations [T1].
- [4]** The controlling authority must be notified at least 48 hours prior to the pressure test.
- [5]** Prior to the alteration of premises such that the alteration will affect or potentially have an impact on the fire safety of an existing above ground or underground storage tank installation, liquid petroleum gas installation or associated pipe-work, the owner or person in charge of the premises must notify the controlling authority, who may call for the premises or installation to be rendered safe.
- [6]** The owner or person in charge of premises may not store or use –
  - [a]** a flammable gas in excess of 19kg; or
  - [b]** a flammable liquid of a danger group; or
  - [c]** a flammable liquid in excess of 200 litres, unless he has obtained a flammable substance certificate from the controlling authority.

### **[38] FLAMMABLE SUBSTANCE CERTIFICATE**

- [1]** The owner or person in charge of premises who requires a flammable substance certificate mentioned in section 37[6] must submit an application to the controlling authority as may be prescribed.
- [2]** The controlling authority may request additional information from the applicant.
- [3]** The controlling authority must refuse to issue the flammable substance certificate if the premises do not comply with the requirements of the National Building Regulations [T1] and any additional requirements set out in these by-laws and, if the controlling authority is of the reasonable opinion that the non-compliance of the premises can be remedied, then he must instruct the owner or person in charge of the premises in writing to take all reasonable steps to render the premises safe prior to usage of the premises in accordance with section 37[6] and the issuing of the certificate.
- [4]** A flammable substance certificate must be renewed annually on or before the date indicated thereon and whenever the quantity or class of the flammable substance is required to be changed or when section 37[5] applies.

- [5] If at any time the controlling authority becomes aware that the usage of the premises is not in accordance with the flammable substance certificate, then he must act in terms of sections 3[2] or 5[1] and section [6] of these by-laws.
- [6] Notwithstanding section 38[5], when, in the reasonable opinion of the controlling authority, a flammable substance is stored or utilised for any purpose in a manner which is hazardous to life or property or an installation is unauthorised then an order may be issued for the removal of the flammable substance or installation from the premises.
- [7] A supplier may not supply flammable substances to the owner or person in charge of the premises unless the owner or person in charge of the premises is in possession of a valid flammable substance certificate issued by the controlling authority.
- [8] A flammable substance certificate is valid only –
- [a] for the installation for which it was issued;
  - [b] for the state of the premises at the time of issue; and
  - [c] for the quantities stated on the certificate.
- [9] The flammable substance certificate must be available on the premises for inspection at all times.
- [10] The controlling authority must keep records of all premises in respect of which a flammable substance certificate has been issued, amended or renewed.

**[40] PERMANENT OR TEMPORARY ABOVE GROUND STORAGE TANK FOR A FLAMMABLE LIQUID**

- [1] In this section only a permanent or temporary above ground tank used for the storage of flammable liquids is regulated.
- [2] A temporary above ground storage tank, other than that at a bulk storage depot, is permitted at the discretion of the controlling authority, provided that the following requirements are complied with:
- [a] The capacity must not exceed 9000 litres and must not be used for the storage of flammable substances with a flash point below 40°C;
  - [b] Storage on premises may not exceed a period of six months;
  - [c] The entire installation must comply with SABS 0131: Part 1 or SABS 0131: Part 2, whichever is applicable; and
  - [d] Written application together with a plan must be forwarded to the controlling authority at least 14 days prior to the erection of the tank and prior written permission must be obtained from the controlling authority for the erection of the tank.
- [3] Notwithstanding section 37[1], if a larger capacity above ground storage tank is required or the tank is to be a permanent installation, then an acceptable national design, based on a relevant national or international code or standard, must be

submitted to the municipality for approval in terms of the National Building Regulations [T1].

- [4] The design requirements and construction of a permanent tank must be in accordance with relevant national or international codes.
- [5] The rated capacity of a permanent or temporary tank must provide sufficient usage to permit expansion of the product contained therein by reason of a rise in temperature during storage.
- [6] A permanent or temporary tank must be erected at least 3,5m from boundaries, buildings and other flammable substances or combustible materials.
- [7] A permanent or temporary tank must be located on firm level ground and the ground must be of adequate strength to support the mass of the tank and contents,
- [8] A permanent or temporary tank must have a bund wall.
- [9] Adequate precautions must be taken to prevent spillage during the filling of a tank.
- [10] Sufficient fire extinguishers, as determined by the controlling authority, must be provided in weatherproof boxes in close proximity to a tank.
- [11] Symbolic safety signs depicting "No Smoking", "No Naked Lights" and "Danger" must be provided adjacent to a tank and the signs must comply with SABS 1186: Part 1.
- [12] The flammable liquid in the tank must be clearly identified, using the Hazchem placards listed in SABS 0232: Part 1.
- [13] An electrical or an internal combustion-driven pump must be equipped and so positioned so as to eliminate the danger of the flammable liquid being ignited.
- [14] The electrical installation associated with the above ground storage tank must comply with SABS 0108 and SABS 089: Part 2.

#### **[41] UNDERGROUND STORAGE TANK FOR A FLAMMABLE LIQUID**

The installation of underground storage tanks, pumps, dispensers and pipe-work at service stations and consumer installations must be in accordance with National Building Regulations [T1] read in conjunction with SABS 0400, SABS 089: Part 3 and SABS 0131: Part 3.

#### **[42] BULK STORAGE DEPOT FOR FLAMMABLE SUBSTANCES**

The handling, storage and distribution of flammable substances at bulk depots must be in accordance with the National Building Regulations [T1], read in conjunction with SABS 089: Part 1.

#### **[43] SMALL INSTALLATIONS FOR LIQUEFIED PETROLEUM GAS**

Liquefied petroleum gas installations involving gas storage containers of individual water capacity not exceeding 500 litres and a combined water capacity not exceeding 3000l per installation, must be installed and handled in accordance with SABS 087: Part I.

**[44] LIQUID PETROLEUM GAS INSTALLATION IN MOBILE UNITS AND SMALL NON-PERMANENT BUILDINGS**

A liquid petroleum gas installation in mobile units and small non-permanent buildings must be in accordance with SABS 087: Part 2.

**[45] THE FUELLING OF FORKLIFT TRUCKS AND OTHER LP GAS OPERATED VEHICLES**

The fuelling of forklift trucks and other LP gas operated vehicles must be in accordance with SABS 087: Part 8.

**[46] THE STORAGE AND FILLING OF REFILLABLE LIQUID PETROLEUM GAS CONTAINERS**

Storage and filling sites used for refillable liquid petroleum gas containers of a capacity not exceeding 9kg must be in accordance with SABS 087: Part 7.

**[47] BULK STORAGE VESSEL FOR LIQUID PETROLEUM GAS**

The layout, design and operation of installations for the storage of a bulk liquid petroleum vessel and allied facilities must be in accordance with the National Building Regulations [T1], read in conjunction with SABS 087: Part 3.

**[48] TERMINATION OF THE STORAGE AND USE OF FLAMMABLE SUBSTANCES**

**[1]** If an above ground or underground tank installation, liquid petroleum gas installation or associated pipe-work is no longer required for the storage or use of a flammable substance, then the owner or person in charge of the premises on which the installation was erected must –

- [a]** within 7 days of the cessation of use, notify the controlling authority in writing thereof;
- [b]** within 30 days of the said cessation, remove the flammable substance from the installation and render it safe;
- [c]** within 6 months of the said cessation, remove the installation, including any associated pipe-work, from the premises entirely, unless the controlling authority otherwise instructs; and
- [d]** restore a public footpath or roadway that has been disturbed by the removal, to the reasonable satisfaction of the Municipality within a period of 7 days of the completion of the removal of the installation.

**[2]** If the removal of an underground tank installation detrimentally affects the stability of the premises, then the owner or person in charge of the installation must apply in writing to the controlling authority to fill the tank with liquid cement slurry.

**[49] REPORTING ACCIDENTS**

If an accident occurs which involves a flammable substance and results in a fire, an explosion, spillage or loss of a flammable substance, as well as personal injury or death, then the owner or person in charge of the premises must immediately notify the controlling authority.

**[50] FLAMMABLE STORES**

- [1]** The construction of a flammable store must be in accordance with the National Building Regulations [T1] read in conjunction with SABS 0400.
- [2]** The floor must be of concrete construction or other impermeable material and must be recessed below the door level or incorporate a sill.
- [3]** The recess or sill must be of such a depth or height that in the case of spillage it will be capable of containing the quantity of flammable liquid as indicated on the flammable substance certificate and an additional 10% of the quantity mentioned on the certificate.
- [4]** Notwithstanding the National Building Regulations [T1] read in conjunction with SABS 0400 –
- [a]** the roof assembly of a flammable store must be constructed of a concrete slab capable of providing a 2 hour fire-resistance when it forms part of another building;
  - [b]** the ventilation of a flammable store must be achieved by the use of air bricks located in the external walls at the ratio of one air brick nominally above the sill level and one air brick located in the top third of the wall per 5m<sup>2</sup> of wall area or part thereof, so that vapour cannot accumulate inside the store;
  - [c]** the air bricks must be covered both internally and externally with closely-woven, non-corrodible wire gauze of at least 1100 meshes per metre; and
  - [d]** the wire gauze must be held in position by metal straps, a metal frame or cement.
- [5]** When required by the controlling authority, the flammable store must be ventilated by a mechanical ventilation system approved by the Municipality and must comply with the following requirements –
- [a]** the ventilation system must be intrinsically safe, provide 30 air changes per hour and must operate continuously;
  - [b]** the fan extraction point must be nominally above sill level and must discharge through a vertical metal duct terminating at least 1 metre above roof height or at least 3,6m above ground level, whichever is the greater;
  - [c]** ducting material, which is external to the store but forms part of the remainder of the building, must be fitted with a fire damper of 2 hour fire-resistance at the point of exit from a flammable store; and
  - [d]** the ducting must be as short as possible and must not have sharp bends.
- [6]** Notwithstanding the National Building Regulations [T1] read in conjunction with SABS 0400, a flammable store door must be constructed of material with a fire resistance of 2 hours, provided that all relevant safety distances are complied with and the door must open outwards.
- [7]** When required by the controlling authority, a flammable store door must be a D-class fire door, which complies with SABS 1253.

- [8] Notwithstanding the National Building Regulations [T1] read in conjunction with SABS 0400, artificial lighting in the flammable store must be by electric light having vapour-proof fittings wired through seamless steel conduit and the switches operating the lights must be located outside the store.
- [9] No other electrical apparatus may be installed in the flammable store.
- [10] A flammable store must be provided with a foam inlet consisting of a 65mm male instantaneous coupling and mild steel pipe-work leading to the inside thereof and the foam inlet must be identified by means of a sign displaying the words "Foam Inlet" in 100 millimetre block letters.
- [11] Racking living erected in the flammable store must be of non-combustible material.
- [12] The flammable store must be identified by the words, "Flammable Store" and corresponding warnings in any of the other official languages as may be deemed necessary by the controlling authority, the permissible quantity allowed within the flammable store being indicated in 100 millimetre block letters on both the inside and outside of all doors governing access to the store.
- [13] The owner or person in charge of a flammable store must ensure that the flammable store doors are kept locked when the store is not in use.
- [14] No person may enter a flammable store or cause or permit it to be entered without the permission of the owner or person in charge of the premises.
- [15] Sufficient fire extinguishers, as determined by the controlling authority, must be mounted on the external wall of the flammable store in a conspicuous and easily accessible position.
- [16] Any hand tool used in the flammable store must be intrinsically safe.
- [17] No person may use or permit a flammable store to be used for any purpose other than that indicated on the flammable substance certificate, unless –
- [a] the store is not in use as a flammable store; and
  - [b] the controlling authority has been notified in writing within 7 days of the cessation of use.
- [18] Within 30 days of the said cessation –
- [a] the flammable substance must be removed from the flammable store and rendered safe; and
  - [b] all signage must be removed.
- [19] Subject to the provisions in this section, the controlling authority may call for additional requirements to improve the fire safety of a flammable store.

**[51] CONTAINER HANDLING AND STORAGE**

- [1] All flammable substance containers must be kept closed when not in use.

- [2]** A person may not extract flammable liquids from a container of a capacity exceeding 20 litres unless the container is fitted with an adequately sealed pump or tap.
- [3]** Flammable liquid containers must be labelled and marked with words and decals which indicate the flammable liquids contained therein as well as the hazard of the liquids.
- [4]** Flammable substance containers must be declared gas or vapour-free by a competent person before any modification or repairs are undertaken.
- [5]** All flammable substance containers must be manufactured and maintained in such a condition so as to be reasonably safe from damage and so as to prevent leakage of flammable substances or vapours.
- [6]** An empty flammable liquid container must be placed in a flammable store.
- [7]** Where a flammable store is not available for the storage of empty flammable liquid containers, the controlling authority may permit such storage in the open, provided that –
- [a]** the storage area must be in a position and of sufficient size which, in the reasonable opinion of the controlling authority, will not cause a fire hazard or other threatening danger;
  - [b]** the storage area is well ventilated and enclosed by a wire mesh fence and –
    - [i]** the fence supports are of steel or reinforced concrete;
    - [ii]** has an outward opening gate that is kept locked when not in use; and
    - [iii]** when the floor area exceeds 10m<sup>2</sup> an additional escape gate is installed, fitted with a sliding bolt or other similar locking device that can be opened from the inside without the use of a key;
  - [c]** the storage area is free of vegetation and has a non-combustible firm level base;
  - [d]** a 2m distance around the perimeter of the fenced area is clear of grass, weeds and similar combustible materials;
  - [e]** when the storage area has a roof, the construction of the roof and supporting structure must be of non-combustible material;
  - [f]** open flames, welding, cutting operations and smoking is prohibited in or near the storage area and signage is prominently displayed on the fence and complies with SABS 1186: Part 1; and
  - [g]** fire-fighting equipment is installed as determined by the controlling authority.
  - [h]** an empty flammable liquid container must be securely closed with a bung or other suitable stopper.

**[52] SPRAY ROOMS AND BOOTHS**

A spray room, booth or area designated for the application of a flammable liquid must be constructed and equipped in such a manner as to comply with the General Safety Regulations promulgated in terms of the Occupational Health and Safety Act.

**[53] LIQUID PETROLEUM GAS CONTAINERS**

- [1]** A liquid petroleum gas container must be manufactured, maintained and tested in accordance with SABS 087: Part 1 and SABS 019.
- [2]** A liquid petroleum gas container must be used and stored in such a manner as to prevent damage or leakage of liquid or vapour.
- [3]** A liquid petroleum gas container of a capacity not exceeding 9kg must be filled and stored in accordance with SABS 087: Part 7.

**CHAPTER 9 - TRANSPORTATION OF DANGEROUS GOODS****[54] DANGEROUS GOODS CERTIFICATE**

- [1]** The operator of a vehicle designed for the transportation of dangerous goods may not operate such a vehicle in the jurisdiction of the controlling authority unless he has obtained a dangerous goods certificate issued by a service in terms of the National Road Traffic Act.
- [2]** An operator of a vehicle mentioned in section [1] must submit an application to the controlling authority as may be prescribed.
- [3]** The controlling authority may request additional information from the applicant.
- [4]** The controlling authority must refuse to issue the dangerous goods certificate if a vehicle does not comply with the requirements of SABS 087: Part 4, SABS 089: Part 1, SABS 0230, SABS 1398 or SABS 1518, whichever may be applicable.
- [5]** If the controlling authority is of the reasonable opinion that the non-compliance of a vehicle can be remedied, then he must instruct an operator of a vehicle in writing to take all reasonable steps to remedy the defaults prior to the use of the vehicle in accordance with subsection [1] as well as the issue of a dangerous goods certificate.
- [6]** A dangerous goods certificate must be renewed annually on or before the date as indicated thereon or whenever major maintenance or repairs have been performed on the vehicle.
- [7]** If at any time the controlling authority becomes aware that the usage of a vehicle is not in accordance with the dangerous goods certificate, then he must act in terms of section 3[2] or 5[1] and 6 of these by-laws.
- [8]** A consignor may not supply a flammable substance to an operator of a vehicle mentioned in subsection [1] unless the operator is in possession of a valid dangerous goods certificate issued by the controlling authority.
- [9]** A consignee may not receive a flammable substance from an operator of a vehicle mentioned in subsection [1] unless the operator meets the requirement in subsection [7].

- [10] A dangerous goods certificate is valid only –
- [a] for the vehicle for which it was issued;
  - [b] for the state of the vehicle at the time of issue; and
  - [c] for the quantities stated on the certificate.
- [11] The dangerous goods certificate must be available in the vehicle mentioned in subsection [1] for inspection at all times.
- [12] The controlling authority must keep records of all vehicles in respect of which a dangerous goods certificate has been issued, amended or renewed.

## CHAPTER 10 - REGULATION OF FIREWORKS

### [55] DESIGNATION OF PLACES AND CONDITIONS FOR FIREWORKS TO BE DISCHARGED

- [1] The municipality may designate any public place or street or any part thereof within the municipal area as the only place at which fireworks may be discharged.
- [2] The municipality may, on application of the owner or lawful occupier of any private open space as defined in the applicable zoning scheme regulations in its area of jurisdiction, designate such private open space as a place where fireworks may be discharged.
- [3] The list of places designated in terms of subsections (1) and (2) or any amendment thereof must be published by the municipality.
- [4] The municipality may impose conditions as to the dates on which, periods or time and hours when the discharge of fireworks may take place on any designated area and may further impose conditions as to the manner of discharge.
- [5] A person who fails to comply with any condition imposed in terms of subsection (4) commits an offence.

### [56] CONTROL OF FIREWORKS

- [1] No person may light, ignite or detonate fireworks in any place where animals are present.
- [2] No person, under the age of 16 may purchase fireworks from any retail dealer, or possess any fireworks, or light or ignite any fireworks.
- [3] Unless so authorised in terms of section 55, no person may light or ignite fireworks on any day or at any time, except on a New Year's Eve from 23h00 to 01h00.

### [57] DEALING IN FIREWORKS

- [1] No person may deal in fireworks, unless:
- [a] that person holds the required fireworks license in terms of the Explosives Act; and

**[b]** has written authority from both the South African Police Services and the Chief Fire Officer.

**[2]** Any person who wishes to obtain the written authority of the Chief Fire Officer, to deal in fireworks, as contemplated in subsection (1) must;

**[a]** complete an application in the form and manner determined by the South African Police Services and the council; and

**[b]** submit it to the Chief Fire Officer, together with the prescribed fee, at least 30 days, before the authority is required by the applicant.

**[3]** The Chief Fire Officer may cancel any written authority to deal in fireworks, if the holder of the authority contravenes or fails to comply with any provision of this by-law or any other applicable law or any stipulated conditions of approval, upon written notice to that effect to the holder of the authority.

#### **[58] APPLICATION TO PRESENT FIREWORKS DISPLAY**

**[1]** Any person who wishes to present a fireworks display must apply to the Chief Fire Officer for authorisation, by completing and submitting an application in the form and manner determined by council, together with the prescribed fee and the following documentation:

**[a]** written proof of authorisation from the South African Police Services, where so required;

**[b]** a letter of consent from the owner or person responsible for the property on which the proposed fireworks display is to be presented; and

**[c]** a sketch plan of the proposed venue for the fireworks display, including the demarcated area for the discharge and fall-out of the fireworks.

**[2]** The application, prescribed fee and accompanying documentation must be submitted to the Chief Fire Officer at least 30 days before the date of the proposed fireworks display.

#### **[59] APPROVAL OF FIREWORK DISPLAYS**

**[1]** No person may present any fireworks display unless:

**[a]** written authorisation has been obtained from the Chief Fire Officer, on behalf of council;

**[b]** written approval for the holding thereof has been received from the South African Police Services;

**[c]** the display is under the person's supervision and control at all times;

**[d]** a suitably qualified explosives expert from the South African Police Services is in attendance at the display during its entire duration;

**[e]** the responsible person has ensured that;

- [i] an area with a radius of at least 50 metres is clearly demarcated for the launching of fireworks at the display; and
- [ii] measures are in place to prevent any person, who is not involved in the presentation of the display from entering such launching area.

[f] a pyrotechnician is present at all times and is responsible for the discharge of fireworks at such display.

#### **[60] AUTHORITY TO PRESENT A FIREWORKS DISPLAY**

- [1] If an application to present a fireworks display is approved, the Chief Fire Officer, must provide the applicant with written confirmation of such decision, along with any conditions that may be imposed to safeguard persons and property, after a public participation process had been followed.
- [2] The Chief Fire Officer may require that the fireworks display be presented only on suitable premises designated by the council and under the supervision and control of an official designated by council.
- [3] The Chief Fire Officer may order the cancellation of any fireworks display:
  - [i] should an applicant fail to comply with any of the conditions of approval; or
  - [ii] should local conditions dictate that the holding of such a display pose a serious risk of fire and safety of the community.

#### **[61] SEIZURE OF FIREWORKS**

A designated official of council may take into his possession any fireworks found by him in contravention of sections 55 to 60 and such fireworks must be dealt with in terms of the relevant provisions of the Criminal Procedure Act relating to seizure and disposal.

### **CHAPTER 11 - GENERAL PROVISIONS**

#### **[62] STATE BOUND**

These by-laws are binding on the state and any person in the service of the state.

#### **[63] OFFENCES AND PENALTIES**

- [1] Any person who –
  - [a] contravenes any of the provisions of these by-laws or fails to comply therewith; or
  - [b] contravenes or fails to comply with any order made hereunder or any notice served in connection herewith, is guilty of an offence and liable for a maximum fine of R10 000 or imprisonment for a period not exceeding 6 [six] months.
- [2] In the case of a continuing offence, the said person is liable for an additional fine of R250 or an additional period of imprisonment of 1 [one] day or for such additional imprisonment without the option of a fine or for both such additional fine and imprisonment, for each day on which such offence is continued.

**[3]** The said person will also be liable for a further amount equal to any costs and expenses found by a court to have been reasonably incurred by the Municipality as a result of such contravention or failure.

**[4]** The controlling authority must instruct a person found guilty to correct or remedy the contravention or defect concerned within a time period specified by the controlling authority.

**[64] REGULATIONS**

**[1]** The Municipality may make regulations not inconsistent with these by-laws, prescribing –

**[a]** any matter that may or must be prescribed in terms of these by-laws; and

**[b]** any matter that may facilitate the application of these by-laws.

**[65] REPEAL OF BY-LAWS**

**[1]** Any by-laws relating to community fire safety adopted by the Municipality or any erstwhile municipal council now comprising an administrative unit of the Municipality will be repealed from the date of promulgation of these by-laws.

**[2]** A certificate which was issued, or a written notice which was served or any other enforcement act carried out in terms of a by-law repealed in subsection [1], within 6 [six] months prior to the commencement of these by-laws, is be deemed to be a certificate issued, a notice served or an enforcement act done by a controlling authority in terms of these by-laws.

**[66] SHORT TITLE**

This by-law shall be called the Community Fire Safety by-law.

**LOCAL AUTHORITY NOTICE 14 OF 2016****EMALAHLENI 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 Local Tourism which come into operation on the date of publication thereof in the Provincial Gazette.

**BY-LAWS RELATING TO LOCAL TOURISM****PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution;

WHEREAS local tourism is functional area falling within the jurisdiction of local government.

AND WHEREAS the Council of the Municipality is aware of the need to promote local tourism as a driver for local economic development and a source of local revenue.

NOW THEREFORE be it enacted by the Council as follows:

**TABLE OF CONTENTS**

- [1] Definitions
- [2] General Provisions
- [3] Establishment of the Tourism Centre and functions
- [4] Rights of Tourists
- [5] Local Tourism Business
- [6] Municipal Administration of Local Tourism
- [7] Repeal and commencement

**[1] DEFINITIONS**

In this By-Law, the underneath terms shall be construed as follows:

“Municipality” means-

- [a] Emalahleni Local Municipality as established in terms of section 12(1) of the Local Government: Municipal Structures Act 117 of 1998, exercising its legislative and executive power through its municipal council.
- [b] Its successor in title; or
- [c] Any structure or person exercising a delegated power or carrying out its instructions where any power in this by law has been delegated or sub-delegated as contemplated in section 59 of the Local Government: Municipal Systems Act 32 of 2000 or any subsequent national legislation, governing Municipalities in the Republic.
- [d] A service provider fulfilling the responsibility under this By-Law, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act 32 of 2000, or any subsequent national legislation governing Municipalities in the Republic.

**“Municipal Manager”** means-

- [a] The person appointed by Emalahleni Local Municipality in terms of section 82 of the Local Government: Municipal Structures Act, 1998, ( Act 117 of 1998)
- [b] In relation to the service provider referred to in paragraph 4 of the definition of Municipality, the person nominated by that service provider as an official of that service provider to deal with Emalahleni Local Municipality

**“Municipal Council”** means the Council of Emalahleni Local Municipal when it performs its legislative and executive function assigned to it in terms section 151(2) of the Constitution of the Republic.

**“Tourism”** means all human activities outside their permanent residential area which is aimed at meeting their needs for visits, leisure, recreation in certain period of time.

**“Tourist”** means a person who engages in tourism for purpose of his own leisure and recreation.

**“Tourism facility”** means a structure, or centre or natural phenomenon or landscape or place of historical value which;

- [a] Is situated within the boundaries of Emalahleni Local Municipality.
- [b] Is owned by Emalahleni Local Municipality or is assigned to it in terms of an agreement.
- [c] Attracts tourists to Emalahleni Local Municipality.
- [d] Is used by Emalahleni Local Municipality to facilitate, manage and/or attract tourists.

**“Relevant Directorate”** means any directorate charged by Council with a duty to administer matters relating to local tourism.

**“ECPTA”** means Eastern Cape Parks and Tourism Agency or any Provincial entity under any provincial department that deals with tourism within the Eastern Cape Province.

## [2] GENERAL PROVISIONS

Council shall:

- [1] From all the annual revenue of the Municipality set aside funds for tourism promotion and development in accordance with the integrated development of the Municipality.
- [2] On the advice of the relevant directorate, declare certain natural landscapes as places of tourist attraction and take such declaration in the annual budget vote.
- [3] In terms of the delegations framework envisaged in section 59 of the Local Government: Municipal Systems Act 32 of 2000, delegate the administration, management and development of policies concerning tourism within its jurisdictional area.
- [4] Take administrative, legislative and other measures to promote cultural and ecological wellbeing of all the communities falling under its jurisdiction.
- [5] Promote Emalahleni Municipal area as a tourism destination within the Province of the Eastern Cape.

- [6] Build linkages and twinning agreement with national, international agencies and Municipalities within the constitutional protocol of the Republic.

**[3] ESTABLISHMENT OF THE TOURIST INFORMATION CENTRE**

A Local Tourism Information Centre is hereby established with the following functions:

- [1] Identify all information necessary for the better understanding of Emalahleni Municipal Area as a destination for tourism.
- [2] Keep or caused to be kept all such information in an easily accessible manner to both tourists and members of the public.
- [3] Formulate and drafts reports and programs to be used for packaging products for tourism programs.
- [4] To be the custodian of all tourism facilities.
- [5] Assist all tourists with information and other auxiliary needs.

**[4] RIGHTS OF TOURIST**

Tourists shall have such rights are provided in the constitution of the Republic but without derogating from the generality of thereof, tourists shall have;

- [1] A right to choose any tourism program provided by any government agency and/or tourism business.
- [2] To information held by the Tourism Centre before or after his/or her arrival in Emalahleni Municipal Area.
- [3] To safety of his/her property and belongings.
- [4] To compensation for any loss due to negligent acts of any tourism business or government agency.

**[5] LOCAL TOURISM TRADE**

- [1] Organisations, individuals doing tourism business shall observe the provisions in this By-Law, and such other legislative prescripts as they come into effect from time to time.
- [2] Tourism trade include;
- [a] Domestic and International Travel Business.
- [b] Accommodation and hospitality establishments.
- [c] Tourism transportation business.
- [d] Tour Guides.

**[6] MUNICIPAL ADMINISTRATION OF LOCAL TOURISM**

Municipal Administration of local tourism shall include:

- [1] Promulgation of standards and norms for the implementation of tourism programs.
- [2] Formulating and directing implementation of strategies, planning schemes for tourism development.
- [3] Organising and managing training, fostering development of tourism human resource.
- [4] Research and application of international and national best practice in the protection of tourism resources.
- [5] Organising and managing tourism promotion and international co-operation.
- [6] Reviewing and settling complaints with regard to tourism.
- [7] Bring about a conducive environment for tourism, tourism business and tourism promotion.

**[7] REPEAL AND COMMENCEMENT**

This By-Law shall be referred to as the Local Tourism By-Law.

**LOCAL AUTHORITY NOTICE 15 OF 2016****EMALAHLENI 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 Liquor Trading Hours By-law that comes into operation on the date of publication thereof in the Provincial Gazette.

**LIQUOR TRADING HOURS BY-LAWS****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;

AND WHEREAS it is the intention of Emalahleni Municipality to set trading days and hours for all licenced premises, businesses or outlet situated within the area of jurisdiction of Emalahleni Municipality that sell liquor to the public.

NOW THEREFORE be it enacted by the Council as follows:

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[2]	Application of By-Laws
[3]	Report by Ward Committee
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[5]	Exemptions
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[8]	Offences
[9]	Penalties
[10]	Repeal of by-laws
[11]	Short title

**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 Emalahleni 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;

**"guest accommodation establishment"** means premises used as temporary residential accommodation, and includes the provision of meals for, transient guests for compensation and includes a backpacker's lodge, a bed and breakfast establishment, guest house and guest farm or lodge, as well as facilities for business meetings, conferences, events or training sessions of resident guest, but excludes a hotel;

**"hotel"** means premises used as temporary residential accommodation for transient guests where lodging or meals are provided for compensation, and includes:-

- [a] a restaurant or restaurants forming part of the hotel;
- [b] conference and entertainment facilities that are subservient and ancillary to the dominant use of the premises as a hotel; and
- [c] premises which are licensed to sell liquor for consumption on the property but excludes an off-consumption facility, guest accommodation establishment, dwelling house or dwelling unit;

**"liquor"** means liquor as defined in section 1 of the Act as amended;

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

**"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;

**"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 any person who is licensed to sell liquor in terms of the Act and includes any licensed premises, business, outlet or land use activity from which liquor is sold;

**"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.

**CONTINUES ON PAGE 130 - PART 2**



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

**Provincial Gazette  
Igazethi Yephondo  
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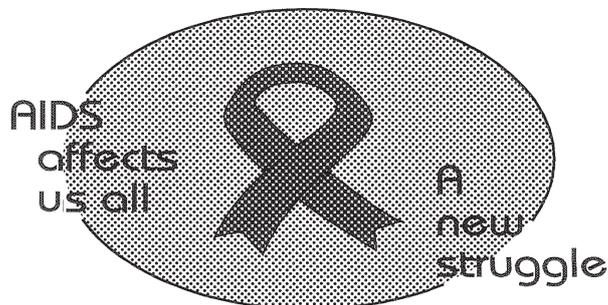
Vol. 23

**BISHO/KING WILLIAM'S TOWN**  
15 FEBRUARY 2016  
15 FEBRUARIE 2016

No. 3593

**PART 2 OF 2**

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- [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] A trader may:-
- [a] despite any other law, sell liquor on any day of the week; and
  - [b] sell liquor only during the hours determined by the municipality, as listed in **SCHEDULE 1** to this by-law.
- [2] Despite subsection (1), a hotel or guest accommodation establishment licensed to sell liquor may offer a room service facility at any time of the day.
- [3] 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.
- [4] 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 this by-law:-
- [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.
- [5] A trader who contravenes subsection [4] commits an offence.

#### [5] SALE OF LIQUOR AT SPECIAL EVENTS

- [1] A person who is registered to sell liquor at a special event may:-
- [a] sell liquor only at that event; and
  - [b] sell liquor only at the place where and during the times when that event is held as set out in the application for registration.

#### [6] 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.

## [7] 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 this by-law, an official appointed in terms of this section will be regarded as the authorized official.

**[8] 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 authorised 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.

**[9] OFFENCES**

- [1]** Anyone 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**.
- [2]** No person may:-
- [a]** sell liquor otherwise than in terms of a registration;
  - [b]** be violent or drunk and disorderly on premises in respect of which a certificate of registration has been issued;
  - [c]** if he, she or it is the owner or occupier of registered premises, allow violent or drunk and disorderly behaviour on  
that premises;
  - [d]** be drunk and disorderly in or on-
    - [i]** any road, street, lane, thoroughfare, square, park or market;

- [ii]** any shop, warehouse or public parking garage;
  - [iii]** any form of public transport; or
  - [iv]** any place of entertainment, cafe, eating-house or racecourse or any other premises or place to which the public has or is granted access, irrespective of whether access is granted against payment or is restricted to any category of persons or not;
- [e]** consume any liquor in any road, street, lane or thoroughfare, or on vacant land adjacent thereto, an urban area or other area subdivided into erven or plots with streets bounded by such erven or plots;
- [f]** introduce, possess or consume any liquor on a sports ground that is not a registered premises, to which the public has or is granted access, irrespective of whether access is granted against payment or is restricted to any category of persons or not, except on any registered premises situated on the sports ground concerned;
- [g]** falsely represents himself or herself or any other person to be over the age of 18 years in order to persuade a registered person, or his or her agent or employee, to sell or supply liquor to him or her or to that other person;
- [h]** supply liquor to a person in his, her or its employment as wages or remuneration or as a supplement therefore; or
- [i]** allow prostitution and drug-trafficking on registered premises.

## **[10] PENALTIES**

- [1]** Anyone who commits an offence contemplated in section 9(1) of this by-law 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 contravenes or fails to comply with a provision of-
- [a]** section 9 or 9(2)(b) or (c) of this by-law must be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one year or to both such fine and imprisonment;
  - [b]** section 9(1)(a) of this by-law must be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding three years or to both such fine and imprisonment; or
  - [c]** section 9(1)(h) must be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding five years or to both such fine and imprisonment.
- [3]** Any person who is found to be continuously contravening or failing to comply with a provision of this by-law, must in respect of each day on which that person contravenes or fails to comply with that provision, be 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 fine or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

- [4] Any person who is convicted of an offence in terms of this by-law within a period of five years after he or she was convicted of any offence in any law governing the sale of liquor, must be liable to double the fine or imprisonment which may be imposed for that offence or to both that fine and that offence.
- [5] Despite any other law, a magistrate's court must have jurisdiction to impose any penalty prescribed by this by-law.

## [11] REPEAL OF BY-LAWS

- [1] Any by-laws adopted by the Municipality relating to liquor trading or any matter regulated in this by-law 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 this by-law 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.

## [12] SHORT TITLE

This by-law shall be called the Liquor Trading Hours by-law.

### 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 or tavern]</i>	Monday to Saturday 08:00 to 21:00 Sunday 09:00 to 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
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 08:00 to 21:00 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**

**[Section 6[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 6[3]**

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

Other conditions or restrictions:  
.....  
.....  
.....

**LOCAL AUTHORITY NOTICE 16 OF 2016****EMALAHLENI 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 Keeping of Animals which comes into operation on the date of publication thereof in the Provincial Gazette.

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

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution;

AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to regulate and manage the keeping of animals in its municipal area;

NOW THEREFORE be it enacted by the Council as follows:

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- [35] Offences and penalties
- [36] Repeal of by-laws
- [37] Short title

[1] **DEFINITIONS**

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

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

**"animal"** means any horse, mule, donkey, cattle, sheep, goat, pig, poultry, ostrich, dog, cat, rabbit, any other domesticated animal, bird, fish, bees and includes any wild animal, wild bird or reptile which is in captivity or under the control of any person;

**"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;

**"agricultural holding"** means the same as defined in the Town Planning Scheme of or made applicable to the Municipality;

**"aviary"** means an enclosure used for the keeping of birds but does not include a portable cage;

**"battery system"** means the method of keeping poultry or rabbits in cages, in either single rows or tier formation, within a building or structure;

**"bird"** includes any wild bird, but does not include any poultry;

**"cattery"** means premises in or upon which –

- [a] boarding facilities for cats are provided; or
- [b] cats are bred for commercial purposes;

**"Council"** means the Council of the Emalahleni Municipality and includes any duly authorized political structure or officer bearer as defined in the Local Government: Municipal Structures Act, 1998 or an official thereof and any authorized official;

**"dangerous animal"** means any animal which is a threat or potential threat to the safety of any person or animal or property or which has attacked any person or animal without provocation and includes spiders and scorpions;

**"domesticated wild animal"** means a tame wild animal;

"enclosure" in relation to an animal, means any kraal, pen, paddock, cage or any other fenced or enclosed area erected to confine the animal or to prevent it from escaping or roaming freely on the remainder of or outside the premises;

**"environmental health practitioner"** means an environmental health practitioner appointed by the Municipality or a municipality or another organ of state having jurisdiction in the municipal area with regard to any matter regulated by these by-laws;

**"keeper"** –

**[a]** in relation to any animal, means the owner thereof or any other person responsible for the control over or feeding and/or caring thereof;

**[b]** in relation to a kennels, pet parlour or pet shop, means the person who operates the business or the person in charge of the premises on which the business is operated;

**"kennels"** means premises in or upon which –

**[a]** boarding facilities for dogs are provided;

**[b]** dogs are bred for commercial purposes;

**[c]** dogs are kept for the purpose of being trained or hired out, with or without handlers; or

**[d]** dogs are kept for commercial security purposes;

**"large animal"** includes any horse, donkey, mule, cattle, antelope, sheep, pig, goat, or ostrich;

**"livestock"** means horses, mules, donkeys, cattle, sheep, goats, pigs and poultry;

**"municipal area"** means the demarcated area of jurisdiction of the Municipality;

**"Municipality"** means the Emahljeni Municipality and, where the context so requires, includes the Council;

**"nuisance"** means any condition or conduct which is injurious or offensive to any person or which is dangerous to or compromises the health or safety of any person or which causes an annoyance or disturbance to any person or to the residents of any area or which constitutes a threat or a potential threat to the environment or which causes harm or damage to the environment or which may potentially harm or damage the environment;

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

**"pet"** means any animal that is kept on any premises or within any enclosure principally for the purposes of companionship or amusement or security;

**"pet parlour"** means any premises where beauty treatment is given to pets by washing, drying, brushing, clipping, and trimming or by attending to their nails or teeth;

**"pet shop"** means the premises on which the business of keeping and selling of pets is carried out;

**"poultry"** means fowls, ducks, muscovy ducks, geese, turkeys, pigeons, peacocks and domestic guinea fowls;

**"poultry house"** means any roofed-over building or structure in which poultry is kept, other than one in which a battery system is operated;

**"poultry run"** means any unroofed wire mesh or other enclosure in which poultry is kept, whether or not it is attached to a poultry house;

**"premises"** means –

- [a]** any piece of land registered in a deeds registry as an erf, plot or stand or lot as part of a township and includes a stand or lot forming part of a piece of land laid out as a township, but not yet registered; or
- [b]** a portion of such erf, plot or stand or lot and includes any residential site outside the townships provided by government departments, parastatal institutions or industries; and
- [c]** where the text so requires, buildings on such erf, stand or lot.

**"public health"** means the mental and physical well-being of people in the municipal area;

**"rabbit hutch"** means any roofed-over building or structure in which rabbits are kept, other than one in which a battery system is operated;

**"rabbit run"** means any unroofed wire mesh or other enclosure in which rabbits are kept, whether or not it is attached to a rabbit hutch;

**"residential area"** means any area within the municipality, which in terms of the Town Planning Scheme, comprises the whole or a portion of an area zoned for residential purposes;

**"stable"** means any building or structure used to accommodate livestock other than poultry;

**"Town Planning Scheme"** means the Town Planning Scheme(s) of or made applicable to the Municipality in terms of the Land Use Planning Ordinance, 1985 [Ordinance No. 15 of 1985] [Cape];

**"valid license"** means a license issued by the Municipality in terms of these by-laws;

**"wild animal"** means any animal of a species that is not generally domesticated and includes any wild indigenous and exotic animal.

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

**[1]** The provisions of these by-laws do not apply to –

- [a]** any agricultural show or bona fide circus where animals are kept on a temporary basis; or
- [b]** any laboratory where animals are kept for research purposes.

**[2]** All buildings constructed in terms of these by-laws must comply with the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977].

## **[3] KEEPING OF DOGS**

**[1]** No person may keep –

- [a] any dog that is ferocious, vicious, or has a propensity to chase after or charge at other animals, pedestrians, vehicles or pedal cyclists;
  - [b] any dog in or on any premises unless the dog is confined to the premises by way of a wall, fence, enclosure, kennel or by any other means;
  - [c] any dog older than six months unless the person holds a license for such dog;
  - [d] more than two dogs on any premises unless otherwise authorised by the Municipality in writing;
  - [e] any dog on any premises on which a fenced unobstructed enclosure of at least forty square meters per dog cannot be provided.
- [2] A person who keeps a bitch in heat must ensure that the bitch is kept under proper control so as to ensure that she does not cause a nuisance to any other person.
- [3] The Municipality may by notice in writing require the person keeping the bitch to remove her, at his expense, to a place of suitable accommodation until she is out of season.
- [4] For the purpose of this subsection, a dog that has bitten or attempted to bite a person or an animal, other than in defence of itself or its custodian, in any place other than upon the premises where it is habitually kept, will be deemed to be vicious.

#### [4] DOG LICENSES

- [1] Any person who keeps a dog that is older than six months must apply to the Municipality for a license in respect of every such dog in compliance with Dog Tax Ordinance Cape, 1978 [Ordinance No. 19 of 1978].
- [2] The application must be accompanied by the prescribed license fee as set out in the Municipality's tariff of charges.
- [3] On receipt of the prescribed application form and the license fee, the Municipality may, at a place determined by Municipality from time to time, issue a license in respect of the dog concerned.
- [4] A license issued in accordance with subsection [3] is valid for a period of twelve months.
- [5] This section does not derogate from the provisions of the Municipality's by-laws relating to licensing and control over dogs or any other applicable law.

#### [5] DOG KENNELS AND CATTERIES - REQUIREMENTS FOR PREMISES

- [1] No person may keep dog kennels or a cattery in an area zoned for residential use unless so authorised by the Municipality in writing.
- [2] A person may not keep dog kennels or a cattery in any other area unless written permission had been granted by the Municipality to that person for that purpose.
- [3] A person may not use any premises as kennels or a cattery unless the premises comply with the following requirements:
- [a] Every dog or cat must be kept in an enclosure that complies with the following requirements:

- [i] the enclosure must be constructed of impervious materials and must provide adequate access for cleaning purposes;
      - [ii] the floor must be constructed of concrete or other impervious material brought to a smooth finish and graded to a channel 100mm wide, extending the full width of the floor, which channel must be graded and drained into a gully connected to the Municipality's sewer by means of a pipe 100mm in diameter; and
      - [iii] a curb 150mm high must be provided along the edge of the channel, referred to in subsection [3][a][ii], to prevent any storm water runoff entering the channel;
- [b] Subject to subsection [3] every enclosure referred to in subsection [3][a], must be situated in a roofed shelter that complies with the following requirements:
  - [i] every wall must be made of brick, stone, concrete or other impervious material;
  - [ii] the internal surface of every wall must have a smooth internal surface;
  - [iii] the floor must be made of concrete or other impervious material brought to a smooth finish; and
  - [iv] every shelter must have adequate access for cleaning and eliminating pests;
- [c] A dog kennel that complies with the following requirements may be provided for a dog instead of the shelter contemplated in subsection [3][a]:
  - [i] the kennel must be movable;
  - [ii] the kennel must be placed on a base constructed of concrete or other impervious material with an easily cleanable finish; and
  - [iii] a sleeping board, which will enable the dog to keep dry, must be provided in any kennel that does not have a waterproof base;
  - [iv] a concrete apron extending at least one metre wide around the edges of the enclosure must be provided;
  - [v] the apron must be graded and drained in a way that drains storm water away from the enclosure; and
  - [vi] a potable water supply, adequate for drinking and cleaning purposes, must be provided in or adjacent to the enclosure.
- [d] Any shelter, enclosure or kennel may not be situated within five meters of any –
  - [i] dwelling or other building or structure used for human habitation;
  - [ii] place where food is stored and prepared for human consumption; or
  - [iii] the boundary of the premises.

**[6] DOG KENNELS AND CATTERIES - FOOD PREPARATION AREA**

- [1]** Any person who keeps dog kennels or a cattery must provide a separate room or roofed area for the preparation of food if required by the Municipality to do so.
- [2]** The food preparation area must comply with the following requirements:
- [a]** the floor of the room or roofed area must be constructed of concrete or other impervious material brought to a smooth finish;
  - [b]** the internal wall surfaces of the room or roofed area must be smooth and easily cleanable;
  - [c]** adequate washing facilities for food bowls and utensils must be provided; and
  - [d]** a rodent-proof storeroom must be provided for the storage of food.

**[7] DUTIES OF KEEPER OF DOG KENNELS OR CATTERY**

Any person who keeps a kennel or cattery must –

- [a]** maintain the premises, equipment and every vessel, receptacle or container and sleeping board used in connection with the kennel or cattery in a clean, sanitary condition and in good repair at all times;
- [b]** store all loose food in receptacles, with close fitting lids, in a food store;
- [c]** provide adequate refrigeration facilities to store perishable foods on the premises;
- [d]** provide adequate separate refuse receptacles, with close fitting lids, on the premises for refuse other than faeces;
- [e]** keep any sick dog or cat isolated from any other; and
- [f]** maintain the premises free from offensive odours and every enclosure, shelter, kennel, cage or food store clean and free from pests.

**[8] PET SHOPS AND PET PARLOURS - REQUIREMENTS FOR PREMISES**

- [1]** No person may operate a pet shop or pet parlour in or on any premises unless the premises comply with the following requirements:
- [a]** all walls, including any partition, must –
    - [i]** be constructed of brick, concrete or other impervious material;
    - [ii]** have a smooth and easily cleanable internal surface; and
    - [iii]** be painted with a washable paint or other adequate finish;
  - [b]** all floor surfaces must be constructed of concrete or other impervious material brought to a smooth finish;
  - [c]** all ceilings must be dust proof and easily cleanable;
  - [d]** at least one wash hand basin, with a supply of running hot and cold potable water and one water closet must be provided for employees at the ratio of 1:15 persons employed on the premises;

- [e] the wash hand basins referred to in subsection [1][d] must be drained in terms of section 28;
- [f] adequate storage facilities must be provided;
- [g] facilities for the washing of cages, trays and other equipment must be provided in the form of either –
  - [i] a curbed and roofed over platform with a minimum surface area of 1,5m<sup>2</sup> raised at least 100mm above the floor and constructed of concrete or other impervious material brought to a smooth finish, which platform must be provided with a supply of running potable water; or
  - [ii] a stainless steel sink or trough of adequate size with a drainage board and provided with a supply of running potable water;
- [h] the platform, sink or trough referred to in subsection [7][a] must be drained in terms of section 28;
- [i] any wall surface must be smooth and impervious;
- [j] for the purposes of washing, clipping or grooming of pets –
  - [i] a bathroom fitted with a bath, or similar fitting, and a wash hand basin supplied with running potable water must be provided;
  - [ii] a clipping and grooming room fitted with impervious topped tables and an adequate number of portable storage receptacles of an impervious durable material with close fitting lids, for the storage of cut hair pending removal, must be provided;
  - [iii] the floors of the rooms referred to in subsection [j][i] and subsection [j][ii] must be graded to a channel drained in terms of section 28;
- [k] all buildings, including storage areas, must be rodent-proof; and
- [l] the premises may not have direct internal access with any room or place –
  - [i] used for human habitation;
  - [ii] where clothing is stored or sold; or
  - [iii] where food is prepared, stored or sold for human consumption.
- [m] No person may operate a pet shop or pet parlour without written consent from Municipality.

## [9] DUTIES OF KEEPER OF PET SHOP OR PET PARLOUR

The keeper of a pet shop or pet parlour must –

- [a] provide cages for housing the pets and such cages must comply with the following requirements:
  - [i] the cages must be constructed of metal or other impervious material and fitted with a removable metal floor-tray to facilitate cleaning;

- [ii] the cages must be capable of being moved easily;
  - [iii] the cages must be fitted with a drinking vessel that is filled with water; and
  - [iv] the space below every cage must be unobstructed.
- [b] provide rodent-proof receptacles of an impervious material and with close fitting lids for the storage of all loose food in the store room;
- [c] provide adequate refrigeration facilities to store all perishable pet food on the premises;
- [d] maintain the premises and every cage, tray, container, receptacle, basket, all apparatus, equipment or appliances used in connection with the pet shop , in a clean and sanitary condition, free from pests and in good repair;
- [e] provide overalls or other protective clothing for employees and ensure that the employees wear them when on duty;
- [f] provide isolation facilities in which every pet which is, or appears to be, sick must be kept while on the premises;
- [g] provide an adequate supply of potable water for drinking and cleaning purposes;
- [h] provide adequate ventilation to ensure the comfort and survival of the pets; and
- [i] ensure that the number of pets contained in each cage does not impede their free movement.

#### **[10] KEEPING OF BIRDS - REQUIREMENTS FOR PREMISES**

- [1] No person may keep any bird in an aviary unless the aviary complies with the following requirements:
  - [a] the aviary must be constructed of durable rodent-proof materials;
  - [b] adequate access must be provided for cleaning purposes;
  - [c] if the aviary is constructed above ground level, its base must be constructed of an impervious and durable material;
  - [d] the aviary may not be situated within 3m of any building or structure, boundary fence or boundary wall; and
  - [e] a water supply adequate for drinking and cleaning purposes must be situated in or next to every aviary.
- [2] No person may keep any bird other than a small bird in a cage inside a residential dwelling.

#### **[11] DUTIES OF KEEPER OF AN AVIARY**

Any person who keeps birds in an aviary must –

- [a] ensure that the aviary and the premises are kept in a clean condition and free from pests;

- [b]** provide and use rodent-proof facilities for the storage of bird food; and
- [c]** ensure that the birds do not disturb the comfort, convenience, peace or quiet of any other person.

## **[12] KEEPING OF POULTRY**

- [1]** No person may keep more than 10 poultry birds on any premises situated within an area zoned for residential, commercial or industrial use in terms of the Town Planning Scheme or more than 100 poultry birds on premises zoned for agriculture in terms of the Town Planning Scheme, except in terms of a permit issued by the Municipality for that purpose.
- [2]** A person may not keep more than 5 pigeons on any premises zoned for residential, commercial or industrial use in terms of the Town Planning Scheme, unless the person is registered with the Pigeon Racing Federation of South Africa.
- [3]** The provisions of subsection [1] and subsection [2] do not apply to a person who keeps ten or less poultry birds or five or less pigeons.
- [4]** For the purposes of this subsection, poultry does not include pigeons.

## **[13] KEEPING OF POULTRY - REQUIREMENTS FOR PREMISES**

No person may keep more than ten poultry birds or five pigeons in or on any premises unless the premises comply with the following requirements:

- [a]** in relation to a poultry house –
  - [i]** every wall must be constructed of brick, stone, concrete or other impervious material brought to a smooth internal surface;
  - [ii]** the floor must be constructed of concrete or other impervious material brought to a smooth finish;
  - [iii]** the upper floor of a two or more story structure must be constructed of an impervious and easily cleanable material;
- [b]** a poultry run, if provided, must be enclosed with wire mesh or other durable material;
- [c]** in relation to a building or a structure housing a battery system –
  - [i]** every wall, if provided, must be at least 2,4m high, must be constructed of concrete, stone, brick or other impervious material and must have a smooth internal surface;
  - [ii]** if walls are provided, the building must be ventilated and lighted by means of mechanical ventilation and artificial lighting or by obtaining natural ventilation and light through openings or opening windows of an area not less than 15% of the floor area of the building;
  - [iii]** the floor must be constructed of concrete or other impervious material brought to a smooth finish and if required by the Municipality, the floor surface must be graded and drained by means of a channel drained in terms of section [28];

- [iv] if no walls are provided, or if the walls are made of metal, the floor must be provided with a curb at least 150mm high around its edges;
      - [v] the cages of the battery system must be made of an impervious material;
      - [vi] if required by the Municipality, a tray of an impervious material must be fitted under every cage for the collection of manure;
  - [d] a water supply adequate for drinking and cleaning must be provided in or next to every poultry house or building or structure housing a battery system;
  - [e] no poultry house, poultry run, or building, or structure housing a battery system, may be constructed within 3m of –
    - [i] any dwelling, other building or structure used for human habitation;
    - [ii] any place where foodstuffs are stored or prepared for human consumption; or
    - [iii] the nearest boundary of any land;
  - [f] feed must be stored in an adequate rodent-proof storeroom;
  - [g] adequate washing facilities must be provided for the cleaning of the cages; and
  - [h] if required by the Municipality due to the amount of manure stored on the premises awaiting removal, a storage area that complies with the following requirements must be provided –
    - [i] a roofed platform constructed of concrete or other impervious material;
    - [ii] the platform's outside edges must have a minimum curb of 100mm high;
    - [iii] the platform must be graded and drained in terms of section 28; and
    - [iv] the roof of the platform must extend a minimum of 1m beyond the edges of the base of the platform.

#### [14] DUTIES OF KEEPER OF POULTRY

Any person who keeps more than five poultry birds or pigeons must –

- [a] ensure that all poultry is kept within a poultry house, poultry run or building or structure housing a battery system;
- [b] maintain the premises and any equipment, apparatus, container or receptacle used in connection with keeping the poultry in a clean, sanitary condition and in good repair;
- [c] maintain the premises free from offensive odours and every poultry house, poultry run or building or structure housing a battery system and all cages clean and free from pests;
- [d] ensure that the poultry does not disturb or hinder the comfort, convenience, peace or quiet of any person;
- [e] all manure and waste generated by poultry must be stored and/or removed in a hygienic manner;

- [f] remove all manure and other waste from a poultry house or poultry run at least once every 48 hours and once every 4 days from a building or structure housing a battery system;
- [g] place the manure and other waste matter in manure storage receptacles;
- [h] remove the contents of the manure storage receptacles from the premises at least once every seven days and dispose of the manure in a way which will not create a nuisance; and
- [i] take adequate measures to keep the premises free of flies, cockroaches, fleas and rodents and prevent offensive odours arising from the keeping of poultry on the premises.

#### [15] KEEPING OF RABBITS

- [1] No person may keep more than 5 adult rabbits on premises situated within an area zoned for residential, commercial or industrial use in terms of the Town Planning Scheme, or more than 20 adult rabbits on premises zoned for agriculture, except in terms of a permit issued by the Municipality for that purpose.
- [2] The provisions of subsection [1] do not apply to a person who keeps 5 or less adult rabbits.

#### [16] KEEPING OF RABBITS - REQUIREMENTS FOR PREMISES

No person may keep more than five adult rabbits in or on any premises unless the premises comply with the following requirements:

- [a] in relation to a rabbit hutch –
  - [i] every wall must be constructed of brick, stone, concrete or other impervious material and must have a smooth internal surface;
  - [ii] the floor surface must be constructed of concrete or other impervious material brought to a smooth finish, situated at least 150mm above ground level graded to a channel drained in terms of section 28, if required by the Municipality;
  - [iii] it must be provided with adequate ventilation;
- [b] any rabbit run, if provided, must be enclosed with wire mesh or other durable material and constructed in a way that prevents the escape of rabbits from the run;
- [c] relative to a building or structure housing a battery system –
  - [i] every wall must be a minimum of at least 2.4m high, must be constructed of concrete, stone, brick or other durable material, and must have a smooth internal surface;
  - [ii] if walls are provided, the building must be ventilated and lighted by means of natural openings or windows of an area equal to not less than 15% of the floor area of the building;
  - [iii] the floor must be constructed of concrete or other impervious material brought to a smooth finish, and if required by the Municipality, the floor surface must be graded to a channel drained in terms of section 28;

- [iv] if no walls are provided, or the walls are made of metal, the floor must be provided with a curb at least 150mm high around its outside edges; and
- [v] every cage must be constructed of an impervious material and fitted with trays of an impervious material for the reception of manure;
- [d] a water supply adequate for drinking and cleaning purposes must be provided in or next to every rabbit hutch or building or structure housing a battery system;
- [e] a person may not erect a rabbit hutch, rabbit run or building or structure housing a battery system within 5m of –
  - [i] any dwelling, building or other structure used for human habitation;
  - [ii] any place where foodstuffs are stored or prepared for human consumption; or
  - [iii] the nearest boundary of any land;
- [f] an adequate rodent-proof storeroom must be provided for the storage of feed; and
- [g] adequate washing facilities must be provided for the cleaning of the cages.

#### [17] DUTIES OF KEEPER OF RABBITS

Any person who keeps more than five adult rabbits must –

- [a] keep all rabbits within the rabbit hutch, rabbit run or building or structure housing a battery system;
- [b] maintain the premises and any equipment, apparatus, container or receptacles used in connection with the keeping of rabbits, in a clean, sanitary condition and in good repair;
- [c] maintain the premises free from offensive odours and every rabbit hutch, rabbit run, building or structure housing a battery system and all cages clean and free from pests;
- [d] all manure and waste generated by rabbits must be stored and/or removed in a hygienic manner;
- [e] remove the contents of the manure storage receptacles from the premises at least once every seven days and dispose of the contents in a way that will not create a nuisance.

#### [18] KEEPING OF BEES

No person may keep bees in an area other than zoned for agricultural use and such person must comply with the Municipality's by-laws relating to the Keeping of Bees.

#### [19] KEEPING OF LARGE ANIMALS

- [1] No person may keep any large animal in an area that is zoned for residential use other than for the purpose and in accordance with section 21.
- [2] No person may not keep any large animal in or on any premises less than 4 hectares in extent and which is not zoned for residential use unless such animal is kept in a stable that complies with the following requirements –

- [a] the internal wall surfaces of the stable must be constructed of smooth brick or other durable surface brought to a smooth finish;
- [b] the stable must at any point be at least 50m from any dwelling or from any boundary of the property on which the stable is erected;
- [c] the walls of the stable must be constructed of brick, concrete or other impermeable material;
- [d] the floor must be of cement, stone or other impermeable material prepared and graded in such a manner as to prevent absorption of all liquids or other noxious matter and to enable proper cleaning and draining;
- [e] if sewerage is available, the stable must be connected by drain to the sewerage system in such a manner as may be prescribed by the applicable by-laws;
- [f] if a sewerage system is not available, the drainage from the stable must be to the satisfaction of the Municipality;
- [g] the stable must be sufficiently lighted and ventilated by means of openings into the exterior in order to maintain a free circulation of air in the stable and keep it in a well-ventilated condition;
- [h] there must be a water supply adequate for drinking and cleaning purposes situated in or adjacent to the stable; and
- [i] approved places or receptacles for storing feed must be constructed and maintained as far as possible to prevent access to vermin.

## [20] DUTIES OF KEEPER OF LARGE ANIMALS

- [1] Any person who keeps any cattle, horse, mule, donkey, mule, pig, sheep or goat in an area that is not a residential area must –
  - [a] maintain the premises and any equipment, apparatus, container or receptacle used in connection with the keeping of the cattle, horses, mules or donkeys in a clean and sanitary condition and in good repair;
  - [b] store all feed in a rodent-proof storeroom and all loose feed in rodent-proof receptacles with close fitting lids.
- [2] Any person who keeps a large animal in a stable must –
  - [a] maintain the stable and any equipment, apparatus, container or receptacle used in connection with the keeping of the large animal in a clean and sanitary condition and in good repair;
  - [b] ensure that no enclosure or stable may be situated within –
    - [i] 15m of the boundary of any land, property, dwelling or other structure used for human habitation; or
    - [ii] 50m of any water resource or water supply intended or used for human consumption;

- [c] ensure that there is an adequate water supply for drinking and cleaning purposes next to every stable or enclosure.
- [d] remove and/or store all manure and waste generated by any animal in a hygienic manner;
- [e] remove the contents of the manure storage receptacles from the premises at least once every seven days and dispose of the contents in a way that will not create a nuisance.
- [f] provide a manure midden constructed of an impervious material and with a close fitting cover not less than 50m from any dwelling or any boundary of the property on which the stable is erected;
- [g] remove the contents of the manure midden on a daily basis or bury or otherwise dispose of the manure in such a manner as will prevent the manure from causing a nuisance; and
- [h] store all feed in a rodent-proof storeroom or in receptacles with close fitting lids.

**[21] KEEPING AND SLAUGHTERING OF ANIMALS FOR RELIGIOUS AND CEREMONIAL PURPOSES**

In an urban area, no person may slaughter any animal in any place other than in a recognised abattoir, except when the animal is slaughtered for religious or ceremonial purposes, in which event that person must –

- [a] notify the Municipality in writing, 14 days prior to the event, but in the case of funerals at least 2 days prior to the slaughter;
- [b] notify all his immediate neighbours in writing of such slaughter, 7 days prior to the event;
- [c] screen the slaughtering process from members of the public;
- [d] use the meat derived from the slaughtered animal solely for the purposes of the religious or ceremonial feast;
- [e] handle the meat in a hygienic manner at all times;
- [f] dispose of any portions of the animal that are not used or consumed, in the manner prescribed by the Municipality;
- [g] not keep the slaughter animal on the premises for longer than 24 hours prior to being slaughtered;
- [h] treat the animal humanely until such time as it is slaughtered; and
- [i] slaughter the animal in a manner that minimizes suffering.

**[22] KEEPING OF WILD ANIMALS**

- [1] No person may keep any wild animal on any premises unless he is in possession of written authority from the responsible authority to do so.
- [2] No person may feed any wild animal that is not in captivity.

**[23] KEEPING OF DANGEROUS ANIMALS**

- [1]** Any person who keeps a dangerous animal must –
- [a]** keep it in an adequate enclosure; and
  - [b]** take adequate measures to ensure that the animal –
    - [i]** does not escape from the premises where it is kept; and
    - [ii]** does not pose a danger, or cause harm, to a person, other animal or property.
- [2]** Any person keeping a dangerous animal must also comply with any requirements of a responsible authority to do so.

**[24] NUISANCE**

- [1]** No person may keep any animal that creates a nuisance, whether the health hazard or nuisance emanates from odour, sound or noise made by the animal, or from any other source relating to the animal and whether the health hazard or nuisance emanates from the animal itself or from the manner in which, or the conditions under which, the animal is kept or from the escaping or wandering of the animal, as the case may be.
- [2]** If the Municipality reasonably believes that an animal poses or creates a nuisance, the Municipality may –
- [a]** by notice, order the owner or person in charge of the animal to abate the nuisance within a reasonable time to be stated in such notice which must also set out the measures to be taken, where possible and, if necessary, to remove the animal concerned; or
  - [b]** if it is reasonably and urgently necessary to eliminate or reduce a significant risk to public health, the Municipality may seize and impound the animal at the cost of the owner or the person in charge of the animal.
  - [c]** If the person has not abated the nuisance, or the animal has not been removed in terms of subsection [2][a], as the case may be, the person is guilty of an offence and liable, on conviction, to the penalty prescribed in section 30.
  - [d]** If the person referred to in subsection [3] is found guilty of a second contravention in terms of subsection [3] in respect of the same animal, the Court may, in addition to imposing a sentence in accordance with the provisions of section 30, order that the animal be seized and removed by the Municipality to an animal welfare organization referred to in subsection [1].
  - [e]** If the Municipality reasonably believes that any stable, enclosure or other building or structure in which an animal is kept causes or is likely to cause a nuisance, be it due to its construction or state of disrepair or lack of cleanliness or for any other reason, the Municipality may by notice order the owner or the person in charge of the premises upon which the stable, enclosure, building or structure concerned is situate, to execute and perform such work as may be necessary and which must be stated in such notice to abate the nuisance within a time specified in such notice.

- [f] If the nuisance referred to in subsection [5] has not abated after expiry of the period concerned, or the owner or person in charge of the premises has not executed and performed the work required in terms of the said notice to the satisfaction of the Municipality, the owner or person in charge of the premises is guilty of an offence, and is liable, on conviction, to the penalty prescribed in section 30.

#### [25] CONTROL OVER ANIMALS

- [1] Any person who keeps any animal must ensure that it is kept under proper and effective control when it leaves the premises where it is kept and that it does not endanger any person or animal or property when it leaves the premises.
- [2] The Municipality may seize and impound any apparently ownerless or diseased or dangerous or vicious animal found wandering or unattended on any public street or in any public place.
- [3] Any person who keeps an animal may not pasture or allow the animal to be pastured in or on any public street or any public property. Without in any way detracting from the provisions of section 6, the Municipality may seize and impound any such animal so found, whether tended or not.
- [4] Except for purposes of impounding any animal, No person may drive or cause any animal to be driven in any public street or upon any public road within the area of jurisdiction of the Municipality without the prior written consent of the Municipality, which approval may be granted subject to conditions.

#### [26] SEIZURE AND REMOVAL OF AN ANIMAL

- [1] The Municipality must remove any animal seized and/or impounded in accordance with the provisions of section 25[2] or if so ordered by any court in terms of section 24[4] to an animal welfare organization where the animal can be accommodated.
- [2] An apparently ownerless animal seized and impounded in terms of section 25[2] or an animal seized and impounded in terms of section 25[3], must be kept at the animal welfare organization for at least seven days to enable the owner or person in charge of the animal to claim it.
- [3] If the owner or person in charge of such animal has not claimed same within the period of seven days, the animal welfare organization may sell or donate it and retain and apply the proceeds of the sale, if any, for its own benefit, or it may otherwise dispose of the animal.
- [4] The person who claims the animal seized must pay to the animal welfare organization where it is accommodated the reasonable costs of the Municipality for the seizure and removal of the animal as certified by the Municipal Manager, plus the reasonable costs of the organization for accommodating the animal, before the animal may be released to the person.
- [5] If an animal seized and impounded in terms of section 25[3], and notwithstanding the provisions of subsections 26[2], 26[3] and 26[4], where applicable, is so diseased or injured or in such a poor physical condition that it would be cruel or that it would bring unnecessary suffering to the animal to keep it alive and that it ought therefore to be destroyed without unreasonable delay, the animal welfare organization may summon a veterinarian to examine the animal and if, after such examination, the veterinarian certifies that the animal is so diseased or injured or in such a poor physical condition that

it would be cruel or that it would bring unnecessary suffering to the animal to keep it alive and that it ought, therefore, to be destroyed, the animal welfare organization may instruct a veterinarian to immediately destroy the animal in such a manner as to inflict as little suffering as possible.

- [6]** The animal welfare organization may recover the reasonable veterinarian and other costs in carrying out the provisions of subsection [26][5] from the owner or the person in charge of keeping the animal in question.

## **[27] PERMITS**

- [1]** A person who wishes to undertake an activity listed in sections 5, 8, 10, 12, 15, 19, or 22 and for which a permit is required, must apply to the Municipality in writing prior to undertaking the relevant activity.
- [2]** When the Municipality receives an application for a permit, and before deciding whether or not to approve the application, the Municipality may request the applicant to provide any further information which it considers relevant to enable it to make an informed decision and must ensure that the relevant premises are inspected by an environmental health practitioner as soon as reasonably possible.
- [3]** An environmental health practitioner referred to in subsection [2] must submit a report, as soon as reasonably possible, as to –
- [a]** the likelihood of the intended activity causing a nuisance;
  - [b]** any measures that may reasonably be taken to eliminate or reduce the risk of a public health hazard or a nuisance, if any;
  - [c]** any other relevant consideration,
  - [d]** any persons in the vicinity of the premises whose health or wellbeing may be affected, have been consulted and have had an opportunity to make representations; and
  - [e]** all relevant information, including the report from the environmental health practitioner and the representation from persons affected has been considered.
- [4]** Subject to subsection [2], the Municipality may –
- [a]** issue a permit to the applicant without any conditions;
  - [b]** issue a permit to the applicant, subject to such terms and conditions that are reasonably aimed at eliminating or reducing the risk to a nuisance caused or likely to be caused by the relevant activity, if any; or
  - [c]** refuse the application for a permit.
- [5]** A permit issued in terms of subsection [4][a] or subsection [3][b] –
- [a]** is not transferable from one person to another;
  - [b]** applies only to the premises specified in the permit;

- [c] must specify the address and other relevant details regarding the location of the premises concerned;
  - [d] must describe the premises concerned;
  - [e] must describe the activity concerned;
  - [f] must, in the case of a permit issued in terms of subsection [3][b], specify the terms and conditions; and
  - [g] must specify when it expires.
- [6] The Municipality may charge the applicant a prescribed fee for considering and for granting a permit.
- [7] The Municipality may refuse to consider an application for a permit until the prescribed fee has been paid and until it has been provided with the information that it reasonably requires to make an informed decision.
- [8] The Municipality may by written notice to the holder of a permit, suspend or cancel the permit –
- [a] with immediate effect, if an environmental health practitioner reasonably believes that it is urgently necessary to do so to eliminate or reduce a significant risk to public health posed by a nuisance; or
  - [b] after expiry of the period stipulated in a notice affording the holder of a permit a reasonable opportunity to comply with the notice and the holder of the permit having failed to comply with the notice.
- [9] The Municipality may amend a permit by written notice to the holder, if the environmental health practitioner reasonably believes that it is necessary to do so to protect public health or to take account of changed circumstances since the permit was issued.

## [28] DRAINAGE

A person who keeps animals must ensure that all sinks, wash hand basins, baths, shower-baths, troughs, floor surfaces, channels and washing platforms required to be drained in terms of these by-laws are drained in accordance with the provisions of the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977].

## [29] 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.

**[30] COMPLIANCE NOTICE**

- [1]** If an authorized official, after inspecting premises on which any animal 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 31 of these by-laws.

**[31] PROHIBITION NOTICE**

- [1]** An authorized official may, after inspecting premises where an animal is kept in contravention of 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].

### [32] 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.

### [33] 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 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.

#### [34] APPEALS

- [1] A person whose rights are affected by a decision taken by any authorized official under these by-laws may appeal against the decision by giving written notice of the appeal and reasons to the Municipal Manager of the Municipality 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 referred to in section 62 of the Municipal Systems Act, 2000 [Act No. 32 of 2000].
- [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 authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

#### [35] OFFENCES AND PENALTIES

Any person who –

- [a] contravenes or fails to comply with a provision of these by-laws or a direction issued by the Municipality in terms of these by-laws, or a condition imposed under these by-laws;
- [b] obstructs or hinders any person in the execution of any power or the performance of any duty or function in terms of any provision of these by-laws; or
- [c] furnishes false, incorrect or misleading information when applying for permission from the Municipality in terms of a provision of these by-laws-is guilty of an offence and liable, on conviction, to a fine or in default of payment to imprisonment for a period not exceeding six months.

#### [36] 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.

**[37] SHORT TITLE**

This by-law shall be called the Keeping of Animals by-law.

**LOCAL AUTHORITY NOTICE 17 OF 2016****LOCAL GOVERNMENT NOTICE****EMALAHLENI 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 Property Rates which come into operation on the date of publication thereof.

**BY –LAWS RELATING TO PROPERTY RATES****PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution;

WHEREAS section 229(1) of the Constitution authorizes a Municipality to impose rates on property and surcharges on fees for services provided by or on behalf of the Municipality.

WHEREAS in terms of Section 3 of the Property Rates Act [Act No. 6 of 2004], a Municipal Council must adopt a policy consistent with the Property Rates Act on the levying of rates on rateable property in the Municipality.

WHEREAS in terms of Section 6(1) of the Property Rates Act a Municipality must adopt by-laws to give effect to the implementation of its rates policy.

AND WHEREAS in terms of Section 6(2) of the Property Rates Act, by-laws adopted in terms of Section 6(2) may differentiate between categories of properties, and different categories of owners of properties liable for the payment of rates.

NOW THEREFORE be it enacted by the Council as follows:

**[1] INTERPRETATION**

In this By-law, the English text prevails in the event of any conflict with the Xhosa text, and, unless the context otherwise indicates:-

“**Act**” means the Local Government: Municipal Property Rates Act, No 6 of 2004 as amended and includes any regulations, directives and notices proclaimed, made or issued by a competent authority in terms thereof;

“**Constitution**” means the Constitution of the Republic of South Africa;

“**Credit Control and Debt Collection Policy and By-Law**” means the Credit Control and Debt Collection Policy and By-Law of the Municipality as required by Sections 96(b), 97 and 98 of the Local Government: Municipal Systems Act, No. 32 of 2000;

“**Municipal Council**” or “**council**” means the Municipal Council of Emalahleni Municipality;

“**Municipality**” means the Emalahleni Municipality;

“**Rate**” or “**rates**” means a municipal rate on property as envisaged in section 229 of the Constitution;

“**Rates Policy**” means a Policy adopted by the Municipal Council in terms of this by-law.

Any other words or expressions contained in this by-law shall have their meanings as per the Municipal Property Rates Act, No. 6 of 2004, as amended, as well as those contained in the Municipality’s Rates Policy.

**[2] RATING OF PROPERTY**

- [1] Rates will be raised in proportion to the market value of the property.
- [2] In terms of Section 2(1) of the Property Rates Act, a local municipality may levy a rate on property in its area of jurisdiction in accordance with the provisions of the said Act.
- [3] In terms of Section 2(3) of the Property Rates Act, the power of a Municipality to levy rates on property is subject to:-
  - [1] section 229 and other applicable provisions of the Constitution;
  - [2] the provisions of the Property Rates Act;
  - [3] the Municipality's rates policy; and
  - [4] this by-law.

**[3] ADOPTION AND IMPLEMENTATION OF RATES POLICY**

- [1] The Municipality shall adopt and implement a rates policy consistent with the Property Rates Act and this By-Law on the levying of rates on rateable property in the Municipality.
- [2] The Municipality shall not be entitled to levy rates other than in terms of a valid rates policy.

**[4] CONTENTS OF RATES POLICY**

The Municipality's rates policy shall, *inter alia*:

- [1] apply to all rates levied by the council pursuant to the adoption of the annual budget of the Municipality; and
- [2] comply with the requirements for:-
  - [a] the adoption and contents of a rates policy specified in Section 3 of the Property Rates Act; and
  - [b] the process of community participation specified in Section 4 of the Property Rates Act; and
  - [c] the annual review of a rates policy specified in Section 5 of the Property Rates Act; and
- [3] specify any further principles, criteria and implementation measures consistent with the property rates for the levying of rates which the Municipality may wish to adopt; and
- [4] Include such further enforcement mechanisms, if any, as the Municipality may wish to impose in addition to those contained in the Credit Control and Debt Collection Policy and By-Law.

**[5] ENFORCEMENT OF RATES POLICY**

The Municipality's Rates policy shall be enforced through the Credit Control and Debt Collection Policy and By-Law and any further enforcement mechanisms stipulated in the Municipality's rates policy.

**[6] SHORT TITLE**

This by-law shall be called the Property Rates By-law.





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