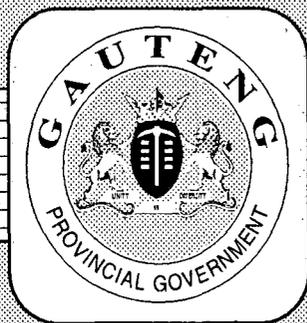


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Provincial Gazette Extraordinary Buitengewone Provinsiale Koerant

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Other countries • Buitelands: R3,25

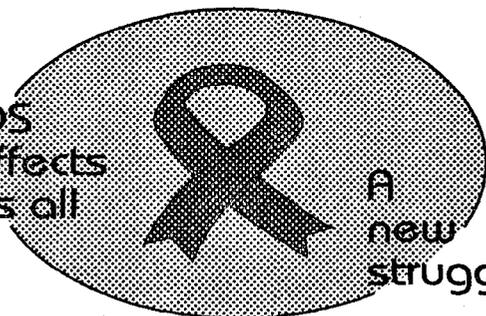
Vol. 11

PRETORIA, 9 FEBRUARY 2005
FEBRUARIE

No. 43

We all have the power to prevent AIDS

AIDS
affects
us all



A
new
struggle

Prevention is the cure

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DEPARTMENT OF HEALTH



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LOCAL AUTHORITY NOTICES

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EMFULENI LOCAL MUNICIPALITY

The Emfuleni Local Municipality hereby promulgates the undermentioned bylaws in terms of section 13 of the Local Government: Municipal Systems Act No. 32, 2000 as amended and these bylaws shall come into effect on the date of promulgation thereof in the Provincial Government Gazette.

The bylaws are:

1. Credit Control and Debt Collection bylaws;
2. Cemetery and Crematoria bylaws;
3. Standard Street and Miscellaneous bylaws;
4. Regulations Relating to the Erection, Installation, Control, Use or Removal of any Aerial System for the Reception of Sound and Television Broadcast Transmission;
5. Bylaws for the Control of Street Projections;
6. Solid Waste Management bylaws and
7. Electricity bylaws.

THUS DONE AND REQUESTED BY:

EMFULENI LOCAL MUNICIPALITY
 THE MUNICIPAL MANAGER
 P.O.BOX 3
 VANDERBIJLPARK
 1900
 TEL : (016) 950 – 5428
 TELEFAX: (016) 950 – 5050
 ATTENTION: Ms Jero Mofokeng



 NDHLABOLE SHONGWE
 THE MUNICIPAL MANAGER.

EMFULENI LOCAL MUNICIPALITY

CREDIT CONTROL AND DEBT COLLECTION BYLAWS

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CHAPTER 1: DEFINITIONS

1. For the purpose of these by-laws any word or expressions to which a meaning has been assigned in the Act shall bear the same meaning in these by-laws and unless the context indicates otherwise –

- "account"** means any account or accounts rendered for municipal services provided;
- "Act"** means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as amended from time to time;
- "applicable charges"** means the rate (including assessment rates), charge, tariff or subsidy determined by the municipal council;
- "average consumption"** means the average consumption by a customer of a municipal service during a specific period, which consumption is calculated by dividing the total measured consumption of that municipal service by that customer over the preceding three months by three;
- "actual consumption"** means the measured consumption of any customer;
- "agreement"** means the contractual relationship between the municipality and a customer, whether written or deemed as provided for in section 2;
- "area of supply"** means any area within or partly within the area of jurisdiction of the municipality to which a municipal service or municipal services are provided;
- "arrears"** means any amount due, owing and payable by a customer in respect of municipal services not paid on the due date;
- "authorised agent"** means –
- (a) any person authorised by the municipal council to perform any act, function or duty in terms of, or exercise any power under these by-laws;
 - (b) any person to whom the municipal council has delegated the performance of certain rights, duties and obligations in respect of providing revenue services; or
 - (c) any person appointed by the municipal council in terms of a written contract as a service provider to provide revenue services or municipal services to customers on its behalf, to the extent authorised in such contract;
- "domestic customer"** means a customer that occupies a dwelling, structure or property primarily for residential purposes;
- "commercial customer"** means any customer other than domestic customers and indigent customers, including without limitation, business, industrial, government and institutional customers;

“connection”	means the point at which a customer gains access to municipal services;
“customer”	means a person with whom the municipality has concluded an agreement for the provision of municipal services;
“defaulter”	means a customer who owes arrears;
“due date”	means the date on which the amount payable in respect of an account becomes due, owing and payable by the customer, which date shall be not less than 21 days after the date of the account;
“emergency situation”	means any situation that if allowed to continue poses a substantial assessed risk to the financial viability or sustainability of the municipality or a specific municipal service;
“estimated consumption”	means the deemed consumption by a customer whose consumption is not measured during a specific period, which estimated consumption is rationally determined taking into account at least the consumption of municipal services for a specific level of service during a specific period in the area of supply of the municipality;
“household”	means a traditional family unit, as determined by the Municipality from time to time taking into account the number of persons comprising a household, the relationship between the members of a household, the age of the persons who are members of the household and any other relevant factors; ;
“illegal connection”	means a connection to any system through which municipal services are provided that is not authorised or approved by the municipality;
“indigent customer”	means a domestic customer qualifying and registered with the municipality as an indigent in accordance with these by-laws;
“municipality”	means – (a) the Emfuleni Local Municipality or its successors-in-title; or (b) the municipal manager of the Emfuleni Local Municipality in respect of the performance of any function or exercise of any right, duty, obligation or function in terms of these by-laws; or (c) an authorised agent of the Emfuleni Local Municipality;
“municipal council”	means the municipal council as referred to in section 157(1) of the Constitution, 1996 (Act No. 108 of 1996);
“municipal manager”	means the person appointed by the by the municipal council as the municipal manager of the municipality in terms of section 82 of the Local Government Municipal Structures Act, 1998 (Act No. 117 of 1998) and includes any person – (a) acting in such position; and

- (b) to whom the municipal manager has delegated a power, function or duty in respect of such a delegated power, function or duty;

"municipal services"

means for purposes of these by-laws, services provided by the municipality, including but not limited to, refuse removal, water supply, sanitation, electricity services, pre-paid electricity services and property rates or any one of the above;

"occupier"

includes any person occupying land or premises without regard to the title under which he or she occupies, and, in the case of premises sub-divided and let to lodgers or various tenants, shall include the person receiving the rent payable by the lodgers or tenants whether for his, her or its own account or as an agent for any person entitled thereto or interested therein;

"owner"

means -

- (a) the person in whose name the ownership of the premises is registered from time to time;
- (b) in a case where the person in whom the ownership of the premises is registered is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in any case where the municipality is unable to determine the identity of such a person, a person who is entitled to the benefit of the use of such premises or a building or buildings thereon;
- (d) in the case of premises for which a lease agreement of 30 years or longer has been entered into, the lessee thereof;
- (e) in relation to -
 - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), the developer or the body corporate in respect of the common property, or
 - (ii) a section as defined in the Sectional Titles Act, 1986 (Act No. 95 of 1986), the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person; or
- (f) a person occupying land under a register held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

"person"

means any person, whether natural or juristic and includes, but is not limited to any local government body or like authority, a company or close corporation incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

"public notice"

means publication in an appropriate media that may include one or more of the following -

- (a) publication of a notice, in the official languages determined by the municipal council, –
 - (i) in any local newspaper or newspapers circulating in the area of supply of the municipality; or
 - (ii) in the newspaper or newspapers circulating in the area of supply of the municipality determined by the municipal council as a newspaper of record; or
 - (iii) by means of radio broadcasts covering the area of supply of the municipality; or
- (b) displaying a notice at appropriate offices and pay-points of the municipality or its authorised agent; or
- (c) communication with customers through public meetings and ward committee meetings;

“shared consumption” means the consumption of a customer of a municipal service during a specific period, which consumption is calculated by dividing the total metered consumption of that municipal service within the supply zone within which a customer’s premises is situated for the same period by the number of customers within that supply zone, during the same period;

“subsidised service” means a municipal service which is provided to a customer at an applicable rate which is less than the cost of actually providing the service including services provided to customers at no cost;

“supply zone” means an area, determined by the municipality, within which all customers are provided with services from the same bulk supply connection;

“unauthorised services” means receipt, use or consumption of any municipal service which is not in terms of an agreement, or authorised or approved by the municipality;

CHAPTER 2: PROVISION OF MUNICIPAL SERVICES TO CUSTOMERS OTHER THAN INDIGENT CUSTOMERS

Part 1: Application for Municipal Services

Application for Services

2.(1) A customer wanting to qualify as an indigent customer must apply for services as set out in Chapter 4 below.

(2) No person shall be provided with access to municipal services unless application has been made to, and approved by, the municipality on the prescribed form attached as Annexure A to these by-laws.

(3) If, at the commencement of these by-laws or at any other time, municipal services are provided and received and no written agreement exists in respect of such services, it shall be deemed that -

- (a) an agreement in terms of sub-section (7) exists; and
 - (b) the level of services provided to that customer are the level of services elected;
- until such time as the customer enters into an agreement in terms of sub-section (2).

- (4) The municipality must on application for the provision of municipal services inform the applicant of the then available levels of services and the then applicable tariffs and / or charges associated with each level of service.
- (5) The municipality is only obliged to provide a specific level of service requested by the applicant if the service is currently being provided and if the municipality has the resources and capacity to provide such a level of service.
- (6) A customer may at any time apply to alter the level of services elected in terms of the agreement entered into, in which event the Municipality may approve such an application if it has the capacity and resources to provide such requested level of service and that any costs and expenditure associated with altering the level of services is paid by the customer.
- (7) An application for services submitted by a customer and approved by the municipality shall constitute an agreement between the municipality and the customer, and such agreement shall take effect on the date referred to or stipulated in such agreement.
- (8) In completing an application form for municipal services the municipality will take reasonable measures to ensure that the document and the process of interaction with the owner, customer or any other person making such an application are understood by that owner, customer or other person and advise him or her of the option to register as an indigent customer.
- (9) In the case of illiterate or similarly disadvantaged persons, the municipality must take reasonable steps to ensure that the person is aware of and understands the contents of the application form and shall assist him or her in completing such form.
- (10) Municipal services rendered to a customer are subject to the provisions of these by-laws, any applicable by-laws and the conditions contained in the agreement.
- (11) The municipality may undertake an investigation into the creditworthiness of commercial customers, and may impose specific additional conditions on such customers, subject to the provisions of these bylaws.
- (12) If the municipality –
- (a) refuses an application for the provision of municipal services or a specific service or level of service;
 - (b) is unable to render such municipal services or a specific service or level of service on the date requested for such provision to commence; or
 - (c) is unable to render the municipal services or a specific service or level of service;
- the municipality must, within 7 (seven) days, inform the customer of such refusal and / or inability, the reasons therefore and, if applicable, when the municipality will be able to provide such municipal services or a specific service or level of service.

Special agreements for Municipal Services

3. The municipality may enter into a special agreement for the provision of municipal services with an applicant –

- (a) within the area of supply, if the services applied for necessitates the imposition of conditions not contained in the prescribed form or these by-laws;
- (b) receiving subsidised services; and
- (c) if the premises to receive such services are situated outside the area of supply, provided that the municipality having jurisdiction over the premises has no objection to such special agreement. The obligation is on the customer to advise the municipality having jurisdiction of such special agreement.

Change in purpose for which municipal services are used

4. Where the purpose for or extent to which any municipal service used is changed the onus and obligation is on the customer to advise the municipality of such change and to enter into a new agreement with the municipality.

Termination of Agreements for Municipal Services

5.(1) A customer may terminate an agreement for municipal services by giving at least 21 (twenty-one) days written to the municipality.

(2) The municipality may terminate an agreement for municipal services by giving at least 21 (twenty-one) days written notice to a customer where -

- (a) municipal services were not utilised for a consecutive 2 (two) months period and no arrangement to the satisfaction of the municipality for the continuation of the agreement was made;
- (b) the premises occupied or owned by a customer have been vacated and no arrangement for the continuation of the agreement was made.

(3) A customer shall remain liable for all arrears and applicable charges payable in respect of municipal services provided notwithstanding the termination of the agreement for municipal services in terms of sub-sections (1) and (2).

Property developments

6.(1) A property developer must on the provision of infrastructure through which municipal services will be provided inform the municipality, in writing, of the details of the municipal services to be provided through the infrastructure and the details of all measuring devices that are installed.

(2) A property developer who fails to comply with the provisions of sub-section (1) shall be liable for the payment of all applicable charges that would have been payable by customers in respect of municipal services used or consumed.

Part 2: Applicable Charges

Applicable charges for Municipal Services

7.(1) All applicable charges payable in respect of municipal services, including but not limited to the payment of connection charges, fixed charges or any additional charges or interest must be set by the municipal council in accordance with -

- (a) its Rates and Tariff policy;
- (b) any by-laws in respect thereof; and
- (c) any regulations in terms of national or provincial legislation.

(2) Applicable charges may differ between different categories of customers, users of services, types and levels of services, quantities of services, infrastructure requirements and geographic areas.

Availability charges for Municipal Services

8. The municipal council may, in addition to the tariffs or charges prescribed for municipal services actually provided, levy a monthly fixed charge, annual fixed charge or a single and final fixed charge where municipal services are available, whether or not such services are consumed or not.

Subsidised Services

9.(1) The municipal council may, from time to time subject to principles of sustainability and affordability, by public notice, implement subsidies for basic levels of municipal services, as determined by the municipal council.

- (2) The municipal council may in implementing subsidies differentiate between types of domestic customers, types and levels of services, quantities of services, geographical areas and socio-economic areas.
- (3) Public notice in terms of sub-section (1) must contain at least the following details applicable to a specific subsidy -
- (a) the domestic customers that will benefit from the subsidy;
 - (b) the type, level and quantity of municipal service that will be subsidised;
 - (c) the area within which the subsidy will apply;
 - (d) the rate (indicating the level of subsidy);
 - (e) the method of implementing the subsidy; and
 - (f) any special terms and conditions that will apply to the subsidy.
- (4) If a domestic customer's consumption or use of a municipal service is -
- (a) less than the subsidised service, the unused portion may not be accrued by the customer and will not entitle the customer to a payment or a rebate in respect of the unused portion; and
 - (b) in excess of the subsidised service, the customer will be obliged to pay for such excess consumption at the applicable rate.
- (5) A subsidy implemented in terms of sub-section (1) may at any time, after reasonable notice, be withdrawn or altered in the sole discretion of the municipal council.
- (6) Commercial customers shall not qualify for subsidised services.
- (7) Subsidised services shall be funded from the portion of revenue raised nationally that is allocated to the municipality and if such funding is insufficient the services may be funded from revenue raised through rates, fees and charges in respect of municipal services.

Authority to recover additional costs and fees

10. The municipality has the authority, notwithstanding the provisions of any other sections contained in these by-laws, to recover any additional costs incurred in respect of implementing these by-laws against the account of the customer, including but not limited to -
- (a) all legal costs, including attorney and own client costs incurred in the recovery of amounts in arrears shall be against the arrears account of the customer; and
 - (b) the average costs incurred relating to any action taken in demanding payment from the customer or reminding the customer, by means of telephone, fax, e-mail, letter or otherwise.

Part 3: Payment

Payment of deposit

11. (1) The municipal council may, from time to time, determine different deposits for different categories of customers, users of services, debtors, services and service standards, provided that the deposit may not be more than three times the monetary value of the most recent monthly municipal services rendered, including rates and taxes, to the premises for which an application is made.
- (2) A customer must on application for the provision of municipal services and before the municipality will provide such services, pay a deposit, if the municipal council has determined a deposit.
- (3) The municipality may annually review a deposit paid in terms of sub-section (2) and in accordance with such review -

- (a) require that an additional amount be deposited by the customer where the deposit is less than the most recent deposit determined by the municipal council; or
 - (b) refund to the customer such amount as may be held by the municipality where the deposit is in excess of the most recent deposit determined by the municipal council.
- (4) If a customer is in arrears, the municipality may require that the customer -
- (a) pay a deposit if that customer was not previously required to pay a deposit, if the municipal council has determined a deposit; and
 - (b) pay an additional deposit where the deposit paid by that customer is less than the most recent deposit determined by the municipal council.
- (5) Subject to sub-section (6), the deposit shall not be regarded as being in payment or part payment of an account.
- (6) If an account is in arrears, the deposit will be applied in payment or part payment of the arrears.
- (7) No interest shall be payable by the municipality on any deposit held.
- (8) The deposit, if any, is refundable to the customer on settlement of all arrears on termination of the agreement. A deposit shall be forfeited to the municipality if it has not been claimed by the customer within 12 (twelve) months of termination of the agreement.

Methods for determining amounts due and payable

12.(1) Subject to sub-section (2), the municipality must in respect of municipal services that can be metered, endeavour, within available financial and human resources, to meter all customer connections and read all metered customer connections on a regular basis.

(2) If a service is not measured, a municipality may, notwithstanding sub-section (1), determine the amount due and payable by a customer, for municipal services supplied to him, her or it, by -

- (a) calculating the shared consumption; or if that is not possible,
- (b) estimating the estimated consumption.

(3) If a service is metered, but it cannot be read because of financial and human resource constraints or circumstances beyond of the control of the municipality, and the customer is charged for an average consumption, the account following the reading of the metered consumption must state the difference between the actual consumption and the average consumption, and the resulting credit or debit adjustment.

(4) Where water supply services is provided through a communal water services work (standpipe), the amount due and payable by customers gaining access to water supply services through that communal water services work, must be based on the shared or estimated consumption of water supplied to that water services work.

(5) Where in the opinion of the municipality it is not reasonably possible or cost effective to meter all customer connections or read all metered customer connections within a determined area, the municipal council may, notwithstanding sub-section (1), determine the amount due and payable by a customer for municipal services supplied to him, her or it, by -

- (a) calculating the shared consumption; or if not possible,
- (b) calculating the estimated consumption.

(6) The municipality must inform customers of the method for determining amounts due and payable in respect of municipal services provided that will apply in respect of their consumption or supply zones.

Payment for Municipal Services provided

13. (1) A customer shall be responsible for payment of all municipal services charged to him, her or it from the commencement date of the agreement until his, her or its account has been settled in full and the municipality shall be entitled to recover all applicable charges due to the municipality.

(2) If a customer uses municipal services for a use other than that for which it is provided by the municipality in terms of an agreement and as a consequence is charged at a charge lower than the applicable charge the municipality may make an adjustment of the amount charged and recover the balance from the customer.

(3) If amendments to the applicable charge become operative on a date between measurements for the purpose of rendering an account in respect of the applicable charges –

- (a) it shall be deemed that the same quantity of municipal services was provided in each period of twenty-four hours during the interval between the measurements; and
- (b) any fixed charge shall be calculated on a pro rata basis in accordance with the charge that applied immediately before such amendment and such amended applicable charge.

Full and final settlement of an amount

14.(1) Where an account is not settled in full, any lesser amount tendered to and accepted by the Municipality shall not be final settlement of such an account.

(2) Sub-section (1) shall prevail notwithstanding the fact that such lesser payment was tendered and accepted in full and final settlement, unless the municipal manager or the manager of the municipality's authorised agent expressly makes such acceptance in writing.

Responsibility for amounts due and payable

15. (1) Notwithstanding the provisions of any other sections of these by-laws, the owner of premises shall be liable for the payment of any amounts due and payable to the municipality in respect of the preceding two years, where the owner is not the customer and the municipality after taking reasonable measures to recover any amounts due and payable by the customer from the latter, could not recover such amounts.

Dishonoured payments

16.(1) Where any payment made to the municipality by negotiable instrument is later dishonoured by the bank, the municipality –

- (a) may recover the average bank charges incurred relating to dishonoured negotiable instruments against the account of the customer; and
- (b) shall regard such an event as default on payment.

Incentive Schemes

17. The municipal council may institute incentive schemes to encourage prompt payment and to reward customers that pay accounts on a regular and timeous basis.

Pay-points and Approved Agents

18.(1) A customer must pay his or her or its account at pay-points specified by the municipality from time to time, or approved agents of the municipality.

(2) The municipality must inform a customer of the location of specified pay-points and approved agents for payment of accounts.

Part 4: Accounts**Accounts**

19. (1) Accounts will be rendered monthly to customers at the address last recorded with the municipality.

(2) Failure by the customer to receive or accept an account does not relieve a customer of the obligation to pay any amount that may be due and payable.

(3) The municipality must, if it is reasonably possible to do so, issue a duplicate account to a customer on request.

(4) Accounts must be paid not later than the last date for payment specified in such an account.

(5) Accounts for municipal services provided will –

- (a) reflect at least –
- (i) the services rendered;
 - (ii) the consumption of metered services or average, shared or estimated consumption;
 - (iii) the period addressed in the account;
 - (iv) the applicable charges;
 - (v) any subsidies;
 - (vi) the amount due (excluding value added tax payable)
 - (vii) value added tax;
 - (viii) the adjustment, if any, to metered consumption which has been previously estimated;
 - (ix) any arrears;
 - (x) the interest payable on any arrears;
 - (xi) the final date for payment;
 - (xii) the methods, places and approved agents where payment may be made; and
- (b) state that –
- (i) the customer may conclude an agreement at the municipality's offices, with the municipality for payment of the arrears amount installments before the final date for payment;
 - (ii) if no such agreement is entered into, the municipality will limit or disconnect the services, subject to section 27(1), after sending a final demand notice in terms of sections 24 and 26 to the customer;
 - (iii) legal action may be instituted against any customer for the recovery of any amount 40 (forty) days in arrears;
 - (iv) the account may be ceded to a debt collector for collection; and
 - (v) proof of registration, as an indigent customer, in terms of the municipality's indigent policy, which may form part of the municipality's credit control and debt collection policy, must be handed in at the offices of the municipality before the final date for payment.

Consolidated Debt

20.(1) If one account is rendered for more than one municipal service provided, the amount due and payable by a customer constitutes a consolidated debt, and any payment made by a customer of an amount less than the total amount due, will be allocated in reduction of the consolidated debt in the following order –

- (a) towards payment of the current account;
- (b) towards payment of arrears; and
- (c) towards payment of interest.

(2) A customer may not elect how an account is to be settled if it is not settled in full or if there are arrears.

Part 5: Queries, Complaints and Appeals

Queries or complaints in respect of account

21. (1) A customer may lodge a query or complaint in respect of the accuracy of an amount due and payable in respect of a specific municipal service as reflected on the account rendered.

(2) A query or complaint must be lodged with the municipality in writing before the due date for payment of the account.

(3) In the case of illiterate or similarly disadvantaged customers the municipality must assist such a customer in lodging his or her query or complaint in writing and must take reasonable steps to ensure that the query or complaint is reflected correctly.

(4) A query or complaint must be accompanied by a payment constituting the amount due and payable in respect of the amount, minus the amount in respect of which a query or complaint is lodged. An amount equal to the average consumption of the municipal service is payable in respect of the amount for which a query or complaint is lodged.

(5) The municipality will register the query or complaint and provide the customer with a reference number.

(6) The municipality –

- (a) shall investigate or cause the query or complaint to be investigated within 14 (fourteen) days after the query or complaint was registered; and
- (b) must inform the customer, in writing, of its finding within 16 (sixteen) days after the query or complaint was registered.

Appeals against finding of municipality in respect of queries or complaints

22. (1) A customer may appeal against a finding of the municipality in terms of section 21 in writing.

(2) An appeal and request in terms of sub-section (1) must be made in writing and lodged with the municipality within 21 (twenty-one) days after the customer became aware of the finding referred to in section 21 and must –

- (a) set out the reasons for the appeal; and
- (b) be accompanied by a deposit, as determined by the municipal council, if the municipality requires a deposit to be made.

(3) The municipality may on appeal by a customer instruct him, her or it to pay the full amount appealed against.

(4) The customer is liable for all other amounts, other than that appealed against, falling due and payable during the adjudication of the appeal.

(5) An appeal must be decided by the municipality within 21 (twenty-one) days after an appeal was lodged and the customer must be informed of the outcome in writing, as soon as is reasonably possible thereafter.

(6) If the municipality decides to reject the query or complaint the customer must pay any amounts found to be due and payable in terms of the decision within 14 (fourteen) days of being informed of the outcome of the appeal.

(7) The municipality may condone the late lodging of appeals or other procedural irregularities.

(8) If it is alleged in an appeal that a measuring device is inaccurate, the device must be subjected to a standard industry test as determined by the Municipality, to establish its accuracy. The customer must be informed of the estimated cost of such a test prior to such test being undertaken.

(9) If the outcome of any test shows that a measuring device is –

- (a) within a prescribed range of accuracy, the customer will be liable for the costs of such test and any other amounts outstanding. Such costs will be debited against the customer's account;
- (b) is outside a prescribed range of accuracy, the municipality will be liable for the costs of such test and the customer must be informed of the amount of any credit to which he, she or it is entitled as a consequence of any inaccuracy.

(10) A deposit referred to in sub-section (2)(b), shall be-

- (a) retained by the municipality if the measuring device is found not to be defective; or
- (b) refunded to the applicant to the extent that it exceeds to amount payable in respect of quantity determined in accordance with section 11(b), if the measuring device is found in terms of those sub-sections to be defective.

(11) In addition to sub-sections (9) and (10) the municipality must if the measuring device is found defective –

- (a) repair the measuring device or install another device which is in good working order, without charge to the customer, unless the costs thereof are recoverable from the customer in terms of these or any other by-laws of the municipality; and
- (b) determine the quantity of municipal services for which the customer will be charged in lieu of the quantity measured by the defective measuring device by taking as basis for such determination, and as the municipality may decide –
 - (i) the quantity representing the average monthly consumption of the customer during the three months preceding the month in respect of which the measurement is disputed and adjusting such quantity in accordance with the degree of error found in the reading of the defective meter or measuring device;
 - (ii) the average consumption of the customer during the succeeding three metered periods after the defective meter or measuring device has been repaired or replaced; or
 - (iii) the consumption of services on the premises recorded for the corresponding period in the previous year.

Part 6: Arrears

Consolidated Arrears

23.(1) If one account is rendered for more than one municipal service provided all arrears due and payable by a customer constitutes a consolidated debt, and any payment made by a customer of an amount less than the total amount due, will be allocated in reduction of the consolidated debt in the following order –

- (a) towards payment of the current account;
- (b) towards payment of arrears;
- (c) towards payment of interest; and
- (d) towards costs incurred in taking relevant action to collect amounts due and payable.

Arrears

24.(1) If a customer fails to pay the account on or before the due date, a final demand notice may be hand delivered or sent by registered post, to the most recent recorded address of the customer within 2 (two) working days of the arrears having accrued.

(2) Failure to deliver or to send a final demand notice within 2 (two) working days does not relieve a customer from paying arrears.

Interest

25.(1) Interest may be levied on arrears at the prevailing prime interest rate or at a rate prescribed by the municipal council from time to time.

(2) The municipal council may differentiate between types of domestic customers, types and levels of services, quantities of services, geographical areas and socio-economic areas in levying interest on arrears.

Final Demand Notice

26.(1) The final demand notice must contain the following statements –

- (a) the amount in arrears and any interest payable;
- (b) that the customer may conclude an agreement with the municipality for payment of the arrears in installments within 7 (seven) working days of the date of the final demand notice;
- (c) that if no such agreement is entered into within the stated period that specified municipal services will be limited or disconnected;
- (d) that legal action may be instituted against any customer for the recovery of any amount 40 (forty) days in arrears;
- (e) that the account may be handed over to a debt collector for collection; and
- (f) that proof of registration, as an indigent customer, in terms of these bylaws must be handed in at the offices of the municipality before the final date of the final demand notice.

(2) The municipality must in deciding which municipal service or municipal services to be specified for limitation or disconnection in terms of sub-section (1)(c) –

- (a) consider the potential socio-economic and health implications the limitation or disconnection may have on the customer; and
- (b) a domestic customer's right of access to basic municipal services as identified in the municipal council's credit control and debt collection policy.

Limitation or disconnection of municipal services

27.(1) The municipality may, immediately on the expiry of the 7 (seven) working day period allowed for payment in terms of the final demand notice limit or disconnect the municipal services provided that a domestic customer's access to basic water supply services and sanitation services may not be disconnected.

(2) The municipality may only limit a domestic customer's access to basic water supply services by –

- (a) reducing water pressure; or
- (b) limiting the availability of water to a specified period or periods during a day.

(3) The costs associated with the limitation or disconnection of municipal services shall be for the cost of the customer and shall be included in the arrears amount due and payable by the customer.

Accounts 40 (forty) days in arrears

28.(1) Where an account rendered to a customer remains outstanding for more than 40 (forty) days the municipality may –

- (a) institute legal action against a customer for the recovery of the arrears; and
- (b) cede the customer's account to a debt collector for collection.

(2) A customer will be liable for recoverable administration fees, costs incurred in taking action for the recovery of arrears and any penalties, including the payment of a higher deposit, as may be determined by the municipal council from time to time.

General

29.(1) No action taken in terms of this section because of non-payment will be suspended or withdrawn, unless the arrears, any interest thereon, recoverable administration fees, additional charges, costs incurred in taking relevant action and any penalties, including the payment of a higher deposit, payable are paid in full.

(2) The municipality will not be liable for any loss or damage suffered by a customer due to municipal services being limited or disconnected.

Part 7: Agreement for the Payment of Arrears in Instalments

Agreements

30.(1) The following agreements for the payment of arrears in installments may be entered into –

- (a) an Acknowledgement of Debt;
- (b) a Consent to Judgement; or
- (c) an Emolument attachment order.

(2) Only a consumer with positive proof of identity or a person authorised, in writing, by that consumer, or, if a consumer is illiterate, a person authorised by such consumer personally in the presence of an officer appointed by the authority for that purpose, will be allowed to enter into an agreement for the payment of arrears in installments.

(3) No customer will be allowed to enter into an agreement for the payment of arrears in installments where that customer failed to honour a previous agreement for the payment of arrears in installments, unless the Municipality, in its sole discretion, permits the customer to do so.

(4) A copy of the agreement shall be made available to the customer.

(5) An agreement for the payment of arrears in instalments shall not be entered into unless and until a customer has paid his, her or its current account.

Additional Costs, Partial settlement and Instalments

31.(1) The costs associated with entering into agreements for the payment of arrears in installments and the limitation or disconnection of municipal services in accordance with section 27 shall be included in the arrears amount due and payable by the customer.

(2) The municipality must in determining the amount payable by the customer on entering into an agreement for the payment of arrears in installments and the installments payable in respect of any arrears amount take the following factors into account –

- (a) the credit record of the customer;
- (b) the arrears amount;
- (c) the level of consumption of municipal services;
- (d) the level of service provided to the customer;
- (e) previous breaches of agreements for the payment of arrears in installments; and
- (f) any other relevant factors.

(3) In the event that a customer proves to the municipality that he or she or it is unable to pay the amount referred to in section 30(5) on entering into an agreement for the payment of arrears in installments, the municipality may, after taking into account the factors referred to in sub-section (2),-

- (a) extend the payment thereof to the end of the month in which the customer enters into such an agreement; or
- (b) include it in the amount payable in terms of the agreement.

(4) The municipality may, after taking into account the factors referred to in sub-section (2), require a customer to pay an additional amount on entering into an agreement for the payment of arrears, in addition to the current account, representing a percentage of the arrears amount.

(5) The municipality may, when a customer enters into an agreement or any time thereafter –

- (a) install a pre-payment meter; or
- (b) limit the municipal services of to basic municipal services.

Duration of Agreements

32.(1) No agreement for the payment of arrears accumulated after 1 January 2003 shall provide for the payment of arrears over a period in excess of 24 (twenty-four) months.

(2) The municipality may, in deciding on the duration of the agreement for the payment of arrears have regard to a customer's–

- (a) the credit record;
- (b) the arrears amount;
- (c) the gross income;
- (d) the level of consumption of municipal services;
- (e) the level of service provided;
- (f) previous breaches of agreements for the payment of arrears in installments; and
- (g) any other relevant factors.

Failure to honour Agreements

33.(1) If a customer fails to comply with an agreement for the payment of arrears in installments, the total of all outstanding amounts, including the arrears, any interest thereon, administration fees, costs incurred in taking relevant action, and penalties, including payment of a higher deposit, will be immediately due and payable, without further notice or correspondence and the municipality may –

- (a) limit or disconnect the municipal services specified in the final demand notice sent to the customer in accordance with section 26;
- (b) institute legal action for the recovery of the arrears; and
- (c) hand the customer's account over to a debt collector or an attorney for collection.

Re-connection of Services

34.(1) An agreement for payment of the arrears amount in installments, entered into after municipal services were limited or disconnected, will not result in the services being restored until –

- (a) the arrears, any interest thereon, recoverable administration fees, costs incurred in taking relevant action and any penalties, including payment of a higher deposit, are paid in full; or
- (b) a written appeal by the customer undertaking a timeous and full payment of arrear installments and current accounts have been approved by the Municipality.

(2) In addition to any payments referred to in sub-section (1) the customer shall pay the standard re-connection fee as determined by the municipality from time to time, prior to the re-connection of municipal services by the municipality.

(3) Municipal services shall be restored within 7 (seven) working days after a customer have complied with the provisions of sub-sections (1) and (2).

CHAPTER 3: ASSESSMENT RATES

Amount due for assessment rates

35.(1) The provisions of Chapter 2 applies in respect of the recovery of assessment rates and assessment rates forms part of a consolidated account and consolidated debt.

(2) All assessment rates due by owners are payable by a fixed date as determined by the municipality.

(3) Joint owners of property shall be jointly and severally liable for payment of assessment rates.

(4) Assessment rates may be levied as an annual single amount, or in equal monthly installments. When levied in equal monthly installments the amount payable may be included in the municipal account.

(5) A property owner remains liable for the payment of assessment rates included in municipal accounts, notwithstanding the fact that –

- (a) the property is not occupied by the owner thereof; and /or
- (b) the municipal account is registered in the name of a person other than the owner of the property.

(6) Payment of assessment rates may not be deferred beyond the fixed date by reason of an objection to the valuation roll.

Claim on rental for assessment rates in arrears

36. The municipality may apply to Court for the attachment of any rent due in respect of rateable property, to cover in part or in full any amount outstanding in respect of assessment rates for a period longer than three months after the fixed date.

Disposal of municipality's property and payment of assessment rates

37.(1) The purchaser of municipal property is pro rata liable for the payment of assessment rates on the property in respect of the financial year in which the purchaser becomes the new owner as from the date of registration in the name of the purchaser.

(2) In the event of the municipality repossessing the property, any outstanding and due amount in respect of assessment rates shall be recoverable from the purchaser.

Assessment rates payable on municipal property

38.(1) The lessee of municipal property is responsible for payment of any general assessment rates payable on the property for the duration of the lease, as if the lessee is the owner of such property.

(2) The municipality may include the assessment rates in respect of municipal property in the rent payable by the lessee, instead of claiming it separately as in the case of owners of properties.

CHAPTER 4: PROVISION OF MUNICIPAL SERVICES TO INDIGENT CUSTOMERS

Qualification for registration

39. A domestic customer with a household –
- (a) whose combined monthly gross income of its members over the age of 18 years old is less than an amount determined by the municipal council from time to time;
 - (b) owning not more than one property; and
 - (c) not having an income from letting a property or portion of a property;
- may apply for registration as an indigent customer.

Application for registration

40.(1) A domestic customer wishing to qualify as an indigent customer must complete the application form entitled "*Application for Registration as Indigent Customer*" attached as Annexure B to these by-laws.

- (2) Any application in terms of sub-section (1) must be –
- (a) accompanied by –
 - (i) documentary evidence of income, such as a letter from the customer's employer, a salary advice, a pension card, unemployment insurance fund card; or
 - (ii) an affidavit declaring unemployment or income; and
 - (iii) the customer's latest municipal account in his or her possession; and
 - (iv) a certified copy of the customer's identity document; and
 - (v) the names and identity numbers of all occupants over the age of 18 years who are resident at the property.

(3) A customer applying for registration as an indigent customer shall be required to declare that all information provided in the application form and other documentation and information provided in connection with the application is true and correct.

(4) The municipality shall counter-sign the application form and certify on the application form that the consequences and conditions of such an application for the customer were explained to the customer and that the customer indicated that the contents of the declaration were understood.

Approval of application

41.(1) The municipality may send representatives to premises of domestic customers applying for registration as indigent customers to investigate whether the information provided prior to approval of an application is correct. The provisions of section 61 apply to such an investigation.

(2) An application received in accordance with section 40 shall be considered by the municipality and the applicant shall be advised in writing within 14 (fourteen) working days of receipt of such application by the municipality as to whether or not the application is approved. If it is not approved, the applicant shall be given reasons therefore.

(3) The provisions of Part 5 of Chapter 2 shall mutatis mutandis apply in respect of a customer that feels aggrieved by a decision of the municipality in terms of sub-section (2).

(4) An application shall be approved for the period of the municipality's financial year only. An application approved during the municipality's financial year shall only be valid for the remaining period of the municipality's financial year.

Conditions

42. The municipality may on approval of an application or at any time thereafter –
- (a) install a pre-payment electricity meter for the indigent customer where electricity is provided by the municipality; and
 - (b) limit the water supply services of an indigent customer to basic water supply services.

Annual application

43.(1) An indigent customer must annually, before the end of the municipality's financial year re-apply for re-registration as an indigent customer for the forthcoming financial year, failing which the assistance will cease automatically.

(2) The provisions of sections 39 and 40 shall apply to any application in terms of sub-section (1).

(3) An indigent customer shall have no expectation of being regarded as an indigent customer in any year that ensues or follows a year in which he or she was so registered. The municipality gives no guarantee of renewal.

(4) The municipality shall inform the applicant in writing within 14 (fourteen) working days of receipt of such application by the municipality as to whether or not the application is approved. If it is not approved, the applicant shall be given reasons thereof.

(5) The provisions of Part 5 of Chapter 2 shall *mutatis mutandis* apply in respect of a customer that feels aggrieved by a decision of the municipality in terms of sub-section (4).

Subsidised services for indigent customers

44.(1) The municipal council may annually as part of its budgetary process determine the municipal services and levels thereof that will be subsidized in respect of indigent customers subject to principles of sustainability and affordability.

(2) The municipality must on a determination in terms of sub-section (1) give public notice of such determination.

(3) Public notice in terms of sub-section (2) must contain at least the following –
(a) the level or quantity of municipal service that will be subsidized;
(b) the level of subsidy;
(c) the method of calculating the subsidy; and
(d) any special terms and conditions that will apply to the subsidy, not provided for in these by-laws.

(4) An indigent consumer shall be liable for the payment of any municipal services rendered by the municipality or municipal services used or consumed in excess of the levels or quantities determined in sub-section (1).

(5) The provisions of Chapter 2 shall *mutatis mutandis* apply to the amounts due and payable in terms of sub-section (4).

Funding for subsidised services

45.(1) The subsidized services referred to in section 44 shall be funded from the portion of revenue raised nationally that is allocated to the municipality and if such funding are insufficient the services may be funded from revenue raised through rates, fees and charges in respect of municipal services.

Existing Arrears of indigent customers on approval of application

46.(1) Arrears accumulated in respect of the municipal accounts of customers prior to registration as indigent customers will be suspended for the period that a customer remains registered as an indigent customer, and interest shall not accumulate in respect of such arrears during such a suspension.

(2) Arrears suspended in terms of sub-section (1) shall become due and shall be paid by the customer in monthly installments to be determined by the municipality, on de-registration as an indigent customer in accordance with section 48 and interest will be payable in respect thereof.

(3) Notwithstanding the provisions of sub-section (2) arrears suspended for a period of two (2) years or longer shall not be recovered from a customer on de-registration, subject to the provisions of sub-section (4).

(4) Arrears not recovered due to the provisions of sub-section (2) shall remain a charge against the property of the indigent customer for a period of 5 (five) years after the customer was first registered as an indigent customer and shall become due and payable when the property is sold, irrespective of the fact that the customer is no longer registered as an indigent customer at the time that the property is sold. A clearance certificate in respect of the property shall only be issued by the municipality when such arrears have been settled in full.

Audits

47. The municipality may undertake regular random audits to –
- (a) verify the information provided by indigent customers;
 - (b) record any changes in the circumstances of indigent customers; and
 - (c) make recommendations on the de-registration of the indigent customer.

De-registration

48.(1) Any customer who intentionally or negligently provides or has provided false information in the application form or any other documentation and information in connection with the application –

- (a) shall automatically, without notice, be de-registered as an indigent customer from the date on which the municipality obtains evidence that such information is false; and
- (b) shall be held liable for the payment of all services received;

in addition to any other legal actions the municipality may take against such a customer.

(2) An indigent customer must immediately request de-registration by the municipality if his or her circumstances has changed to the extent that he or she no longer meet the qualifications set out in section 39.

(3) An indigent customer shall automatically be de-registered if an application in accordance with section 43 is not made or if such application is not approved.

(4) An indigent customer shall automatically be de-registered if an audit or verification concludes that the financial circumstances of the indigent customer has changed to the extent that he or she no longer meet the qualifications set out in section 39.

(5) An indigent customer may at any time request de-registration.

(6) In the event of de-registration in terms of sections (2) and (4), the municipality shall notify the customer of such in writing of such de-registration within 7 (seven) working days after de-registration.

(7) The provisions of Part 5 of Chapter 2 shall *mutatis mutandis* apply in respect of a customer feeling aggrieved by de-registration in terms of sub-section (3) and (4).

CHAPTER 5: EMERGENCY SITUATIONS

Declaration of emergency situations

49.(1) The municipal council may at any time at the request of the municipality declare by public notice, a supply zone an emergency situation in respect of a municipal service or more than one municipal service if, in its opinion, a significant risk to the financial viability or sustainability of the municipality or a specific municipal service exist and that no other reasonable measures can be taken to avoid or limit the risk, provided that the municipality has submitted a report that contain at least –

- (a) details of all measures taken by it to avoid or limit the risk;
- (b) an assessment of why the measures taken by it to avoid or limit the risk has been unsuccessful;
- (c) details of the proposed measures to be taken by it to avoid or limit the risk;
- (d) an assessment of the impact or potential impact of the proposed measures on individual customers within the relevant supply zone, including, but not limited to health and access to basic services implications;
- (e) details of the education and communication measures to be take prior to the implementation of the proposed measures;
- (f) the duration of the proposed measures to be taken; and
- (g) details of the reasonable measures to be taken to ensure equitable access by each household in the supply zone to that municipal service.

(2) Public notice in terms of sub-section (1) must contain at least the following details applicable to a specific emergency situation -

- (a) the reasons for the declaration;
- (b) the customers and supply zone that will be affected by the declaration;
- (c) the type, level and quantity of municipal service that will be provided;
- (d) the duration of the declaration;
- (e) the method of implementing the declaration;
- (f) specific measures or precautions to be taken by affected customers; and
- (g) special relief that may be granted to individual consumers on application to the municipality.

(3) In the event of the declaration of a supply zone as an emergency area in accordance with sub-sections (1) and (2) the municipal services to that supply zone may be limited to basic municipal services per household as determined by the municipality from time to time, provided that at no time may the municipal services provided by the municipality to that supply zone be less than the collective quantity and quality of basic municipal services per households in that supply zone.

(4) The municipality must monthly submit a status report to the municipal council that contain at least the following details –

- (a) any improvement in the information on which the declaration was based;
- (b) the impact of the proposed measures on individual customers within the relevant supply zone, including, but not limited to health and access to basic services implications; and

(c) special relief granted to individual customers.

(5) The municipal council must change the declaration of an emergency area by public notice –

- (a) if any of the information on which the declaration was based improves to the extent that the risk referred to in sub-section (1) is avoided or limited;
- (b) if in its opinion, undue hardship are endured by the customers affected by the declaration;
- (c) on expiry of the duration specified in terms of sub-section (1) and (2).

(6) The municipality may again request the municipal council to declare a supply zone an emergency area on a change of a declaration in terms of sub-section (3), if in the municipality's opinion it is required.

(7) The provisions of sub-sections (1) to (4) apply to a request in terms of sub-section (6).

CHAPTER 6: UNAUTHORISED SERVICES

Unauthorised services

50. (1) No person may gain access to municipal services unless it is in terms of an agreement entered into with the municipality for the rendering of those services.

(2) The municipality may, irrespective of any other action it may take against such person in terms of these by-laws by written notice order a person who is using unauthorised services to -

- (a) apply for such services in terms of sections 1 and 2; and
- (b) undertake such work as may be necessary to ensure that the customer installation through which access was gained complies with the provisions of these or any other relevant by-laws.

Interference with infrastructure for the provision of municipal services

51. (1) No person other than the municipality shall manage, operate or maintain infrastructure through which municipal services are provided.

(2) No person other than the municipality shall effect a connection to infrastructure through which municipal services are provided.

Obstruction of access to infrastructure for the provision of municipal services

52. (1) No person shall prevent or restrict physical access to infrastructure through which municipal services are provided.

(2) If a person contravenes sub-section (1), the municipality may -

- (a) by written notice require such person to restore access at his or her own expense within a specified period; or
- (b) if it is of the opinion that the situation is a matter of urgency, without prior notice restore access and recover the cost from such person.

Illegal re-connection

53.(1) A customer whose access to municipal services have been restricted or disconnected, who intentionally unlawfully reconnects to services or who intentionally or negligently interferes with infrastructure through which municipal services are provided, shall immediately be disconnected.

(2) A person who re-connects to municipal services in the circumstances referred to in sub-section (1) shall be liable for to pay for any services that he, she or it may have utilized or consumed in breach of these bylaws, notwithstanding any other actions that may be taken against such a person.

(3) The consumption will be estimated based on the average consumption of services to the specific area within which the unauthorized connection was made.

Immediate disconnection

54. (1) The provision of municipal services may immediately be disconnected by the Municipality if any person unlawfully and intentionally or negligently interfere with infrastructure through which the municipality provides municipal services.

CHAPTER 7: OFFENCES

Offences

55. Any person who –
- (a) obstructs or hinders the Municipality in the exercising of the powers or performance of functions or duties under these by-laws;
 - (b) contravenes or fails to comply with a provision of these by-laws other than a provision relating to payment for municipal services;
 - (c) fails to comply with the terms of a notice served upon him/her in terms of these by-laws;
- shall be guilty of an offence and liable upon conviction to a fine not exceeding R 6 000 (six thousand Rand) or to a period of imprisonment or community service not exceeding 6 (six) months, or a combination of the aforementioned and in the event of a continued offence to a further fine of R 2 000 (two thousand Rand) for every day during the continuance of such offence.

CHAPTER 8: DOCUMENTATION

Signing of notices and documents

56. A notice or document issued by the municipality in terms of these by-laws and signed by a staff member of the municipality shall be deemed to be duly issued and must on its mere production be accepted by a court as prima facie evidence of that fact.

Notices and documents

- 57.(1) Any notice or other document that is served on an owner, customer or any other person in terms of these by-laws is regarded as having been served -
- (a) if it has been delivered to that person personally;
 - (b) when it has been left at that person's village, place of residence, or business or employment in the Republic with a person apparently over the age of sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential address or business address in the Republic and an acknowledgement of posting thereof from the postal service is obtained;
 - (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 in sub-sections (a) – (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 property or premises, if any, to which it relates.
- (2) When any notice or other document must be authorised or served on the owner, occupier or holder of any property it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and is not necessarily the name of that person.
- (3) In the case where compliance with a notice is required within a specified number of working days, such period shall be deemed to commence on the date of delivery or sending of such notice.

Authentication of documents

- 58.(1) Every order, notice or other document requiring authentication by the municipality shall be sufficiently authenticated, if signed by the municipal manager or by a duly authorised person of the municipality; such authority being conferred by resolution of the municipality, written agreement or by a by-law.

Prima facie evidence

59. In legal proceedings by or on behalf of the municipality, a certificate reflecting the amount due and payable to the municipality, under the hand of the municipal manager, or suitably qualified staff member authorised by the municipal manager or the Manager of the municipality's authorised agent, shall upon mere production thereof be accepted by any court of law as prima facie evidence of the indebtedness.

CHAPTER 9: GENERAL PROVISIONS**Provision of information**

60.(1) An owner, occupier, customer or person within the area of supply of the municipality must provide the municipality with accurate information.

Power of entry and inspection

61.(1) The municipality may enter and inspect any premises for any purpose connected with the implementation or enforcement of these by-laws, at all reasonable times, after having given reasonable written notice to the occupier of the premises of the intention to do so, where appropriate.

(2) Any entry and inspection must be conducted in conformity with the requirements of the Constitution of South Africa Act No. 108 of 1996, and any other law and, in particular, with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.

(3) The Municipality may be accompanied by an interpreter and any other person reasonably required to assist the authorised official in conducting the inspection.

(4) A person representing the Municipality must, on request, provide his or her identification.

Exemption

62. (1) The municipality may, in writing exempt an owner, customer, any other person or category of owners, customers, ratepayers, users of services from complying with a provision of these by-laws, subject to any conditions it may impose, if it is of the opinion that the application or operation of that provision would be unreasonable, provided that the municipality shall not grant exemption from any section of these by-laws that may result in -

- (a) the wastage or excessive consumption of municipal services;
- (b) the evasion or avoidance of water restrictions;
- (c) significant negative effects on public health, safety or the environment;
- (d) the non-payment for services;
- (e) the Act, or any regulations made in terms thereof, is not complied with.

(2) The municipality at any time after giving written notice of at least thirty days withdraw any exemption given in terms of sub-section (1).

Indemnification from liability

63. Neither employees of the municipality nor any person, body, organisation or corporation acting on behalf of the municipality is liable for any damage arising from any omission or act done in good faith in the course of his or her duties.

Availability of by-laws

64.(1) A copy of these by-laws shall be included in the municipality's Municipal Code as required in terms of legislation.

(2) The municipality shall take reasonable steps to inform customers of the contents of the by-laws.

(3) A copy of these by-laws shall be available for inspection at the offices of the municipality at all reasonable times.

(4) A copy of the by-laws may be obtained against payment of R10, 00 from the municipality.

Conflict of law

65.(1) When interpreting a provision of these by-laws, any reasonable interpretation which is consistent with the purpose of the Act as set out in Chapter 9 on Credit Control and Debt Collection, must be preferred over any alternative interpretation which is inconsistent with that purpose.

(2) If there is any conflict between these by-laws and any other by-laws of the Council, these by-laws will prevail.

Repeal of existing municipal credit control and debt collection by-laws

66. The provisions of any by-laws relating to credit control and debt collection by the municipality are hereby repealed insofar as they relate to matters provided for in these by-laws; provided that such provisions shall be deemed not to have been repealed in respect of any such by-law which has not been repealed and which is not repugnant to these by-laws on the basis as determined by the relevant by-laws.

Short Title and Commencement

67.(1) These by-laws are called the Credit Control and Debt Collection By-laws of the Emfuleni Local Municipality.

(2) The municipality may, by notice in the *Provincial Gazette*, determine that provisions of these by-laws, listed in the notice, does not apply in certain areas within its area of jurisdiction listed in the notice from a date specified in the notice.

(3) Until any notice contemplated in sub-section (2) is issued, these By-laws are binding.

ANNEXURE A: APPLICATION FOR MUNICIPAL SERVICES**Emfuleni Local Municipality****APPLICATION FOR MUNICIPAL SERVICES**

Type of Application			
<input type="checkbox"/>	Domestic	<input type="checkbox"/>	Commercial / Industrial
<input type="checkbox"/>		<input type="checkbox"/>	Institutional
Type of Customer			
<input type="checkbox"/>	Individual	<input type="checkbox"/>	CC
<input type="checkbox"/>	Partner	<input type="checkbox"/>	Pty (Ltd)
<input type="checkbox"/>	Lessee	<input type="checkbox"/>	Owner
Particulars of Applicant			
Name of corporate entity			
Registration number of corporate entity			
Surname		Initials	
ID Number			
Marital Status			
If married – in / out of community of property			
Occupation			
Tel. No			
Cell no			
Address of Applicant (for purposes of account delivery)			
Physical Address		Postal Address	
Next of Kin			
1. Name		Tel. no	
Address			
2. Name		Tel. no	
Address			
Employer's Details			
Name		Tel. No.	
Physical Address		Period in Service	
		Employee registration no.	

Credit References			
1. Name of Company		Account No	
Address		Tel. No	
2. Name of Company		Account No	
Address		Tel. No	
Particulars of Owner (if not Applicant)			
Name of corporate entity			
Registration number of corporate entity			
Surname		Initials	
ID Number			
Occupation			
Tel. No			
Cell no			
Physical Address		Postal Address	
Property to which municipal services must be provided			
Suburb			
Zone			
Stand no.			
Street name			
Street number			
Number of persons over the age of 18 years living on the property			
Type of municipal services to be provided			
Water Supply Services	Communal Standpipe		
	Yard Connection		
	In-house connection		
Sanitation Services	Night Soil Removal		
	Water borne sewerage		
Electricity Services	Pre-paid		
	Other		
Refuse removal Services			
Date on which provision of services should commence			
Payment Details			
Cash (including cheque & credit card)			
Debit Order			
Stop Order			
Other method of electronic transfer			
Bank Details	Branch		
	Account No		
A CERTIFIED COPY OF THE APPLICANT'S IDENTITY DOCUMENT / POWER OF ATTORNEY MUST BE ATTACHED TO THE APPLICATION			

I / We hereby --

- (a) Apply for the provision of municipal services to be provided to the above property;
- (b) Accept the conditions applicable to the provision of municipal services as set out the municipality's policy, by-laws and the Conditions of Supply of any service provider of the municipality;
- (c) Declare that I / we was informed that the documents referred to in (b) are available for inspection at the offices of the municipality during office hours;
- (d) Declare that this application form and the implications thereof was explained me / us;
- (e) Declare that all payments due and payable by me in pursuance of this application shall promptly be paid by me on the due date; and
- (f) Declare that the information provided in this application form is true and correct.

Applicant

Municipality

Date

Date

Signature of Owner (if not applicant)

Date

CERTIFICATION BY MUNICIPALITY

The consequences of the above declaration made by the applicant were explained to him/her/it and he/she/it indicated that the contents of the application were understood.

Municipality

Date

FOR OFFICE USE ONLY

Deposit paid	Date	
	Amount	
	Receipt Number	
Account Number		
Commencement date of services		
Area Code		
Meter Reading on commencement of services	Electricity	
	Water	

ANNEXURE B: APPLICATION FOR REGISTRATION AS INDIGENT CUSTOMER

Emfuleni Local Municipality

APPLICATION FOR REGISTRATION AS INDIGENT CUSTOMER

Note: An application for Municipal Services must be completed or updated on submission of this application.

Particulars of Applicant			
Surname		Initials	
ID Number			
Marital Status			
If married – in / out of community of property			
Occupation			
Tel. no			
Cell no			
Address of Applicant			
Physical Address		Postal Address	
Number of properties owned by applicant and all members of the household			
Details of properties, if applicable			
Property 1	Physical address		
	Name of owner		
	Name of bondholder		
	Account number		
	Deed Registration Number		
Property 2	Type of structure		
	Physical address		
	Name of owner		
	Name of bondholder		
	Account number		
Deed Registration Number			
Type of structure			
Is property / properties or a portion thereof leased to a third person? (Yes / No)			
If leased, rent received			
Number of all members in household			
Combined gross income of all members of the household per month			

Details of all members of the household over the age of 18 years resident at the property			
1. Surname		2. Surname	
Full name		Full name	
ID Number		ID Number	
Employed? (Yes / No)		Employed? (Yes / No)	
Salary including Benefits, if relevant		Salary Including benefits, if relevant	
3. Surname		4. Surname	
Full name		Full name	
ID Number		ID Number	
Employed? (Yes / No)		Employed? (Yes / No)	
Salary including Benefits, if relevant		Salary including benefits, if relevant	
5. Surname		6. Surname	
Full name		Full name	
ID Number		ID Number	
Employed? (Yes / No)		Employed? (Yes / No)	
Salary Including Benefits, if relevant		Salary including benefits, if relevant	
Details of any other income received by household: (i.e. such as old age pension, disability pension, welfare, etc)			
1. Type of income		2. Type of income	
Institution		Institution	
Amount		Amount	
Reference number		Reference number	
3. Type of income		4. Type of income	
Institution		Institution	
Amount		Amount	
Reference number		Reference number	
5. Type of income		6. Type of income	
Institution		Institution	
Amount		Amount	
Reference number		Reference number	
Details of monthly expenses of household:			
1. Groceries		2. School fees	
2. Clothes		3.	
4.		5.	
6.		7.	
8.		9.	

Details of current debts of the household: (including insurance policies and credit purchases)			
1. Institution		3. Institution	
Account number		Account number	
Amount owing		Amount owing	
3. Institution		4. Institution	
Account number		Account number	
Amount owing		Amount owing	
5. Institution		6. Institution	
Account number		Account number	
Amount owing		Amount owing	
Details in respect of legal or other actions taken against me in respect of current expenses / debts of the household: (I.e. Administration orders, sequestration, other court orders, listed with a Credit Agency, etc.)			
1. Institution		3. Institution	
Type of action		Type of action	
Case number		Case number	
Amount owing		Amount owing	
3. Institution		4. Institution	
Type of action		Type of action	
Case number		Case number	
Amount owing		Amount owing	
5. Institution		6. Institution	
Type of action		Type of action	
Case number		Case number	
Amount owing		Amount owing	
The following documents must be attached –			
<ol style="list-style-type: none"> 1. Documentary proof of income (such as a letter from the customer's employer, a salary advice, a pension card, unemployment insurance fund card, etc.); or 2. An affidavit declaring unemployment or income; and 3. Latest municipal account in the possession of customer; and 4. A certified copy of the applicant's identity document. 			
A. I hereby –			
<ol style="list-style-type: none"> 1. apply for registration as an indigent customer for a period of one year; 2. accept the conditions applicable to this application as set out the municipality's policy, by-laws and the Conditions of Supply of any service provider of the municipality; 3. declare that I was informed that the documents referred to (2) are available for inspection at the offices of the municipality during office hours; 4. declare that this application form and the implications thereof was explained me; 5. declare that all payments due and payable by me in pursuance of this application shall promptly be paid by me on the due date; and 6. declare that the information provided in this application form is true and correct. 			
B. I further declare and accept that the following specific conditions shall apply to this application –			
<ol style="list-style-type: none"> 1. The municipality may send authorised representatives to premises or households applying for registration as indigent customers to conduct an on-site audit of information provided prior to approval of an application or any time thereafter. 			
<ol style="list-style-type: none"> 2. An application shall be approved for a period of 12 (twelve) months only. 			

3. The municipality may on approval of an application or any time thereafter –
 - 3.1 install a pre-payment electricity meter for the indigent customer where electricity is provided by the municipality agent; and
 - 3.2 limit the water supply services of an indigent customer to a basic supply of not less than 6 (six) kiloliters per month.
3. An indigent customer must annually re-apply for registration as an indigent customer, failing which the assistance will cease automatically.
5. The municipality gives no guarantee of renewal.
6. The municipal council may annually as part of its budgetary process determine the municipal Services and levels thereof that will be subsidised in respect of indigent customers in accordance With national policy, but subject to principles of sustainability and affordability.
7. Any other municipal services rendered by the municipality or municipal services consumed in excess of the quantities specified in 6 above shall be charged for and the indigent customer shall be liable for the payment of such charges levied on the excess consumption. Normal credit control procedures shall apply in respect of such excess consumption.
8. Arrears accumulated in respect of the municipal accounts of customers prior to registration as indigent customers will be suspended, without interest accumulating in respect of such arrears, for the period that a customer remains registered as an indigent customer.
9. Suspended arrears shall become due and payable by the customer in monthly installments as determined by the municipality, on de-registration.
10. Arrears suspended for a period of two (2) years or longer shall not be recovered from a customer on de-registration.
11. The municipality may undertake regular random audits to –
 - 11.1 verify the information provided by indigent customers;
 - 11.2 record any changes in the circumstances of indigent customers; and
 - 11.3 make recommendations on the de-registration of the indigent customer.
12. Any customer who provides or provided false information in the application form and / or any other documentation and information in connection with the application –
 - 12.1 shall automatically, without notice, be de-registered as an indigent customer from the date on which the municipality became aware that such information is false; and
 - 12.2 shall be held liable for the payment of all services received in addition to any other legal actions the municipality may take against such a customer.
13. An indigent customer must immediately request de-registration by the municipality if his or her circumstances has changed to the extent that he or she no longer meets the qualifications set out in the by-laws.
14. An indigent customer shall automatically be de-registered if an annual application is not made or if such application is not approved.
15. An indigent customer shall automatically be de-registered if an audit or verification concludes that the financial circumstances of the indigent customer has changed to the extent that he or she no longer meet the qualifications set out in the by-laws.
16. An indigent customer may at any time request de-registration.

Applicant _____ **Municipality** _____

Date _____ **Date** _____

CERTIFICATION BY MUNICIPALITY	
The consequences of the above declaration made by the applicant were explained to him/her and he/she indicated that the contents of the APPLICATION were understood.	
Municipality	Date
FOR OFFICE USE ONLY	
Account Number	
Date of receipt of application	
First Verification	
Date	
Site Visit (Yes / No)	
Name of verifier	
Designation of verifier	
Indicate information not verified	
Recommendation	
APPLICATION APPROVED / NOT APPROVED	
Second Verification	
Date	
Site Visit (Yes / No)	
Name of verifier	
Designation of verifier	

LOCAL AUTHORITY NOTICE 258

**EMFULENI LOCAL
MUNICIPALITY**

**CEMETERY AND
CREMATORIA
BY-LAWS**

EMFULENI LOCAL MUNICIPALITY CEMETERY AND CREMATORIA BY-LAWS

EMFULENI CEMETERY AND CREMATORIA BY-LAWS

The Emfuleni Local Municipality hereby publishes the Cemetery and Crematoria By-laws set forth hereinafter, which have been promulgated by the municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) and in accordance with section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

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EMFULeni LOCAL MUNICIPALITY CEMETERY AND CREMATORIA BY-LAWS

CHAPTER I: INTERPRETATION**1. Definitions**

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

"active cemetery" means a Public Cemetery situated within the jurisdiction of the municipality, and includes the buildings and fixtures within the cemeteries;

"adult" (where the word is used to describe a body) means any deceased person over the age of 12 years;

"aesthetic (also called Lawn) section" means a section of a cemetery, which has been set aside by the municipality in which only a headstone may be erected on a berm and in which the municipality must provide and maintain a strip of lawn;

"ashes" means the remains of a cremated human body;

"berm" means a concrete strip laid by the municipality along a row of graves, or between two such rows, in the aesthetic section;

"body" means any dead human body including the body of a still-born child;

"burial order" means an order issued by a person authorised to do so in terms of the Births and Deaths Registration Act, 1992 (Act 51 of 1992);

"burial place" means any burial-ground whether public or private, or any place whatsoever in which one or more bodies is or are buried, interred, cremated or otherwise disposed of, or intended to be buried, interred, cremated, or otherwise disposed of;

"caretaker" means the person appointed from time to time by the municipality in a supervisory capacity with regard to any cemetery in accordance with section 3(1) of these by-laws;

"cemetery" means any piece of land for the burial or interment of a body and, except for Chapter 3 of these by-laws, refers only to public cemeteries;

"cemetery services" means the management, administration, operation and maintenance of an active cemetery;

"child" means any deceased person of the age of 12 years or under whose coffin will fit into the grave opening prescribed for children in section 25;

"commonwealth war burial" means a burial of any member of the naval, military or air forces of the Commonwealth who died as a result of injuries sustained or illnesses contracted in the course of active duty during the First World War (1914 to 1921) or the Second World War (1939 to 1947);

"commonwealth war grave" means any grave, tombstone, monument or memorial connected with a Commonwealth war burial;

"customer" means the person who has paid or caused any of the charges determined from time to time by the municipality to be paid or who has obtained the right to have any memorial work erected or constructed or who has obtained any other rights or interests referred to or mentioned in these by-laws;

"cremation" means the practice of disposing of a human body by fire and thereby reducing any human remains to ashes;

EMFULENI LOCAL MUNICIPALITY CEMETERY AND CREMATORIA BY-LAWS

"crematorium" means a crematorium as defined in section 1 of the Crematorium Ordinance, 1965 (Transvaal Ordinance 18 of 1965) which includes the buildings in which the ceremony is conducted and the cremation carried out;

"cremated remains" means all recoverable human remains after the cremation process;

"exhumation" means the disinterment of a body from its interment site;

"full capacity" means that all existing space for interment has been used so that it is no longer reasonably practicable, whether for economic, aesthetic, physical or any other good reason of whatsoever nature, for the municipality to determine, to set out further new grave sites;

"garden of remembrance" means a section of a cemetery or crematorium set aside for the erection of memorial work to commemorate a deceased person whose body was cremated;

"grave" means any piece of land laid out for the interment of one or more bodies within any cemetery;

"grave of a victim of conflict" means grave of a victim of conflict as defined in section 2 of the National Heritage Resources Act, 1999 (Act 25 of 1999);

"Health Act" means the Health Act, 1977 (Act 63 of 1977);

"indigent person" means a person who has been classified as indigent at the time of his death in terms of Chapter 4 of the Credit Control and Debt Collection By-laws of the Emfuleni Local Municipality;

"indigent burial" means the burial by the municipality of the body of a destitute person for which no competent person undertakes to bury the body and such a person is registered as an indigent with the municipality or is a dependant of such a registered indigent;

inhumation" means the burial of human remains;

"interment" means burial in earth or in any form of sepulchre and includes the cremation of a body;

"local community" means the body of persons comprising –

- (a) the residents of the municipality;
- (b) the ratepayers of the municipality;
- (c) any civic organisations or non-governmental organisations which are involved in local affairs within the municipality; and
- (d) visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of the services provided by the municipality, including any person or persons who would, if he or she were ordinarily resident in the municipality, qualify as an indigent person;

"medical officer of health" means the medical officer of health of the municipality appointed in terms of section 22 of the Health Act, or any person appointed to assist him in terms of section 24 of the Health Act, authorised by the medical officer of health and acting under his supervision;

"memorial wall" means a wall containing niches provided for the placement of ashes and inscribed plaques in a garden of remembrance;

EMFULENI LOCAL MUNICIPALITY CEMETERY AND CREMATORIA BY-LAWS

"memorial work" means any tombstone, railing, fence, monument, memorial, inscription or other work erected or which may be erected on or about any grave;

"monumental section" means a section of a cemetery, which has been set aside by the municipality wherein memorial work may be erected to cover the entire grave area;

"municipal manager" means the municipal manager as defined in section 82(1)(a) of the Structures Act;

"municipality" means-

(a) the Emfuleni Local Municipality, a category B municipality in the district of Sedibeng, Gauteng, established in terms of section 12(1) of the Structures Act; or

(b) a service provider fulfilling a responsibility under these By-laws, assigned to it in terms of section 81(2) of the Systems Act, or any other law;

"new cemetery" means a public cemetery which is developed or set aside for development by the municipality and which is or may become an active cemetery as contemplated in section 2(1) of these by-laws;

"niche" means a recessed compartment in a memorial wall for the interment of ashes;

"passive cemetery" means a public cemetery owned, regulated, established or maintained by, or the control of which is vested in, the municipality, and which is certified as a "passive cemetery" in terms of section 5(1) of these by-laws;

"pauper" means a person who has died as an unknown person;

"private cemetery" means any cemetery which is not a public cemetery;

"private grave" means any piece of ground that has been laid out for a grave within any cemetery and in respect of which an exclusive right of use has been purchased in terms of section 22 of these by-laws;

"public cemetery" means any cemetery which is owned, regulated, established or maintained by, or the control of which is legally vested in, the municipality;

"registrar of deaths" means a person appointed by the Government to register deaths;

"resident" means a person who, at the time of death, ordinarily resides in the boundaries of the municipality;

"sepulchre" means a tomb;

"SANS" means the South African National Standards Codes of Practice or the South African Bureau of Standards Codes of Practice as contemplated in Government Notice No. 1373 published in Government Gazette 24002, dated 8 November 2002 in terms of the Standards Act, 1993 (Act 29 of 1993);

"service area" means the area of jurisdiction of the municipality;

"service delivery agreement" means an agreement between the municipality and a service provider in terms of which the service provider is required to provide cemetery services;

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

EMFULENI LOCAL MUNICIPALITY CEMETERY AND CREMATORIA BY-LAWS

"still-born child" means a human foetus that has had at least 26 weeks of intra-uterine existence but showed no sign of life after complete birth;

"Structures Act" means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

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

"tariff" means the tariff promulgated by the municipality and collected from the customer by the municipality for rendering cemetery services; and

"undertaker" means a person registered to undertake the preparation of a human body for burial or cremation in terms of the Health Act.

CHAPTER II: ESTABLISHMENT OF PUBLIC CEMETERIES

2. Establishment of Cemeteries

(1) The municipality may from time to time set aside, acquire or develop any ground for the purpose of establishing a cemetery.

(2) The municipality must at all times ensure that sufficient burial space is available for the burial of bodies within the service area.

(3) The municipality is responsible for the on-going maintenance of all cemeteries, including any damage to the cemetery, but not to any memorial work, caused by Acts of God.

(4) The cemetery services may, from time to time, be suspended at a particular cemetery for the purposes of undertaking maintenance, including extraordinary maintenance: Provided that adequate notice be given to members of the public; Provided further that, if the municipality has other active cemeteries of the same category (if the municipality has classified the active cemeteries in its service area into different categories in terms of section 4(1)), there is another active cemetery of the same category available to the public within the service area.

3. Caretaker

(1) The municipality must appoint a caretaker to every cemetery to control the day-to-day management of the cemetery.

(2) The caretaker may be a service provider or caretaker for more than one cemetery.

4. Classification of Cemeteries

(1) The municipality may classify active cemeteries into different categories for the purposes of establishing different service levels.

(2) The classification must be undertaken in such a manner that the cemeteries are classified for the purposes of price differentiation in order to ensure affordability: Provided that such differentiation does not amount to unfair discrimination.

5. Passive Cemeteries

(1) Once a cemetery is full and can no longer be used as an active cemetery, the municipality must declare, through the issuing of a certificate, that cemetery to be a passive cemetery.

EMFULENI LOCAL MUNICIPALITY CEMETERY AND CREMATORIA BY-LAWS

(2) The municipality may declare sections of a cemetery which are full to be closed, pending the use of the remaining sections of the cemetery. Once the entire cemetery is full, the municipality must declare the cemetery to be a passive cemetery in accordance with subsection (1).

(3) The municipality is responsible for the on-going maintenance of all passive cemeteries.

CHAPTER III: PRIVATE CEMETERIES**6. Registration of Existing Graves**

Any owner of land, other than the municipality, upon whose land any grave or graves exist, must inform the municipality of the existence of such graves on a form to be prescribed by the municipality.

7. Establishment and Continued Use of Private Cemeteries

No person shall, within the service area, establish a private cemetery and no owner of any private cemetery already in existence shall, if the use of such cemetery was not previously authorised by the municipality, continue to use such existing cemetery for burial purposes without the municipality's authority being obtained in terms of section 8.

8. Application for a Private Cemetery

(1) Applications for the establishment of a private cemetery or for the municipality's approval to continue using a private cemetery shall be made in writing to the municipal manager. The application must include:

- (a) A locality plan to a scale of not less than 1:10 000, showing the position of the proposed cemetery or existing cemetery in relation to the boundaries of the land on which it is proposed to be established or upon which it is situated as the case may be, the registered description of the site and showing all streets, public places and privately-owned property within a distance of 100 metres of the site;
 - (b) A block plan to a scale of at least 1 in 500 showing the position of external boundaries, internal roads and paths, sub-divisions, grave sites, drainage and any buildings existing or proposed to be erected;
 - (c) A plan and sections to a scale of at least 1 in 100 of any building existing or proposed to be erected, and which shall in the latter case conform with the building and sewage by-laws of the municipality;
 - (d) A list of registers or records kept or proposed to be kept with reference to identification of graves, sale or transfer of grave sites and interments;
 - (e) The full names and addresses of the owner and the caretaker;
 - (f) The nature of the title under which the owner of the private cemetery will hold or holds the land on which the cemetery is to be established or which is being used as a cemetery, and whether such land is subject to any encumbrance in any way;
 - (g) Proof, to the satisfaction of the municipality, that the owner has adequate insurance and real security to be able to discharge the obligation of maintaining the private cemetery and all graves in the future; and
-

EMFULENI LOCAL MUNICIPALITY CEMETERY AND CREMATORIA BY-LAWS

(h) A schedule of burial fees proposed to be charged or currently being charged.

(2) On receipt of the application referred to in subsection (1), the municipal manager must place in one or more newspaper circulating within the municipality a notice stating the nature of the application and specifying the date by which objections to the granting of the application must be lodged with the municipal manager: Provided that the period in which objections must be lodged may not be less than 14 days.

(3) Within 7 days of the final date for the lodging of objections, the municipal manager must submit the application to the municipality for consideration.

(4) Within 30 days of the municipality's receiving the application in terms of subsection (3), the municipality must consider the application and any objections to the application which may have been lodged. If, after consideration of the application and any objections, the municipality is satisfied that no interference with any public amenity, or nuisance or danger to the public health is likely to take place or arise as a result, the municipality may authorise, in writing, the establishment of the proposed private cemetery, or the continued use of the private cemetery as the case may be, in accordance with the document submitted to the municipality in terms of subsection (1).

(5) If approval is granted to establish a private cemetery, or for the continued use of a private cemetery in terms of subsection (4), then there may be no departure from the plans submitted in terms of subsection (1) without the approval of municipality in writing.

9. Duties of the Owner of a Private Cemetery

Every owner of a private cemetery which has been authorised in terms of section 8(4) to establish or continue a private cemetery shall -

- (a) Maintain a burial register in accordance with section 21 of the Births and Deaths Registration Act, 1992 (Act 51 of 1992);
- (b) Maintain a duplicate copy of the burial register referred to in subsection (a) at a place other than the place where the burial register referred to in subsection (a) is kept;
- (c) Keep a record or records showing -
 - (i) the number of each grave site and the ownership of the ground in which the grave is situated; and
 - (ii) the number of interments in each and every grave site and the name, age, sex, race, last known address, date and cause of death of each person interred in it;
- (d) Comply with the provisions of Chapter 3 and any other relevant provisions of the Births and Deaths Registration Act, 1992 (Act 51 of 1992);
- (e) Maintain all grounds, fences, gates roads, paths and drains in good order and condition and clear of weeds and overgrowth;
- (f) Provide for the identification of grave sites by subdividing the cemetery into blocks each containing a number of graves or grave sites and each block being demarcated by means of signs showing the number and situation of each block. Every grave site in each block must be separately numbered by means of durable number plates. All signs and number plates must be maintained in a neat and legible condition;

EMFULENI LOCAL MUNICIPALITY CEMETERY AND CREMATORIA BY-LAWS

- (g) Allow the municipality or its duly authorised officers to enter and inspect the cemetery, the burial register, and all records kept in connection therewith;
- (h) Render a monthly report on all burials to the municipal manager on a date to be determined by the municipal manager, detailing the name, last known address, age, sex, race, date and cause of death in each case, and the name of the Medical Practitioner who issued the certificate of death, a copy of the burial order, the authority who issued the burial order, the block and grave site number, and the date of burial;
- (i) Render an annual return to the municipal manager on a date to be determined by the municipal manager, detailing the names and addresses of all trustees, committee members and persons controlling the private cemetery, if there be any;
- (j) Appoint a caretaker to manage the cemetery and keep the records thereof. Any new appointment or change in the identity of the caretaker should be reported to the municipal manager on the monthly report submitted to the municipal manager in terms of subsection 9(h); and
- (k) Comply with any other conditions prescribed by the municipality.

CHAPTER IV: SERVICE PROVIDERS**10. Agreement, Delegation and Customer Care Charter**

(1) Subject to subsection (2), the municipality may discharge all or some of its obligations under these by-laws for the rendering of cemetery services by entering into a service delivery agreement with a service provider or service providers in terms section 81(2) of the Systems Act.

(2) Subject to the provisions of the Systems Act or any other law, the municipality may assign to a service provider any power enjoyed by the municipality under these by-laws: Provided that the assignment is necessary to enable the service provider to discharge any obligation under its service delivery agreement.

(3) Any reference in these by-laws to "municipality or service provider" must be read as the "municipality" if the municipality has not entered into a service delivery agreement; and, if the municipality has entered into a service delivery agreement, must be read as "service provider".

(4) Without derogating from the generality of the provisions of subsection (1), the municipality may not discharge an obligation to monitor and enforce the provisions of these by-laws by entering into an agreement with a service provider to do so.

(5) A service provider established in terms of subsection (1) must prepare a customer care charter which shows how the service provider intends to deal with complaints and customer care.

11. Tariffs

(1) Notwithstanding the provisions of section 10(1), the municipality retains the responsibility to establish maximum tariffs for cemetery services.

(2) The municipality must evaluate and promulgate maximum tariffs annually, prior to 1 July of each year.

CHAPTER V: DISPOSAL OF A BODY

EMFULENI LOCAL MUNICIPALITY CEMETERY AND CREMATORIA BY-LAWS

12. Disposal of a Body

(1) No person may, save with the prior written permission of the municipality, dispose of or attempt to dispose of a body, other than:

- (a) by interment in a private cemetery or a public cemetery established by the municipality in terms of section 2(1), and in accordance with the procedure set out in Chapter 7 of these by-laws; or
- (b) by cremation in a crematorium as regulated by Chapter 12 of these by-laws.

(2) No body intended for burial or cremation may be presented at a cemetery or crematorium unless being first enclosed in a sealed body bag or placed within a coffin, except where there is an objection thereto on religious grounds: Provided that, where there is an objection to a coffin or body bag on religious grounds, the body must be covered in a burial shroud or other suitable perishable material.

13. Funeral Undertakers

(1) Subject to the provisions of sections 20, 33, 34 and 39 of the Health Act, no funeral undertaker shall enter into a contract to bury or cremate any body in any cemetery or crematorium under the control of the municipality unless—

- (a) The funeral undertaker is in possession of a certificate of competence issued by the municipality in terms of the Health Act;
- (b) The premises from which the funeral undertaker operates is zoned in accordance with planning for such a business; and
- (c) All the requirements of a funeral undertaker and a funeral undertaker's premises in terms of the Health Act have been complied with.

(2) The municipality may, after giving reasonable notice to an undertaker of its intention to conduct an inspection, enter into and inspect the undertakers premise to enable it to determine whether subsection (1)(b) and (1)(c) have been complied with.

(3) All undertakers must keep records of all bodies which they receive and of the burial orders for these bodies.

(4) Any caretaker may refuse to bury a body presented for burial by an undertaker who has not complied with these by-laws; Provided that where the caretaker refuses such a burial, this is reported in writing to the municipality along with the reasons for refusal.

14. Register

(1) The caretaker of a cemetery must maintain a burial register in accordance with section 21 of the Births and Deaths Registrations Act, 1992 (Act 51 of 1992).

(2) The caretaker must maintain a duplicate copy of the burial register referred to in subsection (1) at a place other than the place where the burial register referred to in subsection (1) is kept.

CHAPTER VI: FUNERALS

15. Religious Ceremonies

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(1) The members of any religious denomination may conduct religious ceremonies in a cemetery in connection with any interment or memorial service subject to the control and by-laws of the municipality.

(2) No person shall conduct any religious ceremony according to the rites of any denomination in such portion of any cemetery that is reserved by the municipality for members of another denomination.

16. Exposure of Corpses

No person shall convey a corpse which is not covered, or expose any such corpse or any part thereof in any street, cemetery or public place.

17. Instructions of the Caretaker

Every person taking part in any funeral procession ceremony shall comply with the directions of the caretaker within a cemetery.

18. Music and Singing

No music or singing will be allowed in a cemetery, except for sacred singing, and except in the case of police or military funerals, without the caretaker's permission.

19. Occupation of Chapel or Shelter

No person shall occupy any chapel or shelter in a cemetery for more than 45 minutes, unless authorised to do so by the caretaker of the cemetery(ies).

20. Hours for Interments

(1) Subject to the provisions of subsection (2), interments shall take place during the following hours:

(a) On a Monday to Thursday, excluding public holidays, from 09:00 to 15:30; and

(b) On a Friday, excluding public holidays, from 09:00 to 14:00.

(2) The caretaker may, upon payment of the prescribed charge, allow interments to take place after the hours referred to in subsection (1) on weekdays and also on Saturdays, Sundays and public holidays: Provided that, if the proceedings at the grave commence after the hours referred to in subsection (1), the charges will be payable as prescribed in the cemetery tariffs.

21. Numbering of Graves

(1) Until such time as a memorial has been erected on a grave, the caretaker shall fix and maintain an identification plate on every grave plot in the cemetery.

(2) No person shall inter a body in any grave which has not been allotted by the municipality.

CHAPTER VII: INTERMENTS**22. Application for Purchase and Use of a Grave**

(1) No person shall inter or cause to be interred any body within any cemetery without the permission of the service provider or caretaker. Such permission shall only be granted on submission to the municipality of the original burial order authorising interment, together with notice of such interment.

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(2) A person wishing to have a body interred shall notify the caretaker on a form to be prescribed by the municipality within eight hours before the time arranged for such interment. Such application shall be signed by the nearest surviving relative of the person whose body is to be interred in the grave, or such other person as the nearest surviving relative may authorise to sign the application on his behalf: Provided that if the municipality is satisfied that the signature of the nearest surviving relative cannot be obtained timeously, he may at his discretion grant an application signed by any other interested person.

(3) The municipality may, at its discretion, sell to any person the use of any piece of ground for a grave. Any person wishing to purchase the use of any such grave shall apply to the municipality. Such grave shall be allotted by the municipality and held subject to the cemetery by-laws from time to time in force.

(4) Not more than one interment may be made in a grave, except with the written permission of the caretaker.

(5) Where there has been an interment in a grave and where a deeper grave is required for the interment of another coffin in the same grave at a later stage, application to inter another coffin must be made to the caretaker when notice of the first interment is given to the caretaker.

(6) A second interment in the same grave will not be allowed within one year from the date of the first interment.

(7) Not more than three coffins may be interred in the same grave.

(8) The municipality may, upon application and in its sole discretion, inter any body free of charge in such place and manner as it may consider fit.

(9) No body shall be interred unless it is placed in a coffin as described in section 29, unless there is an objection thereto on religious grounds in terms of section 12(2).

23. Permission to Inter

(1) Subject to the provisions of subsection (2), the caretaker may not grant permission to inter a body where:

- (a) A burial order in terms of the Births and Deaths Registration Act, 1992 (Act 51 of 1992) has not been presented to the caretaker;
- (b) All appropriate tariffs, as prescribed by the municipality, have not been paid; and
- (c) An application in terms of section 22(2) has not been made.

(2) In circumstances which, in the opinion of the caretaker, are exceptional, the caretaker may grant permission to inter a body where the requirements in subsection 1(b) and (1)(c) have not been met.

24. Alteration of Date of Interment

Should any alteration be made in the day or hour previously fixed for an interment, notice of that alteration shall be given to the caretaker at the cemetery at least 6 hours before the time fixed for such interment.

25. Dimensions of Grave Openings

(1) The dimensions of graves shall be as follows:

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(a) Graves for adults shall have at least the following dimensions:

- (i) a length of 2 200 millimetres;
- (ii) a width at the position of the shoulders of 900 millimetres;
- (iii) a width at the position of the head of 600 millimetres;
- (iv) a width at the position of the feet of 500 millimetres; and
- (v) a depth of 1 900 millimetres.

(b) Graves for children shall have the following dimensions:

- (i) a length of 1 400 millimetres;
- (ii) a width at the position of the shoulders of 500 millimetres;
- (iii) a width at the position of the head of 450 millimetres;
- (iv) a width at the position of the feet of 330 millimetres; and
- (v) a depth of 1 500 millimetres.

(2) Where the interment of any body requires an aperture in excess of the standard dimensions, the notice of interment must specify the dimensions of the coffin and its fittings.

(3) Upon the death of a person the nearest relative shall have the right, on payment of the charges determined from time to time by the municipality, to purchase one adjoining grave, if it be available, for future use.

(4) Any person wishing to purchase the right to a grave shall apply to the municipality and pay the prescribed tariff.

26. Rights not Transferable

(1) No person shall, without the consent of the municipality, sell or transfer to any other person any right relating to a grave or niche which he has obtained or may obtain in terms of the provisions of these by-laws.

(2) Every transfer of the right to a purchased grave or niche shall be registered by the municipality and the transfer charge determined from time to time by the municipality shall be paid to the municipality by the new customer.

(3) The municipality may purchase the right to an unused grave or niche if this is necessary for the efficient administration of the cemetery or for any reasonable environmental considerations: Provided that where the municipality does so, it must provide just compensation to the customer.

(4) The right to a niche shall accrue to the municipality without any compensation when the ashes of a deceased are removed or when the commemorative plate is removed from the niche.

27. Children's Coffins Which Are Too Large For a Child's Grave

Should a child's coffin be too large for the dimensions of a child's grave, it will be placed in an adult's grave and the prescribed charge for an adult's grave shall be paid.

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28. Covering with Earth

There shall be at least 1 200mm of earth between the top of any adult's coffin and the surface of the ground and at least 900 mm of earth between the top of a child's coffin and the surface of the ground.

29. Coffins in Graves

No person shall place in any grave, or cause to be placed in any grave, any coffin constructed from any material other than soft wood or other perishable material, without the written consent of the caretaker: Provided that any attachments to such a coffin which normally form part of a coffin, need not be made of soft wood or other perishable material.

30. Number of Bodies in One Coffin

(1) Subject to the provisions of section 22(4) two or more bodies of members of the same family may be buried in the same coffin where –

- (a) Two members of a family die together, including two persons married to one another;
- (b) A mother and child or children die during childbirth; or
- (c) Two unmarried persons of the same or different sex who, at the time of their death, in the reasonable opinion of the customer, were involved in a committed relationship with one another, die at the same time.

(2) Anatomy remains of two or more bodies may be buried in the same grave.

(3) Notwithstanding the provisions of subsection (1) or (2), the customer will still be liable to pay the applicable tariff as prescribed in section 11.

31. Covering of the Coffin or Body with Earth

Every coffin or body bag shall, upon being placed in any grave be covered without delay with at least 300 millimetres of earth.

32. Disturbance of Human Remains

Subject to these by-laws, the provisions of an exhumation order given in terms of the Inquests Act, 1959 (Act 58 of 1959), section 46 of the Health Act, or any other provision of any law relating to the exhumation of bodies, no person shall disturb any mortal remains or any ground surrounding them in any cemetery.

33. Interment of Deceased Persons Resident Outside the Municipality

The municipality may in its discretion permit the interment of a deceased person who was resident outside the municipal area.

34. Pauper and Indigent Burials

(1) The body of a pauper must be buried at the cost of the municipality at a cemetery to be determined by the municipality.

(2) The body of an indigent person may be buried at a different tariff to be approved by the municipality in accordance with section 11 of these by-laws.

CHAPTER VIII: EXHUMATION OF BODIES AND RE-OPENING OF GRAVES

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35. Opening of Graves

(1) Subject to the provisions of the Removal of Graves and Dead Bodies Ordinance, 1925 (Ordinance 7 of 1925), and to any provisions of any other law pertaining to the exhumation of a corpse, no grave may be opened without the written consent of the following authorities—

- (a) The Gauteng Department of Health; and
- (b) The municipality.

(2) In addition to the consent required in subsection (1), where a grave is older than 60 years and is situated outside a cemetery administered by the municipality, or constitutes a grave of a victim of conflict, the approval of the South African Heritage Resources Authority or the Provincial Heritage Resources Authority established for the province of Gauteng if there be one, is required through the issuing of a permit in terms of section 36(3) of the National Heritage Resources Act, 1999 (Act 25 of 1999).

(3) No person may disinter, remove, reinter or cremate a body buried in a Commonwealth war grave, or otherwise interfere with a Commonwealth war grave or Commonwealth war burial other than in accordance with the Commonwealth War Graves Act, 1992 (Act 8 of 1992).

36. Exhumations

(1) Subject to the provisions of sections 32, 35 and 39, no person shall exhume or cause any corpse to be exhumed or removed without the written consent of the municipality and the medical officer of health.

(2) The charges for exhumation determined from time to time by the municipality shall in every case be paid before the exhumation takes place.

(3) Such permission shall be submitted to the municipality at least two days before the date fixed for the exhumation or removal of such corpse.

37. Screening of Activities

The undertaker shall effectively screen the grave from which any corpse is to be removed from view during the exhumation.

38. Persons to be Present During Exhumations

No exhumation or removal by any body shall take place unless the medical officer of health is present as well as a member of the South African Police Service.

39. Transfer of Buried Corpses

Should the transfer of a corpse be deemed expedient by the municipality at any time or should any provision of these by-laws be contravened during the interment of a corpse in any grave, the municipality may, after having complied with the provisions of the Removal of Graves and Dead Bodies Ordinance, 1925 and these by-laws, transfer such corpse to another grave. Where reasonably possible, a relative of such deceased person shall be notified accordingly.

CHAPTER IX: CARE OF GRAVES**40. Care of Graves**

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The Municipality shall in respect of any grave keep such grave clear of weeds and in proper order.

41. Shrubs and Flowers

- (a) No person, other than the municipality, may plant any shrub, tree, plant or flower upon any grave in the cemetery;
- (b) No shrub, tree, plant or flower in the cemetery shall be cut or removed by any person without the consent of the municipality; and
- (c) The caretaker shall have the right to prune, cut down, dig up or remove any shrub, tree, plant or flower in the cemetery at any time.

42. Care of Graves

The municipality may, in its discretion, undertake to keep any grave in order for any period against payment of the charges determined from time to time by the municipality.

CHAPTER X: ERECTION AND MAINTENANCE OF MEMORIAL WORK

43. Memorial Work

No person shall, unless the charges as determined from time to time by the municipality have been paid, and the consent in writing of the caretaker and of the customer for such grave has been obtained, bring any memorial work into a cemetery, or, after its having been brought into it, erect, alter, paint, renovate, remove or otherwise interfere with it, or cut any inscription thereon.

44. Waiting Period Before Erecting of Memorial

No memorial may be erected in the monumental section within six months after the date of interment, unless the caretaker, after consideration of written representations and subject to the conditions set out in (a), (b) and (c), grants approval thereto:

- (a) That sufficient provision was made for the stabilisation of the ground, and that any displacement of the memorial work will be rectified by the customer;
- (b) That the relatives indemnify the municipality against any claims arising as a result of damages caused to the memorial because of subsidence; and
- (c) That the erector of the memorial undertakes in writing to repair memorials, which were damaged because of subsidence.

45. Position of Memorial Work

No person shall erect any memorial work on any grave except in such position as the caretaker may direct or as otherwise provided for in these by-laws.

46. Repairs to Memorial Work

Should the customer of a grave allow any memorial work to fall into a state of disrepair that may, in the opinion of the caretaker, cause danger to any person or to any thing situated in the cemetery, or to deface or damage any cemetery, the caretaker may order him by notice in writing, to make such repairs as the caretaker may consider necessary. Should the address of the customer be unknown to the caretaker, such notice may be published in both official languages in any daily newspaper circulating within the municipality.

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Should the required repairs not be carried out within one month of serving such notice or the publication of it, the caretaker may carry out such repair or remove the memorial work without paying any compensation and may recover the cost of the repairs or of removal from the customer, or both.

47. Supervision of Work

Any person engaged upon any memorial work in a cemetery shall effect such work in accordance with the plan submitted and to the satisfaction of the caretaker.

48. Damaging of Memorial Work

(1) Subject to the provisions of subsection (2), the municipality shall not be liable for any damage which may at any time occur to any memorial work.

(2) The municipality shall be liable to the person to whom it has caused harm for damage caused by the wrongful and either intentional or grossly negligent acts of the municipality or any of its employees that causes damage to any memorial work.

49. Moving of Memorial Work

The caretaker may, after due notice to the customer, at any time, change or alter the position of any memorial work and recover the cost of doing so from the customer of such memorial work: Provided that in any case where any memorial work has originally been placed in a certain position with the consent of the caretaker, any alteration to that position shall be done at the expense of the municipality.

50. Bringing Material into Cemetery

No person shall bring into the cemetery any material for the purpose of constructing any memorial work on any grave, or to erect a commemorative plaque in the garden of remembrance, unless and until—

- (a) a sketch together with the essential dimensions in figures of the proposed memorial, and showing the position of the proposed work, accompanied by a specification of the materials to be used in addition to a copy of any proposed inscription has been submitted to the caretaker at least fourteen days prior to the date on which such material is intended to be brought into any cemetery;
- (b) all charges due in respect of such grave or graves or niches have been paid;
- (c) the caretaker's written approval of the proposed work has been given; and
- (d) the grave number has been engraved on the memorial work.

51. Approval and Removal of Memorial Work by the Municipality

(1) Subject to the right of an affected person to appeal to the municipality against any rejection by the caretaker, the caretaker may reject any proposed design or material for a memorial, which he considers to be unsuitable.

(2) Any memorial which is not erected to the satisfaction of the caretaker must be rectified by the customer within one month after having been notified in writing by the municipality to do so, or be removed by the Municipality and at the expense of the customer.

(3) No Person shall remove or disturb any memorial within any cemetery without the permission of the caretaker.

52. Requirements for Erection of Memorial Work

- (1) Memorial work shall be in accordance with the following requirements:
- (a) Where any part of any memorial work is to be joined to any other part, copper or galvanized iron pins of approved thickness and 160 millimetres long shall be used for such purpose. The holes, into which such pins must fit, shall be not less than 80 millimetres deep;
 - (b) Any part of such work resting upon the ground or any stone or other foundation shall be fairly squared and bedded;
 - (c) No stone of uneven thickness, or having any corner wanting, shall be used unless shown on the sketch submitted in terms of section 50(a);
 - (d) The underside of each memorial shall be set at least 50 millimetres below the natural level of the ground and on an adequate concrete foundation;
 - (e) Without the written consent of the caretaker, no kerb stones shall be used which protrude more than 250 millimetres above the surface of the ground or are more than 200 millimetres thick;
 - (f) All head and curbstones shall be properly secured from the inside with round copper or galvanized iron pins;
 - (g) All headstones up to 150 millimetres in thickness shall be securely attached to the base in an acceptable manner;
 - (h) All memorial work shall be complete as far as possible before it is brought into any cemetery;
 - (i) In the case of single graves, foot kerbs shall consist of one solid piece.
 - (j) Memorial work shall be made of marble or granite or any other SANS-approved hard stone, subject to the approval of the caretaker;
 - (k) No person shall do any stonework, chiseling or other work upon any memorial work not connected with the fixing of such memorial work within any cemetery except where such work is expressly permitted in terms of these by-laws;
 - (l) If a memorial rests on a base:
 - (i) It must be set on a concrete foundation approved by the caretaker;
 - (ii) It shall be set in good cement mortar; and
 - (iii) The base shall be not less than 1 000 millimetres by 330 millimetres by 330 millimetres;
 - (m) The concrete foundation to the headstone shall have the following dimensions:
 - (i) The length, at right angles to the longitudinal axis of grave, must be at least 1 300 millimetres;
 - (ii) The width must be not less than the width of the bottom of the headstone plus a projection of 160 millimetres either side; and
 - (iii) The depth must be not less than 160mm;
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(n) The concrete foundation for the kerbing shall extend across the foot of the grave plot and shall be of the following dimensions:

- (i) The length must be at least 1 220 millimetres;
- (ii) The width must be at least 330 millimetres; and
- (iii) The depth must be at least 110 millimetres; and

(o) The tops of all concrete foundations shall be not less than 60 millimetres below ground level.

(2) Lettering upon memorials must be engraved thereon or when lettering protrudes from the surface of the memorial work, it must be of durable material, be fixed permanently upon the memorial work and must not protrude more than 1 centimetre from the surface of the memorial work.

(3) With the consent of the caretaker and the customer the name of the maker may be engraved on the memorial work: Provided that no address or other particulars shall be added thereto and that the caretaker may require that uniform letter sizes and spaces be used for such engraving.

53. Conveying of Memorial Work

The conveying of any stone, brick or memorial work or any part thereof along paths between graves may be undertaken only by means of a trolley fitted with pneumatic tires: Provided that no such trolley shall be moved along any path which in the opinion of the caretaker, is too narrow or otherwise unsuitable for such trolley.

54. Vehicles and Tools

Any person engaged upon any work upon any grave or graves shall use vehicles, tools and other appliances of such kind as not to contravene the by-laws.

55. Complying with the Caretaker's Directions

Any person carrying on any work within a cemetery shall at all times comply with the directions of the caretaker.

56. Rubbish and Damage to Cemetery

No person shall at any time leave any rubbish, soil, stone or other debris within any cemetery or in any way damage or deface any part of any cemetery or anything therein contained.

57. Times for Bringing in Material and Doing Work

(1) No person shall bring memorial work or material or do any work, within any cemetery except during the following hours:

- (a) Mondays to Fridays, with the exception of public holidays, from 07h00 to 16h00.

(2) In exceptional cases the caretaker may permit work to be done outside of the times prescribed in subsection (1)(a), but only if the prescribed charges determined from time to time by the municipality have been paid.

58. Inclement Weather

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(1) No person shall fix or place any memorial work during inclement weather or while the soil is in an unsuitable condition.

(2) The municipality may decide when the weather may said to be inclement weather or when the soil is in an unsuitable condition.

59. Production of Written Permission

Any person who undertakes any work within any cemetery shall, upon demand by the municipality, produce the written consent issued to him in terms or section 43.

CHAPTER XI: ALL SECTIONS

60. Adornment of Graves

(1) Subject to the provisions of subsection (2), no person shall, except with the consent of the caretaker, erect, place or leave upon or around a grave any railings, wire-work, flower stand, ornament, wreath, embellishment or other object of any kind, other than a vase, together with such flowers and foliage as may be inserted therein.

(2) Notwithstanding the provisions of subsection (1), no person shall erect, place or leave upon or around a grave any railings, wire-work, flower stand, ornament, wreath, embellishment or other object of any kind in the aesthetic section.

(3) Where the caretaker considers whether to grant consent for the adornment of any grave in terms of subsection (1), he must take into consideration the cultural and religious values of the local community as well as the cultural and religious values of the deceased interred in the grave.

(4) Fresh flowers and foliage placed on a grave with the consent of the caretaker in terms of subsection (1) may be removed by him when in his opinion they have faded.

(5) A memorial may incorporate not more than two vases or other receptacles for flowers or foliage.

61. Monumental Section

The following provisions shall apply to the monumental section of a cemetery, if there be one:

- (a) No memorial, which is erected, shall exceed a height of 1500 millimetres provided a proper foundation is incorporated in the design; and
- (b) No planting of any kind, except with the permission of the caretaker, shall be allowed on the graves.

62. Aesthetic Section

The following provisions shall apply to the aesthetic section of a cemetery, if there be one:

- (a) No kerbing or any form of base shall be erected;
- (b) The headstone memorial shall be erected only on the concrete strip as provided by the municipality;
- (c) The pedestal of the memorial shall not exceed 800 millimetres by 260 millimetres unless the memorial is to be erected on two adjoining grave plots, in which case the measurements may be 1 220 millimetres by 260 millimetres;

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- (d) No memorial shall overhang the pedestal at any point and it shall be so erected on the berm that the edge nearest to the grave shall be at least 120 millimetres from the edge of the berm. The height of memorial shall not exceed 1000 millimetres, including the bar;
- (e) The municipality retains the right to flatten any remains of soil or fill any subsidence of a grave to the same level as the adjoining undisturbed ground level to facilitate mechanised maintenance;
- (f) Except for a memorial or vase for flowers or foliage which may be placed in the space provided on the berm, no object may be placed or kept on any grave after the expiration of six months from the date of interment;
- (g) Subject to the provisions of subsection (f), the caretaker may remove any object, which has been placed on a grave; and
- (h) Excluding the vase for flowers or foliage in the berm, no memorial may contain more than one additional container for flowers or foliage.

CHAPTER XII: CREMATORIA**63. Cremation**

(1) No person shall dispose of a body in any manner other than by interring it in a cemetery or having it cremated in a crematorium approved in terms of the provisions of the Crematorium Ordinance, 1965 (Ordinance 18 of 1965).

(2) No person shall dispose of a body by cremation other than in accordance with the Crematorium Ordinance, 1965 (Ordinance 18 of 1965).

(3) The ashes remaining after a cremation, may, with the written consent of the caretaker, be interred in a public or private grave in which the body of a relative or any other person has already been interred.

(4) If ashes are not collected after a cremation, they may be strewn in a garden of remembrance by the caretaker.

64. Coffins

Coffins intended for cremation shall be constructed principally out of timber or wood derivatives, as regulated by regulation 14 of the Crematorium Ordinance, 1965 (Ordinance 18 of 1965).

CHAPTER XIII: PROHIBITED CONDUCT**65. Prohibited Acts within Cemeteries.**

(1) No person shall-

- (a) solicit any business, order or exhibit, distribute or leave any tracts, business cards or advertisements within any cemetery other than as provided for in section 52(3) of these by-laws;
 - (b) sit, stand or climb upon or over any memorial work, gate, wall, fence or building in any cemetery;
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- (c) commit any nuisance within any cemetery;
- (d) ride any animal or motorcycle within any cemetery, and no other vehicle may exceed a speed of 16 km per hour;
- (e) intentionally bring any animal or bird into a cemetery or allow it to wander in it, with the exception of guide dogs;
- (f) plant, cut, pick or remove any plant, shrub or flower without the permission of the caretaker;
- (g) hold or take part in any demonstration in any cemetery;
- (h) hinder during the performance of his duties any officer, workman or labourer employed by the municipality in any cemetery;
- (i) obstruct, resist or oppose the caretaker in the course of his duty or refuse to comply with any order or request which the caretaker is entitled to make;
- (j) use or cause any cemetery to be used for any immoral purpose; or
- (k) mark, draw, scribble, erect advertisements or objects on any wall, building, fence, gate, memorial work or other structure within any cemetery or in any other way deface them.

(2) When assessing what constitutes prohibited conduct in terms of subsection (1) the social and cultural values of the local community should be taken into account.

(3) The caretaker must place a notice in the cemetery setting out the prohibited conduct.

(4) Any person wishing to lodge a complaint about any prohibited conduct must do so in writing to the municipality.

66. Keeping the Paths

All persons shall use only the roads, walks and turfed paths provided in the cemetery.

67. Entrance to and Exits from Cemeteries

No person shall enter or leave any cemetery except by the gates provided for that purpose and no person shall enter any office or fenced place in a cemetery except in connection with lawful business.

68. Penalties

(1) Any person contravening any provisions of these by-laws or failing to comply therewith, shall be guilty of an offence and liable, on conviction, to a sentence of up to six months or a fine not exceeding R100, or both and, in the case of any continued offence, to a fine not exceeding R10 per day for every day such offence is continued.

(2) In addition to such fine prescribed in subsection (1), the person guilty of such contravention shall pay any cost incurred by the municipality as a result of any contravention of any of the provisions of these by-laws.

(3) The caretaker may at any time order any person who does not comply with these by-laws in the cemetery or disturbs the sacred atmosphere in the cemetery in any manner, to leave the cemetery immediately in which event that person must forthwith comply with the order, or the caretaker may make arrangements that the trespassers be lawfully removed from the cemetery.

EMFULENI LOCAL MUNICIPALITY CEMETERY AND CREMATORIA BY-LAWS

CHAPTER XIV: GENERAL**69. Rights to Graves**

No person shall acquire any right to or interest in any ground or grave in any cemetery, other than such rights or interests as may be acquired in terms of these by-laws.

70. Non-discrimination

(1) Subject to the provision of subsection (2), no provision of these by-laws shall be construed so as to authorise discrimination between any persons on the basis of race, religion or gender. Nor shall these by-laws be applied in such a way as to discriminate between such persons.

(2) Notwithstanding the provisions of subsection (1), discrimination on the grounds of gender may be expressly authorised in terms of any provision of these by-laws which prescribes the wearing of appropriate apparel in a public place or that imposes a restriction upon the entry of persons into public ablutions, toilet and change-room facilities or prescribes different standards for such facilities.

71. Admission of Visitors

(1) Every cemetery shall be open to the public during the following hours:

- (a) From 1 September to 30 April: 07:00 to 18:00; and
- (b) From 1 May to 31 August: 07:00 to 17:30.

(2) Notwithstanding the provisions of subsection (1), the municipality shall have the right to open or close any cemetery or part of it to the public for such period as it may consider fit if it is, in the opinion of the municipality, in the interests of the public to do so.

(3) No person shall enter into or remain in any cemetery or part of it before or after the hours mentioned in subsection (1) or during any period when it is closed to the public.

(4) No person under 12 years of age may enter any cemetery unless in the care of a responsible person.

72. Revocation of By-laws

The laws listed in Schedule A are hereby repealed in their entirety: Provided that the repeal of such by-laws shall not affect anything done in terms of or any right, obligation or liability acquired or incurred under those by-laws.

73. Date of Commencement

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

EMFULENI LOCAL MUNICIPALITY CEMETERY AND CREMATORIA BY-LAWS

SCHEDULE A: LEGISLATION REPEALED

Vanderbijlpark Municipality: Cemetery By-laws and Crematorium Tariff published as Administrator's Notice 1400 dated 24 September 1980.

Meyerton-Jacobskop Municipality: Cemetery By-laws and Crematorium By-laws published as Administrator's Notice [-] dated 15 November 1996, to the extent that it falls within the jurisdiction of the Emfuleni municipality.

Vereeniging Cemetery By-laws published as Administrator's Notice 478 dated 4 September 1946.

LOCAL AUTHORITY NOTICE 259

***STANDARD STREET AND
MISCELLANEOUS
BYLAWS***

OF

EMFULENI LOCAL MUNICIPALITY

EMFULENI LOCAL MUNICIPALITY

STANDARD STREET AND MISCELLANEOUS BY-LAWS

The Emfuleni Local Municipality hereby publishes the Standard Street and Miscellaneous By-laws set forth hereinafter, which have been promulgated in terms of Section 156(2) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) and in accordance with Section 13 of the Local Government : Municipal Systems Act, 2000 (Act 32 of 2000).

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CHAPTER I : DEFINITIONS

In these By-laws, unless the context otherwise indicates:

- "act" means the National Welfare Act, 1978 (Act 100 of 1978);
- "collector" means a person appointed by the convener to collect money for the purpose of a street collection which has been permitted under these By-laws;
- "convener" means the person appointed under Section 82(1) of these By-laws to act as a convener of a particular street collection and shall, where more than one person is so appointed, include all such persons;
- "grocery trolley" means any push trolley or push cart which is used by members of the public to convey purchases or goods;
- "municipality" means –
- (a) Emfuleni Local Municipality or its successors-in-title; or
 - (b) the Municipal Manager of Emfuleni Local Municipality in respect of performances or any action or exercise of any right, duty, obligation or function in terms of these By-laws;
 - (c) an authorized agent of the Emfuleni Local Municipality;
- "municipal council" means the municipal council as referred to in Section 157(1) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);
- "municipal manager" means the person appointed as the Municipal Manager of the Municipality in terms of Section 82 of the Local Government Municipal Structures Act, 1998 (Act 117 of 1998) and includes any person –
- (a) acting in such position; and
 - (b) to whom the Municipal Manager has delegated a power, function or duty in respect of such a delegated power, function or duty;
- "owner" in respect of a grocery trolley, means any business undertaking, shop, firm or person which has ownership of such grocery trolley;
- "organisation" means an organisation registered in terms of Section 13 of Act 100 of 1978 or any organisation;
- "public place" means a public place as defined in Section 2 of the Local Government Ordinance, Ordinance 17 of 1939;
- "public road" as defined in the Road Traffic Act, 1989 (Act 29 of 1989) and National Road Traffic Act, 1996 (Act 93 of 1996);

- "roadway" means that portion of a road, street or thoroughfare improved, constructed as intended for vehicular traffic, which is between the edges of the roadway;
- "sidewalk" means that portion of a verge intended for the exclusive use by pedestrians;
- "street" includes any street, road or thoroughfare shown on the general plan of a township, agricultural holding or other division of land or in respect of which the public have acquired a prescriptive or other right of way;
- "street collection" means a collection of money in a public place for charitable or other purposes;
- "street collection year" means the period of twelve months from the first day of April in one year to the 31st of March in the following year;
- "token" in respect of a grocery trolley, means a sign or a grocery trolley, the name or trading name of any business undertaking must appear in not less than 15 mm in size;

and any other word or expression to which a meaning has been assigned in the National Road Traffic Act or the National road Traffic Act, shall have that meaning.

CHAPTER II : PUBLIC PLACES, PEACE DISTURBANCES, OBSTRUCTIONS IN PUBLIC PLACES, TAXI OPERATIONS AND BUS OPERATIONS

PART 1 PUBLIC PLACES

1. Ropes Across Street

No person shall place any rope, wire or pole across any street, or hang, or place anything whatsoever thereon without the previous consent of the municipality in writing.

2. Damage to Trees

2.1 No person shall climb upon, or break or damage or in any way mark or paint on any tree in any street, and no person shall, without the previous consent of the municipality in writing, lop, top, trim, cut down or remove any such tree.

2.2 No person shall display an advertisement on any tree in any street without the previous consent of the municipality in writing.

3. Barbed Wire and Dangerous Fencing

3.1 Any barbed wire, fence or any railing, paling, wall or other barrier which, by reason of spikes or other sharp or pointed protrusions or otherwise by reason of the nature of its construction or design, erected along any street or public place, must have a warning sign fixed to the fence or wall.

A sign not exceeding 300 mm length and 210 mm height at 15 metre intervals, shall be displayed on the boundary wall or fence or in a position approved by the municipality on each tree boundary of an erf or portion of an erf which sign indicating the word "DANGEROUS".

No sign shall project at any point from the fence or wall to which it is affixed.

3.2 Without prejudice to the duties and liabilities imposed by subsection (1), the municipality may by notice, in writing, require the owner or occupier of land on which a fence, railing, paling, wall or other barrier which exists in contravention of subsection (1), at the date of promulgation of this By-law or is erected at any time thereafter, to remove it within such period being not less than one week as the notice may specify, and for every day or part thereof after the expiry of the period so specified, during which the notice is not complied with, the said owner or occupier shall on conviction be liable to a fine.

3.3 Without prejudice to the penalty prescribed by subsection (2), the municipality may itself, immediately after the expiry of a notice referred to therein, proceed to remove such fence, railing, paling, wall or other barrier and may recover the cost of so doing from such person.

4. Protection of Surface of Roadway and Sidewalk

No person shall place upon, off-load on, or convey across a roadway or sidewalk any materials or goods unless he/she has taken adequate precautions to protect the surface of such roadway or sidewalk against damage.

5. Cleanliness of Streets and Public Places

- 5.1 No person shall spill, drop or place or permit to be spilled, dropped or placed, in or on any street or public place any matter or substance that may interfere with the cleanliness of such street or public place, or cause annoyance, danger or accident to persons, animals, vehicles or other traffic using such street, without removing it or causing it to be removed from such street forthwith.
- 5.2 No person shall spit or relieve himself/urinate in or upon any street or public place.

6. Auction Sale or Morning Market in Street

No person shall without the previous consent of the municipality in writing hold any auction, sale or morning market in any street.

7. Exposure of any Article for Sale in Street or Public Place

No person other than a licensed hawker, peddler or street trader or a person lawfully entitled to trade in any street or public place without taking out a license, shall expose any article whatsoever in or upon or over any street or public place.

8. Article Placed in Window Facing Street

No person shall place any article likely to cause injury or damage to any person or property if it were to fall, in any windows or other superstructure near any street without sufficiently safeguarding it against falling into the street.

9. Playing in Streets forbidden

- 9.1 No person shall play with a ball, roll any hoop or fly any kite or throw stones or use any bow and arrow or by any means discharge any missile upon, over or across any street or play any game thereupon or therein, or use any pushcart other than in the course of and for the purpose of a business.
- 9.2 No person shall drive or ride on roller skates, skate boards or any other toy vehicle in any street without the written consent of the municipality and on such conditions as may be determined by the municipality.

10. Extinguishing Lamps and Damaging Public Property

No person shall willfully or negligently extinguish the light of any lamp being the property of the municipality, or in any manner interfere with such lamp, or deface, damage, remove, or in any way interfere with any municipal or public property or work in or along any street.

11. Cleaning and Repairing Forbidden in Streets

No person shall in any street or public place clean or repair any part of a vehicle or motor vehicle except in case of accident or breakdown, or wash, dry or bleach any article or thing whatsoever.

12. Excavations in Streets

No person shall make or cause to be made any hole, trench, pit or excavation in any street or remove any soil, metal or macadam there from without the previous consent of the municipality in writing.

13. Defacing, Marking or Painting Streets

No person shall, except in the execution of his duty, in any way deface, mark or paint any street or part thereof without the previous consent of the municipality in writing.

14. Sweeping Premises in or Near Streets

14.1 The occupier of premises adjoining any street shall not cause or permit –

- (a) any part of the sidewalk adjacent thereto to be swept unless and until such part shall have been adequately sprinkled with water;
- (b) any dirt or refuse so swept to be thrown or in any way deposited in or upon any street.

14.2 Any contravention of subsection (1) by any employee, agent or representative of the occupier shall be deemed to be a contravention by the occupier.

CHAPTER II : PUBLIC PLACES, PEACE DISTURBANCES, OBSTRUCTIONS IN PUBLIC PLACES, TAXI OPERATIONS AND BUS OPERATIONS

PART 2 : PEACE DISTURBANCE AND DANGEROUS INSTRUMENTS

15. Firing of a Firearm, Air gun or Air-pistol

No person shall without lawful cause, fire a firearm, air gun or air-pistol within the boundaries of the Emfuleni Local Municipality: Provided that this provision shall not apply in the case of –

- (a) a firearm during a bisley or target practice on a recognized shooting range;
- (b) a firearm fired for the purpose of a sports meeting or practice; or
- (c) a firearm, air gun or air-pistol fired on land which is mainly used for agricultural purposes.

16. Words or Gestures likely to Cause Breach of Peace

No person shall use any threatening, abusive or insulting words or gestures of behaviour in any street or public place whereby a breach of the peace is likely to be caused.

17. Dangerous Animals, Reptiles or Insects
- 17.1 No person shall without a permit issued by the municipality, keep any wild or dangerous animal, reptile or insect which has an inherent propensity to attack human beings or the keeping of which is likely to become a nuisance or injurious to the health of or is fraught with danger to any person.
- 17.2 Any animal, reptile or insect the keeping of which is prohibited in terms of subsection (1) may, if found at large, be destroyed by any police officer or authorized officer of the municipality.
18. Singing or Playing Musical or Noisy Instrument for Profit
- No person shall for profit sound or play upon any musical or noisy instrument or sing in any street or public place, without the prior consent of the municipality in writing.
19. Disturbance of Public Peace
- No person shall disturb the public peace in a street or public place, or on private premises by making noises or causing them to be made by shouting, quarrelling, fighting, singing or playing any type of musical or noise-creating instrument or device or by means of a radio, loudspeaker or similar device, or by riotous, violent or immoral behaviour.
20. Keeping Animals and Birds disturbing Public Peace
- No person shall keep any animal or bird, which causes noises or disturb the public peace in a street, public place and/or private premises.
21. Advertising by Loudspeaker or Other Device
- 21.1 No person shall, without the previous consent of the municipality in writing, play or permit the playing of radio of any other device, or use or permit the use of any loudspeaker or other audible device for the purpose of advertising on or adjacent to or which may be heard in any street or public place.
- 21.2 No person shall, after being required to desist by a police officer or authorized officer of the municipality, persist in playing or operating such device.
22. Public Gatherings and Processions Generally
- 22.1 No person shall hold, convene, address or organise any public gathering or procession in, at, or on any street or public place or premises being under the control of or belonging the municipality without the prior permission of the municipality obtained in writing: Provided that such permission may only be withheld for the reasons set out in this section.
- 22.2 Written application for permission to the holding, convening or organizing of such public gathering or procession shall reach the Municipal Manager not later than seven days before such gathering or procession is due to commence and every such application shall –

- (a) contain the full names and addresses of holders, conveners or organizers of the proposed public gathering or procession;
 - (b) specify the date and time and place or route thereof and whether or not it is proposed to use bands, musical instruments, loudspeakers or similar devices.
- 22.3 In granting such permission, the municipality may impose such conditions and restrictions as it may deem necessary for the prevention of damage to property, obstruction of traffic, disturbances of the peace or interference with amenities of the public and generally for the maintenance of law and order. For such purpose and without prejudice to the generality of the foregoing, the municipality may at its discretion, prohibit the use of bands, musical instruments, loudspeakers or similar devices and may, in addition, limit the holding of any such gathering or procession to specified places or areas and to particular times or periods.
- 22.4 The municipality may refuse such permission if it has reasonable grounds for believing that such public gathering or procession if held, is likely to result in public disturbances or riots, damage to property, obstruction to traffic or interference with the amenities and conveniences of the public generally and the municipality shall inform the applicant (holder, convener, organiser) of the reasons of refusal of the application.
- 22.5 Any person who holds, convenes, addresses or organises any public gathering or procession referred to in subsection (1) in respect of which the permission of the municipality has not been obtained and any person holding, convening, addressing or organizing a public gathering or procession in respect of which such consent has been obtained, who fails to comply with any condition which may be imposed in terms of subsection (3) and any person who in any manner causes a disturbance or commits an offence while present at any public gathering or procession shall, if –
- (a) required to do so by any authorized officer of the municipality or police officer,
 - (b) forthwith leave such public place or premises.
- 22.6 Any person who holds, convenes, addresses or organises any public gathering or procession referred to in subsection (1) in respect of which the permission of the municipality has not been obtained and any person holding, convening, addressing or organizing a public gathering or procession in respect of which such consent has been obtained, who fails to comply with any condition which may be imposed in terms of subsection (3), shall be guilty of an offence.
- 22.7 Any person present at any public gathering or procession who fails to leave such public place or premises on being so required in terms of subsection (5) or who has been warned by a police officer or duly authorised officer of the municipality that the gathering or procession is illegal or that the conditions imposed by the municipality in granting permission for the holding of such gathering or procession are being contravened and who fails, on being so

required by a police officer or duly authorized officer of the municipality, to leave such public place, shall be guilty of an offence.

23. Advertising by means of Advertising Vehicles, Sandwich Boards or Other Devices

23.1 No person shall without the previous consent of the municipality in writing display or cause or allow to be displayed an advertisement by means of advertising vehicles, sandwich boards, lanterns, flags, screens or other movable advertising devices in or along any street.

23.2 No person shall display any advertisement or cause or allow it to be displayed on any public motor vehicle in such manner as to be readily visible to any person not upon such vehicle: Provided that an advertisement may be so displayed on the sides and back of any bus.

23.3 The provisions of subsections (1) and (2) shall not be deemed to prevent a public motor vehicle operator from advertising the transport service carried on by means of that vehicle on such vehicle.

24. Loitering in Streets

24.1 No person shall lie or sit on any street, nor shall any person stand, congregate, loiter or walk, or otherwise act in such manner as to cause obstruction to traffic or to jostle or otherwise annoy any person using such street or loiter at or within 20 m of the entrance of any place of public worship during the time of divine service or during the assembly thereat or departure therefrom of the congregation so as to obstruct or annoy any persons going to, attending at, or leaving such place of worship. Any person performing any of the aforementioned prohibited act shall, upon request by a police officer or duly authorized officer of the municipality, discontinue to do so, failing which he shall be guilty of a contravention of these By-laws.

24.2 No person shall stand, congregate, assemble, walk or otherwise act in such a manner in a street with the aim of seeking employment from passing traffic except at such places as earmarked by the municipality for such a purpose.

25. Loitering and Touting at Places of Public Entertainment

No person shall loiter or, except when forming part of a queue, congregate in any street within 20 m of the entrance to any place of public entertainment so as to obstruct or annoy persons proceeding to, attending at, or departing from such place of entertainment; neither shall any unauthorized person tout or solicit drivers of motor vehicles parking their motor vehicles at places of entertainment for the purpose of or under pretext of attending to same during the assembly thereat or the departure there from of the audience.

26. No Handbill or Advertisement on Vehicle without Permission

26.2 No person shall deposit or leave any circular, dodger, handbill or other advertisement on any vehicle in any street or public place without having obtained permission to do so from the person in charge of such vehicle.

- 26.2 For the purposes of this section, any person found depositing or leaving any circular, dodger, handbill or other advertisement on a vehicle in any street on public place, should be presumed to have done so without the said permission, unless he shall produce satisfactory evidence of such permission.

CHAPTER II : PUBLIC PLACES, PEACE DISTURBANCES, OBSTRUCTIONS IN PUBLIC PLACES, TAXI OPERATIONS AND BUS OPERATIONS

PART 3 : OBSTRUCTIONS IN STREETS

27. Tree Planting in Public Places

No person shall plant any tree or shrub in any street without the previous permission of the municipality in writing.

28. Parking

- 28.1 No person shall park a vehicle with a tare of 3 500 kg or more for a period at any time after sunset and before sunrise on the roadway, verge of sidewalk of a street for the washing or sale of or repair to such vehicle or for advertisement purposes.

- 28.2 Whenever a vehicle is parked or stopped or permitted to remain in any place in contravention of a provision of these By-laws, it shall be presumed, until the contrary is proved, that such vehicle was so parked, stopped, caused to remain or permitted to remain by the owner thereof.

29. Clamping

- 29.1 No person shall park a vehicle at any time causing obstruction on a roadway or a sidewalk. If a vehicle is parked in such a way, the wheels of the vehicle shall be clamped by a designated official. After clamping, no person shall remove or try to remove such a clamp.

- 29.2 The wheel clamp shall only be removed by a designated official after the payment of a fee prescribed by the Emfuleni Local Municipality and the submission of the applicable receipt. The municipality shall not be liable for any damages or losses that may occur.

30. Damage to Vehicles

The municipality shall not be liable for the loss of any vehicle or for its unlawful removal from the ground or for damage to any vehicle or its fittings, accessories or contents while in a parking ground or for such damage if it is the consequence of it being moved in terms of Section 32 or 33.

31. Authorised Persons

No person shall, unless authorized thereto by the municipality, enter or be in a parking ground otherwise than for the purpose of parking a vehicle therein or lawfully removing it there from: Provided that this section shall not apply to a person whom the person in charge of a vehicle has permitted to be a passenger therein.

32. Obstruction

If a vehicle has been parked in such a position that in the opinion of an authorized employee, it is likely to obstruct or impede the movement of other vehicles or pedestrians in the parking ground, it may be moved or pounded to the municipality's pound.

33. Abandoned Vehicles

33.1 Any vehicle which has been left in the same place in a parking ground for a continuous period of more than seven days may be removed by or at the instance of an authorized employee to the municipality's pound.

33.2 The municipality shall take all reasonable steps to trace the owner of a vehicle removed in terms of subsection (1) and if, after the lapse of ninety days from the date of its removal, the owner or other person entitled to its possession cannot be found, the vehicle may, subject to the provisions of subsection (3), be sold by public auction.

33.3 Fourteen days' notice of an auction sale to be held in terms of subsection (2) shall be published in at least one newspaper circulating in the municipal area, but the sale shall not be proceeded with if at any time before the purchase of the vehicle it is claimed by the owner or any other person authorized by him or otherwise lawfully entitled to claim it and all charges payable in respect thereof in terms of these By-laws and all costs referred to in subsection (4) have been paid to the municipality.

33.4 The proceeds of a sale concluded in terms of this section shall be applied first in payment of the charges referred to in subsection (3) and in satisfaction of the following costs:

- (a) The costs incurred in endeavouring to trace the owner in terms of subsection (2).
- (b) The costs of removing the vehicle and advertising and effecting its sale.
- (c) The costs of keeping the vehicle in pound which shall be at the rate per day established by the municipality from time to time up to a maximum of 120 days, and any balance of the proceeds shall be paid to the owner of the vehicle or any person lawfully entitled to receive it on his behalf upon his establishing his right thereto to the satisfaction of the municipality: Provided that if no claim be so established within one year of the date of the sale, such balance shall be forfeited to the municipality.

33.5 the exercise by the municipality, or any person acting on its behalf, of the powers conferred by this section shall not subject it or him to any liability in respect of the loss or theft of or damage to the vehicle or any part thereof or anything therein or relieve any person of the consequences of his contravention of any provision of these By-laws.

34. Refusal for Admission

34.1 It shall be in the discretion of a duly authorized employee to refuse to admit to a parking ground a vehicle which with or without any load, is by reason of its length, width or height likely to injure persons or cause damage to property or to cause an obstruction or undue inconvenience.

34.2 A person in control of a vehicle who, having been refused admission in terms of subsection (1), proceeds to drive it into a parking ground, shall be guilty of an offence.

CHAPTER II : PUBLIC PLACES, PEACE DISTURBANCES, OBSTRUCTIONS IN PUBLIC PLACES, TAXI OPERATIONS AND BUS OPERATIONS

PART 4 : TAXI OPERATION

35. Allocation and Use of Stands for Taxis

35.1 Save for any provisions to the contrary in these By-laws or any other Ordinance or Act, a municipality may –

(a) demarcate parking places for taxis and distinguish them by applicable traffic signs; and

(b) allocate to each taxi a parking place as contemplated in paragraph (a).

35.2 On the allocation of a parking place as contemplated in subsection (1), the municipality shall issue a token in a form as prescribed from time to time by the municipality which shall be displayed on the taxi concerned in the manner prescribed in respect of a clearance certificate in terms of the Road Traffic Act, Act 29 of 1989 and the National Road Traffic Act, 1996 (Act 93 of 1996).

35.3 The municipality may impose charges for the allocation of a parking place in terms of subsection (1).

35.4 The driver of a taxi who intends to park it on a parking place allocated for taxis, shall park on the parking place immediately behind the other taxis already parked on such parking places.

35.5 A taxi shall be parked on a parking place as contemplated in subsection (1), in such a manner that it always occupies parking places from the front end.

36. Order or Engagement

When any person wishes to hire a taxi parked on a parking place as contemplated in Section 35(1), the taxi at the front end of the parking places shall enjoy preference, unless the person who wants to make use of the service, selects any other taxi.

37. Tending to Taxis

37.1 A driver in charge of a taxi occupying one of the first three parking places as contemplated in Section 35(1) shall not leave his taxi unattended while it occupies that position.

37.2 A driver in charge of a taxi on a parking place referred to in subsection (1) occupying any position other than the first three positions shall not absent himself there from for more than 20 minutes in any hour.

37.3 A taxi left unattended as contemplated in subsection (2), shall be left in such a manner that it can be pushed or driven forward on its driver's behalf in terms of Section 35(5).

Where a telephone has been installed at parking places contemplated in Section 35(1), for the purpose of tending to taxis, the driver of the taxi occupying the front position shall answer such telephone and shall comply with any legal request from the caller within the scope of his duties as taxi driver: Provided that where the caller requests to speak to a certain taxi driver present at such parking places, he shall call that driver.

38. Driver shall not Refuse Engagement

No driver of a taxi shall refuse to accept immediate engagement and to provide conveyance to a person should such person request him to do so.

39. Taxi Called but not Used

39.1 Any person ordering a taxi but not making use of it, shall be held liable for the payment of the fare at the normal determined rate.

39.2 Where such a taxi is kept waiting through no fault of the driver before being notified that his services will not be required, the person who ordered the taxi shall pay an additional amount for waiting time at the determined rate.

40. Waiting for Passengers

40.1 When a taxi is hired, the driver may, if requested to wait at any place, refuse to do so unless the hirer shall first pay him the fare for driving to the place where he is requested to wait as well as making a deposit, at the determined rate for waiting time for the period the hirer desires the taxi to wait. Such deposit shall be accounted for when the taxi is finally discharged and payment for the actual waiting time shall be made in accordance with such rate.

40.2 No driver shall, after having received such deposit, depart before the expiration of the time for which such deposit has been paid, or neglect or refuse to account for such deposit on the final discharge of the taxi.

41. Driver to take Shortest Route

The driver of any taxi shall, while the taxi is hired, drive to his destination by the shortest route, unless otherwise directed by the hirer.

42. Failure to Keep Engagement

No driver of any taxi, having been hired to convey a passenger or goods at a given time, shall fail or neglect to do so.

43. Conveyance of Dangerous or Offensive Articles or Dead Bodies

No driver of any taxi shall knowingly convey any goods or articles or things of a dangerous or offensive nature, and no driver of such taxi shall at any time permit the dead body of any person or the carcass of an animal to be conveyed therein.

44. Disinfection after Conveyance of Infectious or Contagious Disease Cases

Should any driver unwittingly have conveyed in a taxi any person suffering from any infectious or contagious disease, he shall, as soon as it comes to his knowledge that he has conveyed such a person, immediately disinfect such taxi to the satisfaction of the municipality's health authority.

45. Preventing Engagement

No driver of a taxi or any other person shall by using force or threats or in a clandestine manner or by any other means, prevent or seek to prevent any person from hiring any other taxi or the driver of such other taxi from obtaining or conveying passengers or loads.

46. Unauthorised handing over or Abandonment of a Taxi

No driver of any taxi shall abandon a taxi which has been entrusted to him, subject to the provisions of Section 37(1) and (2) or allow any other person to drive such vehicle without the knowledge or consent of the owner of such taxi.

47. Behaviour and Clothing of Drivers

All drivers of taxis shall be dressed cleanly and decently and shall conduct themselves in a proper, civil and decorous manner and no driver of any taxi shall, whilst such taxi is under hire, smoke any tobacco or other substance without the consent of the hirer or passenger.

48. Property left in Taxi

The driver of any taxi who discovers any property left behind therein shall within eighteen hours deposit such property in safe custody, at the nearest police station.

CHAPTER II : PUBLIC PLACES, PEACE DISTURBANCES, OBSTRUCTIONS IN PUBLIC PLACES, TAXI OPERATIONS AND BUS OPERATIONS**PART 5 : BUS OPERATIONS**

49. No person shall attempt to ascend or alight from any public bus except at such stands or stopping places as have been approved by the municipality and no driver of a public bus shall allow such bus to stop for the purpose of picking up or allowing any passenger to alight, except at such stands or stopping places as have been approved by the municipality.
50. Intending Passengers to Board at Approved Stands or Stopping Places Only
Every driver of a public bus used on any approved route upon being signaled at any approved stand or stopping place by any person wanting to travel on such bus shall stop and pick up such person if he is not prohibited by any act from boarding such public bus.
51. Public Bus to Stop on Request
Every driver of a public bus having been requested by any passenger to stop his bus, shall do so at the next approved stopping place to enable such passenger to alight.
52. Public Bus not to be Left Unattended on a Stand
No driver shall allow a public bus to remain unattended at any stand or on any route.
53. Animal-drawn Public Vehicles not to be Used if Particulars not Painted Thereon
No person shall use any animal-drawn public vehicle unless the words "Registered Carrier" are legibly and conspicuously painted or affixed thereon.
54. Driver of Animal-drawn Public Vehicle Required to be Licensed
No person shall drive an animal-drawn public vehicle on a public road within the municipality without a license issued to him by the municipality on payment of the prescribed charges.
55. License to be Produced
Every driver of an animal-drawn vehicle shall, when requested to do so by an authorized officer of the municipality, or by any person desiring to hire such vehicle, produce his license for inspection and furnish his correct name and address.
56. Owner to Supply Name and Address of Driver
The owner of any animal-drawn public vehicle shall keep a record of the name and address of the driver to whom he has entrusted such vehicle and when requested by any authorized officer, the owner shall point out such driver or furnish his name or address.

57. Presumption that Owner Drove Vehicle

Where in any prosecution in terms of these By-laws it is material to prove who the driver of an animal-drawn public vehicle was, it shall be presumed, until the contrary is proved, that such vehicle was driven by the owner thereof.

CHAPTER III : GROCERY TROLLEYS

58.1 The owner shall affix a token in a conspicuous position on every grocery trolley.

58.2 Nobody who is the owner or the person who controls or has the supervision over a grocery trolley or who offers it for use by any person or who uses it for any purpose whatsoever, shall push, leave or abandon it or permit that it be pushed, left or abandoned in any public road or public place, or areas demarcated for use by emergency vehicles.

58.3 Any grocery trolley which has been left or abandoned in a street or any such public place may forthwith be removed, or cause to be removed by any authorized official of the municipality and be placed under the care of the Chief Traffic Officer.

58.4 The Chief Traffic Officer shall store any grocery trolley which has been placed under his care in terms of subsection (2) and shall once a month by registered post or process notify the owners of the grocery trolleys, which have been impounded.

The following shall be stated in such a notice:

- (a) The number of grocery trolleys of the particular owner being stores.
- (b) That any such trolley may be claimed by the owner thereof on payment of the prescribed storage fee.
- (c) That any grocery trolley which has not been claimed after a period of three months from the date of the said notice, shall be sold by the municipality by public auction.
- (d) That the proceeds of the public auction shall be revenue in favour of the municipality; and
- (e) That the municipality may retain possession of such grocery trolley until the storage fees have been paid.

58.5 The municipality shall not be liable as a result of theft, damage to or loss of any grocery trolley or anything therein or the selling thereof by public auction and the owner of any grocery trolley, shall have no claim or right of redress against the municipality should such grocery trolley be handed over unintentionally to any person other than the owner thereof after payment of the prescribed storage fee.

- 58.6 The exercise by any person of the power conferred by this section, shall not render such person subject to any liability in respect of the loss or theft or damage to such grocery trolley or any part thereof or of anything therein.
- 58.7 Any person who contravenes the provisions of Section 58(1) and (2) shall be guilty of an offence.
- 58.8 The municipality may from time to time by special resolution in terms of Section 10G of Act 209 of 1993, determine such fees as it may deem fit for the purpose of this section and any other section in these By-laws contained.

CHAPTER IV : STREET COLLECTIONS

59. Consent of the Municipality

- 59.1 No person other than a collector or a convener shall solicit any gift of money in any public place.
- 59.2 No street collection may be organised or held without the consent of the municipality granted on application duly made in accordance with the provisions of these By-laws.
- 59.3 The municipality may in its discretion grant or refuse any application and shall be obliged to furnish reasons if requested to, for any decision taken.

The municipality shall consider the following with regard to an application:

- (a) The number of applications received by the closing date fixed in terms of Section 60(1).
- (b) The desirability of limiting, in the interest of the public, the number of days on which street collections are permitted.
- (c) The financial resources of the applicant.
- (d) Whether or not any applicant organisation is constituted to and does serve local needs primarily.
- (e) Whether both a national organisation and a local organisation affiliated to it have applied for permission to hold street collections in the same street-collection year.
- (f) The objects for which the proceeds of any street collection are intended.
- (g) The date of submission of such application.
- (h) Any previous failure by an applicant to hold a street collection which had been permitted.
- (i) Any failure to comply with any or more of these By-laws; and
- (j) Any other circumstance or consideration which might be relevant.

- 59.4 The municipality may accept any application that is lodged after the closing date and any application in respect of which the requirements of Section 59 have not been fully complied with should sufficient reasons exist therefor.
- 59.5 The municipality may, on receipt of an application, call for additional documentary or other evidence pertaining to the financial standing of the applicant.
- 59.6 When granting permission for a street collection, the municipality may prescribe the areas within which the collection may be held, the areas within which it may not be held and the points at which the collectors may or may not collect.
60. Application for Consent
- 60.1 Every application –
- (a) for consent as required in terms of subsection 59(2) shall be submitted on or before 30 November to be considered for the following year;
 - (b) Every application shall be signed by the chairperson or secretary of the applicant, in the absence of such person, by any authorized officer and shall state on a form to be obtained from the municipality the particulars specified in subsection (3).
- 60.2 Every organisation shall, before making an application in terms of this Section, appoint an auditor.
- 60.3 The following particulars shall be stated on a form of application as mentioned in subsection (1):
- (a) The name of the organisation on whose behalf the application is made.
 - (b) In order of priority, three dates (in the alternative) on which it is desired to hold the street collection.
 - (c) The objectives of such collection or of the organisation to which the proceeds of the collection are to be given.
 - (d) Where application is made on behalf of two or more organisations to hold a street collection for their joint benefit, the proportions in which they are to participate in the proceedings.
 - (e) Details of any deductions of any kind whatsoever which are to be made before the proceeds of the street collection are allocated to any organisation which is to participate therein; and
 - (f) The name, address and professional qualifications of the auditor of each such organisation.

- 60.4 Every application submitted in terms of this section shall be accompanied by –
- (a) The audited statement of accounts and balance sheet for the applicant's last financial year and such other financial details to be certified as correct by the auditor referred to in subsection (2) relating to the work of the organisation during its last financial year as are necessary to establish the true state of the financial resources of the applicant.
 - (b) A copy of the previous annual report, if any, of the organisation.
 - (c) Two copies of the applicant's constitution if not previously submitted.
 - (d) The written consent of the applicant to deduct all amounts owing to the municipality in terms of subsection 62 (3) from the deposit made in terms of subsection 62(2) ; and
 - (e) Either any certificate of registration or a proof thereof issued to the organisation under Section 13 of the Act.
61. Conveners and Collectors
- 61.1 Every organisation shall, before undertaking a street collection permitted under subsection 59(3), appoint in writing a person of the age of at least twenty-one to act as convener and another such person as alternative to the convener to discharge of such duties imposed on the convener under subsection (2)(c) as the convener may require.
- 61.2 The duties of a convener shall be as follows:
- (a) To issue to collectors appointed under subsection (3) all such directions as may be necessary to ensure compliance with the provisions of these By-laws relating to street collections and with any instructions given by the municipality in respect of the street collection in terms of these By-laws.
 - (b) To take delivery of the collection boxes supplied by the municipality in terms of Section 62, to issue them to such collectors who are able to establish their identity to the satisfaction of the convener and to return these boxes as required under that section; and
 - (c) Generally to supervise or cause to be supervised the conduct of the street collection.
- 61.3 Every collector shall be appointed as such under a letter of authority, addressed to him at his residential or business address, specifying the date of the street collection for which he is appointed and bearing the signature of the convener, and at all times when he is collecting or carrying out any function of a collector he shall keep such letter of authority upon his person and produce it on the demand of any authorized officer of the municipality.

- 61.4 No person shall be appointed a collector who –
- (a) is under the age of sixteen;
 - (b) has within the ten years immediately preceding the date of the street collection been convicted of any offence in connection with street collections; or
 - (c) has within the five years immediately preceding the date of the street collection been convicted of any offence involving fraud or dishonesty of any kind.
- 61.5 Any convener who knowingly employs or engages as a collector any person referred to in subsection (4) or knowingly permits or allows any such person to be employed or engaged as a collector for the street collection for which such convener has been appointed, shall be guilty of an offence.
- 61.6 No collector shall solicit any gift of money save from a place on the sidewalk from time to time assigned to him by the convener: Provided that when the same applicant has obtained from the municipality written consent in terms of Section 59 to hold a procession of not less than twenty motor vehicles each of which is to carry a float or tableau, the provisions of this subsection shall not apply.
- 61.7 If any collector –
- (a) furnish the convener who appoints him with a false name or a false address; or
 - (b) use any collection box which has not been supplied by the municipality for the purposes of a street collection; or
 - (c) use any collection box for the purposes of a street collection other than that for which it was supplied; or
 - (d) contravene the provisions of subsection (6); or
 - (e) accept any money in any public place save by causing or permitting the donor to place it in the collection box supplied by the municipality; or
 - (f) open such a box, removes the seal there from, or removes there from any of the money placed therein during a street collection; or
 - (g) fail or neglect to keep continuously in his possession, the collection box supplied to him; or
 - (h) fail or neglect to comply within seven days to any demand from the convener addressed to him at his correct residential or business address and dispatched by prepaid registered post requiring him to return the collection box supplied to him; or

- (i) fail on demand by any authorized officer of the municipality to produce his letter of authority as required in terms of subsection (3);

he shall be guilty of an offence.

62. Collection Boxes

62.1 No organisation may in conducting a street collection use any collection box which has not been supplied to it by the municipality for the purposes of that particular collection.

62.2 Before any such box is supplied by the municipality, the applicant shall deposit with the municipality an amount established by the municipality from time to time for every twenty boxes or part of that number of boxes so supplied and the applicant shall submit the written appointments of the convener and the alternate to the convener on which shall be stated the full name and the business and residential addresses of the convener and the alternate to the convener respectively.

63.3 The deposit made in terms of subsection (2) shall on the return of the boxes to the municipality be refunded to the applicant, subject to the deduction of –

- (a) for every box lost or returned damaged, an amount will be payable as established by the municipality from time to time;
- (b) a penalty per box will be paid for each working day by which the period laid down in subsection (4) for the return of the boxes is exceeded. Penalty will be established by the municipality from time to time.

63.4(a) Except where the municipality under the hand of the Municipal Manager, otherwise agrees in writing, the convener shall return or cause to be returned to the municipality at or before 15:30 on the day of the street collection, all boxes supplied for the said purpose.

- (b) The municipality may, in respect of boxes used in any Township, specify by letter under the signature of the Municipal Manager a later date on which such boxes or such number of them as may be specified in the letter, may be returned.

63.5 Boxes not returned at or before 15:30 on the day of the street collection shall be returned to the municipality before 10:00 on the following working day.

63. Flags and Badges

63.1 No display card, armband, flag, badge or other article which has not been approved by the municipality, may be exhibited or distributed to the public in connection with any street collection.

63.2 Applications for the approval of the municipality in terms of subsection (1) shall be made not less than fourteen days before the day of the street collection.

64. Hours of Street Collections

Unless written permission has been obtained from the municipality, no street collection shall proceed before 07:00 and continue after 14:30.

65. Returns to be submitted

65.1 Before any street collection may take place, the applicant shall submit to the municipality for its approval, to be signified in writing, the names and addresses of every person who will in any way be handling or conveying or for any reason have access to the money removed from the collection boxes after the street collection, accompanied by an undertaking that at no time will there be less than three of these persons on duty.

65.2 Not later than seven days after the day on which the street collection was held, or within such extended time as the municipality may in writing allow, the convener shall submit to the municipality on a form supplied by the municipality, a statement showing in respect of each box issued the official number displayed thereon, the name, address and signature of the person to whom it was issued and the amount of money collected in it.

65.3 No later than seven days after the date of the street collection or within such extended time as the municipality may in writing allow, the applicant shall notify the municipality, on a form to be supplied by it of the total amount of money collected.

CHAPTER V : OFFENCES AND PENALTIES

66. Any person contravening any of the foregoing By-laws, shall be guilty of an offence and liable on conviction, except where otherwise expressly stated, to a fine not exceeding R1 500.

LOCAL AUTHORITY NOTICE 260

**EMFULENI LOCAL
MUNICIPALITY**

**REGULATIONS RELATING TO THE
ERCTION, INSTALLATION, CONTROL, USE
OR REMOVAL OF ANY AERIAL SYSTEM FOR
THE RECEPTION OF SOUND AND
TELEVISION BROADCAST TRANSMISSIONS**

EMFULENI LOCAL MUNICIPALITY

REGULATIONS RELATING TO THE ERECTION, INTALLATION, CONTROL, USE OR REMOVAL OF ANY AERIAL SYSTEM FOR THE RECEPTION OF SOUND AND TELEVISION BROADCAST TRANSMISSIONS

In terms of the provisions of section 13 of the Local Government Systems Act (Act 32 of 2000), it is hereby notified that the Emfuleni Local Municipality publishes the By-laws set forth hereinafter, drafted by the Emfuleni Local Municipality in terms of section 12 of the aforementioned Act.

1. DEFINITIONS

In these Regulations, unless the context otherwise indicates.

"Aerial system" means a single system or a communal aerial system as defined in the Code or an HF wired distribution system as defined in the Specification:

"Local authority" means the Emfuleni Local Municipality as established in Notice 6765 of 2000 published in the Provincial Gazette Extraordinary dated 1 October 2000 (as amended) including the Mayoral Committee or any official employed by the Council acting by virtue of any power vested in the Council in connection with these by-laws and delegated to him in terms of legislation.

"Occupier" in relation to any premises, means the person in actual occupation of such premises:

"Owner" in relation to any premises, means the registered owner of such premises:

"Premises" means an erf, lot, plot, stand or other similar subdivision of land within a township established or recognized under any law and includes any dwelling house or other building thereon: Provided that where any such dwelling house or building extends over more than one such subdivision, such subdivision shall, for the purposes of the Regulations, be deemed to be one subdivision:

"The code" means the Code of Practice of the South African Bureau of Standards, SABS 061 – 1973 for the Installation of Aerial Systems (Communal and Single) for the Reception of VHF and UHF Sound and Television Broadcast Transmissions (Metric Units):

"The Specification" means the Specification of the Central Standardization Committee, CKS 387 – 1973, for Television HF Wired Distribution Systems (Metric Units), published by the South African Bureau of Standards,

And any other word or expression has the meaning assigned thereto in the Ordinance or in the Code or in the Specification, as the case may be, and in the case of any conflict between the Ordinance and the Code or between the Ordinance and the Specification, the meaning assigned to any word or expression contained in the Code or in the Specification, as the case may be, shall prevail.

2. APPROVAL OF LOCAL AUTHORITY

- 2.1 No person shall erect, install or use any aerial system on any premises without having applied for and obtained the prior written approval of the local authority within whose area of jurisdiction such premises are situated: Provided that in respect of a single aerial system no such approval shall be necessary where the mast of such aerial system is erected on a building on such premises and such mast does not project more than 3 m above the highest point of such building.

- 2.2 An application for any approval referred to in sub-regulation (2 1), shall be made to the local authority concerned in the form as set out in Schedule A to these Regulations, and such application shall be accompanied by the plans, drawings and other information indicated on such form.
- 2.3 Where plans are required for an aerial system, a fee as determined from time to time by the Council, shall be payable.
- 2.4 On receipt of any application in terms of sub-regulation (2 2), in respect such premises or cause such premises to be inspected, or call for such further information as it may deem necessary or expedient for the purpose of considering such application.
- 2.5 Any approval for an aerial system in terms of the provisions of sub - regulation (2 1) may be given subject to such conditions as the local authority concerned may deem fit to impose in respect of:
- (a) The aesthetic appearance of such system:
 - (b) The safety and stability of such system:
 - (c) The strength and stability of the structure on which such system is to be erected or installed: and
 - (d) The means to be adopted to prevent access to such system by unauthorized persons.

Provided that no condition shall be imposed which would interfere or would be likely to interfere with the reception of sound and television broadcast transmissions.

3. RESTRICTION ON THE ERCTION, INSTALLATION OR USE OF AERIAL SYSTEMS

- 3.1 No person shall erect, install or use:
- (a) Any aerial system which does not comply with the provisions of the Code or the Specification, as the case may be, on any premises:
 - (b) An aerial system, which serves premises other than those on which such system is erected or install.
- 3.2 Subject to the provisions of sub-regulations (3.3) and (3.4), no person shall erect, install or use any aerial system other than a communal aerial system on any premises.

- 3.3 A person may erect, install or use a single aerial system on any premises:
- (a) On which there is a single dwelling house including any outbuildings appurtenant thereto but excluding any semi-detached dwelling house: or
 - (b) Which does not have more than one owner of a television receiver.

Provided that where in respect of such premises there owners or hirers of television receivers who are members or servant of the same household, such premises shall be deemed to have not more than one owner or hirer of a television receiver.

- 3.4 A person may erect, install or use an HF wired distribution system on any premises with a building thereon which is an hotel or in which provision is made for accommodation of persons in offices, rooms or other portions of such building and which are adequately furnished for the purposes of such accommodation by the person providing such accommodation.

4. NOTIFICATION OF COMPLETION OF INSTALLATION OR ERECTION OF AERIAL SYSTEM

- 4.1 Within 14 days after the completion of the erection or installation of such system shall by registered post furnish the local authority concerned and the applicant referred to in regulation 2 with a safety warranty and such other information as is set out in the form contained in Schedule B to these Regulations.
- 4.2 The local authority shall keep a record of all forms furnished to it in terms of the provisions of sub-regulation (4.1) and such record may be inspected by any person during normal office hours.

5. PARTICULARS TO BE ENDORSED ON CERTAIN BUILDING PLANS

- 5.1 Any person who intends:
- (a) To erect a new building on any premises: or
 - (b) To extend the floor area of an existing building on any premises by not less than 40% of the floor area of such existing building, shall ensure that adequate provision has been made in the building plans concerned for conduits, junction boxes and such other fittings as are required for the erection or installation of an appropriate aerial system and shall endorse such plans or cause such plans to be endorsed accordingly. Provided that the foregoing provisions shall

not apply to any building which is designed for non-residential purposes or to a dwelling house.

- 5.2 Every person referred to in sub-regulation (5.1) shall during the course of the erection of a new building or the extension of the floor area of an existing building as contemplated in that sub-regulation, install or cause to be installed such conduits, junction boxes and other fittings as are shown on the building plans concerned and which comply with the Standard Regulations for the Wiring of Premises published by the South African Institute of Electrical Engineers and with the Code or the Specification, as the case may be.

6. POWERS OF ENTRY AND INSPECTION

6.1 Any officer of a local authority or other person acting on its behalf, authorized thereto in writing by such local authority may at all reasonable times enter upon any premises or any portion thereof.

- (a) On which any aerial system has been erected or installed or is being used: or
- (b) On which, he has reasonable grounds for believing, any aerial system has been erected, installed or is being used.

And there carry out any inspection or test, which he deems necessary or expedient in order to determine whether:

- (i) The provisions of these Regulations:
- (ii) Any condition imposed in terms of the provisions of regulation (2.4): and
- (iii) The provisions of the Standard Regulations for the Wiring of Premises, published by the South African Institute of Electrical Engineers in regard to the erection, installation or use of such aerial system are being complied with.

6.2 If it appears to the local authority from any inspection or test made in terms of sub regulation (6.1) that the provisions of these Regulations or any condition imposed in terms of regulation(2.4) have not been complied with the local authority may, by written notice, order the owner or occupier of the premises concerned to comply with such provisions or conditions or to remove the aerial system within such reasonable period as stated in such notice and may any expenses occasioned by such inspection and test from such owner or occupier.

6.3 If such owner occupier fails to comply with such notice within the period stated therein or within such further period as the local authority may allow, such local authority may remove the aerial system and may recover the expenses so incurred from such owner or occupier.

7. COMPLAINTS

Any person wishing to lodge a complaint may do so in writing to the Local Authority at P O Box 3 Vanderbijlpark 1900 whereupon the Local Authority shall provide a reply in writing

8. OFFENCES AND PENALTIES

Any person:

- (a) Who contravenes or fails to comply with:
 - (i) Any provision of these Regulations:
 - (ii) Any condition imposed in terms of regulation (2.4) or
 - (iii) Any notice referred to in regulation (6.2): or
- (b) Who obstructs or hinders any officer in the carrying out of any duty in terms of the provision of regulation (6.1) or
- (c) Who in connection with any provision of the Regulations furnishes information which, to his knowledge, is false or in any material respect misleading,

Shall be guilty of an offence and liable on conviction to a fine not exceeding R1 000,00 or, in default of payment to imprisonment for a period not exceeding 6 (six) months.

9. REPEALS

The Emfuleni Local Municipality hereby in terms of section 13 of the Municipal System Act 32/2000, revokes and repeal all the By-laws relating to the Erection, Installation, Control. Use or Removal of any Aerial Systems for the reception of Sound and Television Broadcast Transmission within the area of authority of Emfuleni Local Municipality.

10. SHORT TITLE AND COMMENCEMENT DATE

- (1) these bylaws are called the Erection, Installation, Control, Use or Removal of any Aerial System s for the reception of Sound and Television Broadcast Transmission of Emfuleni Local Municipality.
- (2) The Municipality may, by notice in the Provincial Gazette, determine that the provisions of these by-laws, listed in the notice, does not apply in certain areas within its area of authority from a date specified in the notice.
- (3) Until any notice contemplated in subsection (2) is issued, these By -laws are binding.

SCHEDULE B
(FORM TO BE COMPLETED IN DUPLICATE)

AERTERIAL SYSTEM SAFETY WARRANTY

1. In terms of provisions of regulation 4 of the Regulations relating to the erection installation, control use or removal of any aerial system for the undersigned, hereby certify that the erection and installation of a single aerial system/a HF wired distribution system (Delete whichever is inapplicable) in respect of the premises detailed below, has been completed in accordance with:

- (a) The safety requirements of the Code of Practice of the South African Bureau of Standards SABS 061 1973, or the Specification of the Central Standardization Committee CKS 387 1973, as the case may be:
- (b) The Regulations relating to the erection, installation, control, use or removal of any aerial system for the reception of sound and television broadcast transmissions:
- (c) The condition imposed by the local authority in terms of such Regulations: and
- (d) The standard Regulations for the Wiring of premises, published by the South African Institute of Electrical Engineers.

2. The description of the premises referred to in paragraph 1 is as follows:

Name of premises _____

Street number _____

Street _____

Erf number _____ in the suburb of _____

3. Furnish the following information:

Wind loading of the aerial _____

Number of SABS certificate in the case of a HF wired distribution system

Name of applicant to whom local authority has given approval in terms of regulation 2: _____

Signature of person responsible for erection or installation

Name in block letters _____

Capacity of signatory _____

(If a company, the person authorized to sign on its

behalf)

Address _____

Telephone number _____

Place _____

Date _____

LOCAL AUTHORITY NOTICE 261

***BYLAWS FOR THE CONTROL OF
STREET PROJECTIONS***

OF

EMFULENI LOCAL MUNICIPALITY

SCHEDULE

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EMFULENI LOCAL MUNICIPALITY

BY-LAWS FOR THE CONTROL OF STREET PROJECTIONS

In terms of the provisions of section 13 of the Local Government Systems Act (Act 32 of 2000), it is hereby notified that the Emfuleni Local Municipality publishes the By-laws set forth hereinafter, drafted by the Emfuleni Local Municipality in terms of section 12 of the aforementioned Act.

1. DEFINITIONS

In these by-laws unless the context otherwise indicates:

- | | |
|---------------------|---|
| "balcony" | means any erections similar to a verandah in front of any storey at a higher level, whether roofed or not; |
| "bay window" | means a window projecting outwards from a wall; |
| "colonnade" | means a series of columns placed at regular intervals and supporting an entablature; |
| "encroachment" | means building work of fixtures encroaching erf boundary; |
| "municipality" | means – |
| | (a) the Emfuleni Local Municipality, a category B municipality in the district of Sedibeng, Gauteng, established in terms of section 12(1) of the Local Government: Structures Act, 1998 (Act No 117 of 1998) or its successors-in-title or |
| | (b) the municipal manager of the Emfuleni Local Municipality in respect of the performance of any action or exercise of any right, duty, obligation or function in terms of these by-laws; |
| | (c) an authorized agent of the Emfuleni Local Municipality; |
| "municipal council" | means the municipal council as referred to in section 157(1) of the Constitution, 1996 (Act No 108 of 1996); |
| "municipal manager" | means the person appointed by the municipal council as the municipal manager of the Municipality in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) and includes any person – |

- (a) acting in such position; and
- (b) to whom the municipal manager has delegated a power, function or duty;

- “owner” means the registered owner of any separate piece of land or premises;
- “parapet” means a protecting wall, embankment, and barrier;
- “projection” means a projection of building work;
- “property” means any private premises excluding a street or park;
- “showcase” means a case with a glass front and glass sides wherein articles are exhibited,
- “street” means any street, square road, lane, subway, avenue, bridge, thoroughfare or public passage;
- “Strategic Manager Engineering Services” means the engineer of the Municipality or any other person authorized to act on his or her behalf;
- “Strategic Manager Management Support Services” means the strategic manager of Management Support Services;
- “professional engineer” means a person registered in terms of the Engineering Profession Act 2000 (Act No. 46 of 2000) as a professional engineer;
- “verandah” means a roofed erection with sides and front entirely open except where supported in front of the ground storey of a building and over the street footpath;

CHAPTER: II

STREET PROJECTIONS

2(1) Application

- (a) Any person wishing to erect or construct verandahs, bay windows or other fixtures or encroachment on, under or over any public street or any immovable property owned by or vested in the Municipality, shall make application to the Engineer on forms supplied by the Municipality. Such application shall be accompanied by drawings to a scale of 1:50 or 1:20 (together with a block plan to a scale of at least 1:500) which, together with the application form, shall be signed by person for whom such fixture

or encroachment is to be constructed, erected or fixed, and in addition, must be signed by the owner or authorized representative of the building affected.

- (b) Where plans are required for an encroachment, a fee as determined from time to time by the Municipality, shall be payable.

(2) Possessor at Will

- (a) Any person erecting, constructing or possessing any fixtures or encroachment on, under or over any street with the permission of the Municipality, shall be a possessor at will of the Municipality in respect thereof, and on receiving notice from the Municipality under the hand of the engineer to remove any such fixtures or encroachments, shall do so within the period fixed in such notice, without payment by the Municipality of any compensation whatsoever. In the event of non-compliance with such notice, the Municipality itself may remove any such fixtures or encroachments and recover the costs of such removal from the owner.

(3) Maintenance

- (a) The owner of the building in connection with which any fixture, projection or encroachment exists, or is proposed, shall:
- (i) Keep it in good order and be responsible for and pay to the Municipality or third parties concerned any loss or damage caused by reason of or in any way arising out of the construction, maintenance or existence of such fixture, projection or encroachment;
- (ii) Allow the Government or the Municipality to erect on, or attach to the building or projection, any fixings required in connection with telegraph, telephone, electrical or other activities.

Permission Required

- (a) No colonnades, verandahs, balconies, bay windows, showcases or other projections over any part of any street, shall be made or constructed without the permission of the Municipality being first obtained in writing.
- (b) The Municipality in its absolute discretion may refuse such permission or may grant the same either unconditionally or upon such conditions and subject to the payment of such annual or other sum or the performance of such works or service as the Municipality shall in each case fix and determine.

2.5 Pavement, kerb or Gutter to be made

- (a) Before any application to construct any of the aforesaid projections over or under any street is approved, the applicant shall deposit an amount as determined by the Municipality.
- (b) Should the applicant fail to carry out the construction of the kerb, gutter or pavement as required on the plans, the Municipality may, after giving the applicant reasonable notice, cause such work to be satisfactorily completed, and shall deduct from such deposit the cost of completing such work.

2.6 Rules for the Construction of Projections

The design, arrangement and construction of verandahs, balconies, bay windows and other projections over public streets, as well as the paving, kerb and gutter thereof shall be to the satisfaction and according to the requirements of the Municipality.

2.7 Balconies and Bay windows

- (a) Balconies, bay windows or similar projections shall not overhang a public street if it is at a height of less than 3 m above the pavement and all such projections shall be constructed of fire-resisting material and supported by cantilevers of reinforced concrete or by masonry or steel which is firmly attached.
- (b) Balconies shall not project more than 1,35 m over any street.
- (c) Bay windows shall not project more than 900 mm over any street.
- (d) The aggregate horizontal length of bay windows at any level over a street shall not exceed one third of the length of the building frontage to that street.
- (e) Any balcony superimposed upon any verandah shall be set at least 1,2m from the line of such verandah.
- (f) No balcony over any street shall be the sole means of access to any room or apartment.
- (g) No erection of any kind shall be allowed on any balcony, except balustrades and light columns which support the roof and upper balcony sufficiently.
- (h) No person shall place or permit or cause to be placed any article upon any balcony over a public street, except ornamental, plants, tables, chairs, canvas blinds and awnings, the latter not to be used for signs or advertisements.

2.8 Verandahs around Corners

Where verandahs are carried around corners of streets they shall be properly splayed or rounded to follow the curves of the kerb to a radius approved by the Municipality.

2.9 Paving of Footways or Pavements to Projections

Where any verandah, balcony or bay window is provided in front of any building, the owner shall at his own expense pave the whole of the footway or pavement under such verandah, balcony or bay window and in addition shall pay the cost of laying the street kerbing and guttering and paving in front of such building for the full width of the footway or pavement.

2.10 Footways or Pavements

- (a) Any person who shall, except with the written permission of the Municipality as hereinafter provided, lay or fix paving on any street sidewalk or footway shall, except as hereinafter provided, cause such paving to conform to the following requirements:
- (i) Paving shall be of pre-cast paving-bricks 100 mm by 200 mm in size with a minimum thickness of 50 mm.
 - (b) Bricks shall be laid to the grade, line and cross-fall pointed out by the Municipality and shall conform to the following requirements:
 - (i) For ordinary paving the minimum cross-fall shall be 1:100 and the maximum cross-fall 1:25.
 - (ii) Non-skid bricks of a type to be approved by the Council shall be used for cross-falls between 1:25 and 1:50. Provided that the maximum cross-fall shall not exceed 1:15.
 - (iii) Longitudinal grades shall not be steeper than 1:20 for ordinary bricks and non-skid bricks shall be used for steeper longitudinal grades.
 - (iv) Prior notice of at least three working days shall be given to the Municipality of the intention to lay paving on any footway or pavement.
 - (c) When carriage openings are formed in kerbs and across footways or pavements, such openings shall be paved with similar bricks to those hereinbefore described, but such bricks shall be of sizes 100 mm by 200 mm by 80 mm in thickness. All such bricks shall be solidly bedded in suitable material.

- (d) Should any person desire to lay paving of any material other than pre-cast concrete paving-bricks, he or she shall first submit a sample to the Municipality for testing and approval in writing before such materials are placed upon a public footway or pavement. Should the material be approved, all the provisions of this section in regard to size, shape and laying shall be observed as far as applicable.
- (e) No person shall lay or fix any cement bedding under such paving bricks nor cause any joint thereof to be of cement mortar.
- (f) No person shall lay asphalt, tar macadam, concrete granolith in-situ in any pavement on any street sidewalk or footway unless specially permitted in writing by the Municipality to do so.
- (g) No person shall lay bricks of any other kind, colour, size or shape, in any manner other than as specified in this section, unless duly authorized thereto in writing by the Municipality.
- (h) Any paved area shall be maintained by the body/person responsible for the construction thereof.

2.11 Entrances

- (a) Any person who shall, except with the written permission of the Municipality as hereinafter provided, construct a tarred, concrete or paved entrance to any business/industrial property, must provide an engineer's design for approval by the engineer. The design must reflect the following information:
 - (i) The type of vehicle movement.
 - (ii) Size of vehicle.
 - (iii) Radius of belmouths.
 - (iv) Slope to municipal road.
 - (v) Pavement design.
 - (vi) Stormwater drainage.
- (b) Every entrance or access shall be maintained by the owner or body of the business serviced.

2.12 Road crossings

Any person who intend to install or repair any underground service in a municipal road reserve must obtain written permission from the engineer.

CHAPTER III**3. Complaints**

- (1) Anybody who wishes to lodge a complaint with regard to these by-laws may do so in writing and direct it to the Municipality at PO Box 3 Vanderbijlpark 1900 and shall furnish a reply in writing to the complaint or he or she may report in person at the municipality offices situate at corner Klassie Havenga and Frikkie Meyer.
- (2) The Municipality shall furnish a reply in writing to the complainant.

CHAPTER IV**4. Penalties**

Any person contravening or failing to comply with any provision of these by-laws or with any direction, condition, determination or request there-under shall be guilty of an offence and liable on conviction to a fine not exceeding R1 500,00 or in default of payment to imprisonment for a period not exceeding 12 months or to both such fine and imprisonment.

CHAPTER V**5. Repeal**

- 1(a) The Emfuleni Local Municipality hereby in terms of section 13 of the Municipal Systems Act 32/2000, revokes Chapter IV Section 18 and Chapter XI of the Standard Building By-laws relating to the Control of Street Projections as published in Administrative Notice No1993 of 7 November 1974, as amended.
- 1(b) The Emfuleni Local Municipality hereby in terms of Section 13 of the Municipal Systems Act 32/2000, revokes chapter IV Section 18 and Chapter XI if the Standard Building By-laws relating to the Control of Street Projections as published in Administrative Notice number 929 of 20 July 1977 as amended
2. In terms of the provisions of Section 13 of the Municipal Systems Act 32/2000, it is hereby notified that the Emfuleni Local Municipality publishes the By-laws set forth herein after drafted by the Emfuleni Local Municipality in terms of Section 13 of the aforesaid Act.

LOCAL AUTHORITY NOTICE 262

***SOLID WASTE MANAGEMENT
BYLAWS***

OF

EMFULENI LOCAL MUNICIPALITY

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CHAPTER 1

INTRODUCTION

1. PREAMBLE

In terms of Chapter 7 of the Constitution of the Republic of South Africa, Act 108 of 1996, section 152(1)(b) lists as an object of Local Government to ensure the provision of services to communities in a sustainable manner and (d) to promote a safe and healthy environment and to exercise the power and functions of Municipalities as set out in section 156. Further, the Municipal Structures Act 1998, as amended, assigns the executive authority and the functions and power for regional waste disposal strategy and regulation of waste disposal to the District "C" Municipality. The Municipal Systems Act 2000 further defines the manner in which these functions and powers are exercised.

In accordance with the above-cited legislation the Sedibeng District Municipality has a duty to ensure that residents of the District Municipality have a safe and healthy environment by ensuring that waste is handled and disposed of in a responsible and environment friendly manner. This can be achieved by regulating and controlling the generation, collecting, processing, transfer and disposal of such waste at appropriate waste processing and disposal sites.

NOW THEREFORE the Emfuleni Local Municipality adopts the following as the "Waste Management By-laws".

2. DEFINITIONS

In these By-laws, the following definitions apply:

"abandoned vehicle" means any vehicle or part thereof which has been placed or left on a street or public place without being moved for a period of thirty (30) days;

"builders refuse" means refuse generated by demolition, excavation or building activities on premises;

"bulky refuse" means refuse generated on any premises but which by virtue of its mass, shape, size and quantity cannot be removed with ease without damage to the plastic liner and includes tree stumps, tree branches, hedge stumps and branches but excludes noxious waste;

"business refuse" means refuse generated on a premises which is not a private residency that is to be used exclusively for residential purposes, and excludes domestic refuse, builder's refuse bulky refuse, trade refuse, special domestic refuse, garden refuse and special trade refuse;

"by-law" means legislation passed by the Municipality's Council which is binding on persons who reside within the area of authority of a Municipality;

"commercial/industrial waste" means solid waste materials originating in wholesale, retail, institutional, or service establishments such as office buildings, stores, markets, theatres, hotels, warehouses, industrial operations and manufacturing processes;

"construction waste" means waste generally consisting of inert materials such as builders rubble, bulky construction debris, and considered more as an aesthetic problem rather than an environmental one;

"consumer" in relation to premises means:

- (i) any occupier thereof or any other person with whom the Municipality has contracted with to supply refuse removal services or is actually supplying refuse removal thereat; or
- (ii) if such premises are not occupied, any person who has a valid existing agreement with the Municipality for the provision of refuse removal services to such premises; or
- (iii) if there is no such person or occupier, the owner of the premises;

"contaminated sharps" means discharged sharps (e.g. hypodermic needles, syringes, Pasteur pip etches broken glass, scalpel blades) which have come into contact with infectious agents during use in patient care or in medical research or industrial laboratories;

"contractor" means the person, firm or company whose tender/quotation has been accepted by or on behalf of the Emfuleni Local Municipality and includes the Contractor's heirs, executors, administrators, trustees, judicial managers or liquidators, as the case may be, but not, except with the written consent of the Municipality, any assignee of the contractor.

"Municipality" means the Emfuleni Local Municipality, established in terms of section 12(1) read with section 14(2) of the Local Government: Municipal Structures Act, 1998 and promulgated in notice no. 6768 of 2000 in the Gauteng Provincial Gazette Extraordinary no.141 dated 1 October 2000.

"domestic refuse" means refuse which includes light soft garden refuse normally originating from a building used for residential purposes, including hostels, compounds, welfare organizations, churches and halls situated on private property or other premises and which can be removed with ease by use of an approved container;

"district Municipality" means Sedibeng District Municipality, a category "C" Municipality envisioned in section 155(1)(C) of the Constitution;

"DWAF" means the Department of Water Affairs and Forestry;

"executive authority" in relation to a Municipality means the Municipality's executive authority envisaged in section 156 of the Constitution;

"facility operating plan" means a written plan describing the operation of a solid waste management facility;

"facility rules" means the rules established in a facility operating plan;

"garden refuse" means refuse generated as a result of normal garden activities, such as grass cuttings, leaves, plants, flowers and other small and light matter and which can be removed in a plastic liner, with ease, and without damage to the said plastic liner;

"general waste" means waste that does not pose an immediate threat to man or the environment, i.e. household waste, builders rubble, garden waste, and certain dry industrial and commercial wastes;

"hazardous waste" means any waste which by reason of chemical reactivity or toxic, explosive corrosive or other characteristics, cause danger or are likely to cause danger, to human health or the environment, whether alone or in combination with other wastes;

"illegal dumping" means refuse that have been left at a place with the intention of abandoning it, such refuse as sand, paper, plastic bottles, builder's rubble and any other material that may create a nuisance or that is unsightly and detrimental to the environment;

"industrial refuse" means refuse generated as a result of production, manufacturing, maintenance, fabricating and dismantling activities and the activities of railway marshalling yards, but shall not include noxious waste, builder's refuse, business refuse, special refuse or domestic refuse;

"infectious refuse" means any waste which is generated during the diagnosis treatment or immunization of humans or animals, in the research pertaining to this; in the manufacturing or testing of biological agents including blood, blood products and contaminated blood products, cultures, pathological wastes, sharps, human and animal anatomical wastes and isolation wastes that contain or may contain infectious substances;

"informal settlement" means the informal dwelling occupation of proclaimed or un-proclaimed vacant land of which the occupants have no access to conventional basic services such as running water, water borne sewerage or electricity;

"integrated development plan" means a plan envisaged in section 25 of the Municipal Systems Act.;

"investigation officer" means a person who has been appointed by resolution of the Emfuleni Local Municipality to ascertain facts concerning an incident and/or accident within Solid Waste Management Services;

"isolation waste" means waste generated by hospitalized patients isolated to protect others from communicable disease;

"landfill site" means premises or an area specifically set aside for the disposal of refuse, and which has been approved and accepted by the Municipality, and which has been registered in accordance with the Environmental Conservation Act (Act 73 of 1989) as amended;

"law enforcement officer"/"peace officer" means any person appointed in terms of section 334 of the Criminal Procedure Act 51/1977 and Government Notice R159 of 2/2/1979 and by resolution of Emfuleni Local Municipality

"litter" means any food remnants, peel, paper, bottle, container, box, carton packages of any sort, scrap, dead animals, pieces of wood, planks, rags, cigarette butts, vehicles scrap and refuse of any kind, which is thrown, poured, dropped, abandoned, deposited or burnt upon any street, public place or unoccupied private plot, other than an approved refuse receptacle;

"littering" means the physical act, by a person, business or other entity, of creating litter;

"local Municipality" means Emfuleni Local Municipality as specified as a category "B" Municipality envisaged in section 155 (1)(B) of the Constitution;

"mass waste container" means a bulk container which may be used for the removal of bulky, builders, trade, and garden refuse;

"MEC" means a member of a provincial executive municipality;

"mechanical collecting vehicle" means a refuse compaction vehicle equipped with devices to load refuse storage receptacles;

"mechanical grab system" means a refuse vehicle equipped with a hydraulic grab system to collect bulky material directly from ground level;

"medical waste" means any wastes generated by hospitals, clinics, nursing homes, doctor's offices, medical laboratories, research facilities and veterinarians which are infectious or potentially infectious. Medical waste is further defined to include the following categories:

- (a) microbial wastes including cultures and stocks of infectious wastes and associated biologically that can cause disease in humans;
- (b) human blood and blood products, including serum, plasma and other blood components;
- (c) pathological wastes of human origin, including tissues, organs and body parts removed during surgery or autopsy;
- (d) contaminated animal wastes including animal carcasses, body parts and bedding which have been exposed to infectious agents during medical research, pharmaceutical testing or production of biologicals

- (e) isolation wastes associated with animal or human beings known to be infected with "highly" communicable diseases;
- (f) contaminated and uncontaminated sharps including hypodermic needles, scalpels and broken glassware;

"Minister" means the national Minister responsible for local government;

"municipal facility" means any solid waste processing or disposal facility located within the municipal boundaries, including facilities not owned or operated by the Municipality;

"Municipal Structures Act" means the Local Government: Municipal Structures Act. 1998 (Act No. 117 of 1998);

"Municipal Systems Act" means the Local Government: Municipal System Act. 2000 (Act No.32 of 2000);

"noxious waste" means waste which is toxic, hazardous, injurious or originating from an abattoir which is detrimental to the environment;

"nuisance" means a nuisance as defined in the Local Government Ordinance, No 17 of 1939, the Municipality's Public Health By-laws as promulgated under Administration's Notice No.148 of 21 February 1951 as amended, and any other condition detrimental to the environment;

"occupier (also occupant)" in relation to any premises means:

- a) Any person in occupation of a premises at any relevant time;
- b) Any person legally entitled to occupy the premises;
- c) Any person in control or management of a premise.

"owner" in relation to any premises means:-

- a) The person in whose name the premises is registered or the person's authorized agent;
- b) If the owner is deceased, insolvent, mentally ill, a minor or under any legal disability, the person in whom the custody or administration of such premises is vested as executor, trustee, curator, guardian or any other capacity;
- c) If the premises is leased and registration in the Deeds office is a prerequisite for the validity of the lease, the lessee;
- d) A person receiving rent or profit issuing there from, or who would receive such rent or profit, if such premises were let, whether on his own account or as agent for any person entitled thereto or interested therein;
- e) Where the premises are beneficially occupied under servitude or similar right, the person in whom such right is vested.

"official" means any duly appointed official of a municipality;

- "plastic liners"** means a plastic bag of adequate strength as prescribed by Emfuleni Local Municipality which can be placed inside a container;
- "premises"** means any building or parts thereof, store, shop, tenement, or their erection above or below the ground and the land used or occupied in connection therewith;
- "private waste facility"** means a waste processing, transport or disposal facility which is owned and permitted by a private entity;
- "public nuisance"** means any act, omission or condition which is offensive to health or which materially interferes with the ordinary comfort, convenience, peace or quiet of the public or adversely affects the safety of the public;
- "public place"** has the same meaning as defined in the Local Government Ordinance, 1939.
- "public waste facility"** means a waste processing, transport or disposal facility which is owned or permitted by the municipality, public entity or other organ of state;
- "recycling"** means the sorting, processing and transportation of materials, products or containers for the purpose of remanufacturing or refilling of products equal to or similar to those of the original material or container;
- "refuse"** means materials in a solid or liquid form which are or appear to have been abandoned or otherwise accumulated;
- "refuse container"** means a container as approved by the Emfuleni Local Municipality and which can be supplied at a fixed tariff or a rent tariff or in any other way as determined;
- "refuse removal tariff"** means the tariff, charges, fees or any other moneys payable as determined by the Municipality in terms of the Local Government: Municipal Systems Act 32 of 2000.
- "refuse transfer site/mini disposal site"** means a site approved by the Municipality for the disposal and temporary storage of garden refuse, builders refuse, bulky refuse, excluding domestic refuse, trade, business, special trade or hazardous waste;
- "residential waste"** means solid waste materials generated by occupiers of single or multi-family dwellings;
- "service authority"** means the power of a municipality to regulate the provision of a municipal service by a service provider;
- "service provider"** means any person or institution or any combination of persons or institutions who have entered into a service delivery agreement with the Municipality in terms of section 81(2) of the Local Government Systems Act, 1998 (Act 117 of 1998)

"service provider agreement" means an agreement entered into between the Municipality and a service provider in terms of which a service provider is required to provide waste disposal services;

"scavenging" means the unauthorized separation of waste for recyclable materials or food for human consumption;

"solid waste" means waste of a solid nature generated by a person, business or industry;

"sorting" means the authorized separation of solid waste materials for the purposes of recycling or disposal, either at the source of generation or at the disposal facility;

"special industrial refuse" means refuse, consisting of a liquid or sludge, resulting from a manufacturing process or the pre-treatment for disposal purposes of any industrial waste, which may not be discharged into a drain or a sewer in terms of the National Building Regulations and Building Standards, (Act No 103 of 1977).

"street" means any street, square, road, lane, footpath, pavement, thoroughfare or public place extending in width from the boundary of any lot or area of land and includes any work or thing forming part of or connected with such street;

"trade waste" means a non-hazardous waste, generated in whole or in part in the course of a trade, industry, or research, other than normal solid waste generated by office workers or employees of said trade, industry or research facility;

"unplanned development" means an area of residential premises which is informal, unplanned, without plot designations;

"waste products" means a product as defined in government notice 1986 of 24 August 1990, promulgated in terms of the Environment Conservation Act 1989 (No 73 of 1989);

"working days" mean the days that the Municipality is open for business and shall exclude weekends, public holidays as well as the period starting from the Christmas public holidays to the end of the New Year public holidays

CHAPTER 2

ALTERNATIVE SERVICE DELIVERY

3. AGREEMENT, DELEGATION AND CUSTOMER CARE CHARTER

- (1) Subject to the provisions of subsection (2), the Municipality may discharge all or some of its obligations under these By-laws for the rendering of waste disposal services by entering into a service delivery agreement with the service provider or service providers in terms of section 81(2) of the Systems Act.

- (2) Subject to the provisions of the Systems Act or any other law, the Municipality may assign to a service provider any power enjoyed by the Municipality under these By-laws: Provided that the assignment is necessary to enable the service provider to discharge any obligation under its service delivery agreement.
 - (3) Any reference to these By-laws to the "Municipality or service provider" must be read as the "Municipality" if the Municipality has not entered into a service delivery agreement; and if the Municipality has entered into a service delivery agreement, must read as "service provider".
 - (4) Without derogating from the generality of the provisions of subsection (1), the Municipality may not discharge its obligation to monitor and enforce the provisions of these By-laws by entering into an agreement with a service provider to do so.
 - (5) A service provider established in terms of subsection (1) must prepare a customer care charter which shows how the service provider intends to deal with complaints and customer care.
- 4. TARIFFS**
- (1) Notwithstanding the provisions of section 3, the Municipality retains the responsibility to establish maximum tariffs for waste disposal services.
 - (2) The Municipality must evaluate and promulgate maximum tariffs annually, prior to 1 July of each year.

CHAPTER 3

SOLID WASTE GENERATION AND STORAGE

5. THE MUNICIPALITY'S SERVICE

- (1) The Municipality shall provide a service for the collection and removal of business, domestic and industrial refuse from premises at the tariff charge as prescribed in the annexure to these By-laws.
- (2) The occupier(s) and/or owner(s) of premises on which business, industrial or domestic refuse is generated shall subject to the proviso to subsection 9(1), use the Municipality's service except in cases where special written exemption is granted by the Municipality to occupier(s) and/or owner(s) of premises to make use of private companies for refuse removal services.
- (3) The owner(s) of the premises on which the business or domestic refuse is generated shall be liable individually or jointly for the Municipality charges in respect of the collection, removal and disposal of business and domestic refuse from such premises. All moneys payable to the Municipality must be paid with the understanding that where the Municipality renders a service whether the service is used or not, the owner(s) and/or occupier(s) still be responsible for payment of the applicable tariffs jointly or individually.
- (4) The owner(s) and/or occupier(s) of premises on which business and domestic refuse is generated shall be responsible for payment of the applicable business tariff based on an annual census as determined by the Municipality from time to time.

- (5) The owner(s) and/or occupier(s) in respect of individual premises on premises held on the Sectional Title Register opened in terms of section 5 of the Sectional Titles Act, 1986, on which business or domestic refuse is generated, shall be liable individually to the Municipality for the tariff charge in respect of the collection, removal and disposal of business or domestic refuse from such premises. All moneys payable to the Municipality must be paid with the understanding that where the Municipality renders a service whether the service is used or not the owner(s) and/or occupier(s) still be responsible for payment of the applicable tariffs jointly or individually.

6. GENERAL PROVISION

- (1) The occupier and/or owner or in the case of more than one, the owners of premises, on which business refuse or domestic refuse is generated, shall within seven days after the commencement of the generation of such refuse, notify the Municipality in writing –
- (a) that the premises are being occupied; and
 - (b) whether business refuse or domestic refuse or both the aforementioned is being generated on the premises.
- (2) Where the premises on one stand is vacated, it is the responsibility of the occupier(s) and/or owner(s) to inform the Municipality in writing on or before the day of vacating that the service delivery should be ceased and the tariff charge should be cancelled.
- (3) Where in terms of subsection 5(2), a third party is removing refuse it is the responsibility of the occupier(s) and/or owner(s) to inform the Municipality that the service must no longer be rendered and that the tariff charged should be cancelled, failing which the occupier(s) and/or owner(s) will be held liable for tariff charge for the full period.
- (4) All private entities/contractors removing refuse (including garden service businesses) from premises within the Emfuleni Local Municipality shall register with the Municipality. No refuse removal service may be conducted without prior registration.
- (5) That a proof of safe disposal certificate by the private entities/contractors on an approved sanitary landfill site be submitted to the Municipality on a regular monthly basis.

7. PROVISION OF REFUSE RECEPTACLES

- (1) (a) After notification in terms of section 5, the Municipality shall, after investigation, determine the number of refuse bins required on such premises.
- (b) The owner of such residential or business premises shall be responsible for the supply of the predetermined number and type of refuse bins as required by the Municipality from time to time. All bins utilized by the owner(s) and/or occupier(s) shall comply with Municipality specifications.
- (c) Refuse bins may be supplied by the Municipality when possible on request at ruling prices.
- (2) The owner's liability to pay an adjusted tariff for business (monthly) or domestic refuse (in advance) shall only take effect on the date the bins are delivered to or removed from the premises, and the Municipality's records serving as proof of such delivery or removal.

- (3) Every occupier shall cause such receptacles to be covered at all times except when refuse is being deposited in or discharged therefrom.
- (4) Every occupier shall cause all refuse receptacles in use on his premises and cover thereof to be kept as clean as practicable and maintained in good order and condition.
- (5) Every owner of a plot containing four (4) or more residential or commercial units, shall provide an enclosure for the storage of individual refuse receptacles or a common refuse receptacle for all occupiers of said plot. The enclosed storage area shall be located so as not to cause a public nuisance or be offensive to the occupiers of the plot and be accessible to refuse collection vehicles.
- (6) In areas served by mechanical collecting vehicles, the owner shall provide said common receptacle or receptacles and enclosures to the size and specifications required by the mechanical collecting vehicle. The common receptacle(s) may be provided by the owner of the plot, the Municipality or Municipality's service provider. If supplied by the Municipality or local Municipality's service provider, the cost of said receptacle may be recovered through a surcharge on the collection and disposal tariff.
- (7) The provisions of subsections (1) through (4) shall take effect ninety (90) days from the effective date of these By-laws. The provisions of subsection (5) shall take effect, upon reasonable notice, in the event that the Municipality or Municipality's service provider begins servicing the said plot with mechanical collecting vehicles.
- (8) Any owner or occupier of a plot or premises who fails to abide by the provision of this section shall be subject to citation for creating a public nuisance and if found guilty of creating a public nuisance shall be subject to a fine and penalty as prescribed within these By-laws. The provision of this section shall apply *mutatis mutandis* on owners utilizing private owned bins/containers.
- (9) The Municipality shall determine the kind/type of service and the frequency of the service.
- (10) The Municipality may deliver mass waste containers to premises if, having regard to the quantity of refuse generated on the premises concerned, the suitability of such refuse for storage in containers, and the accessibility and adequacy of the space provided by the owner(s) and/or occupier(s) of the premises in terms of section 7, to the refuse collection vehicles, it considers mass waste containers more appropriate than refuse containers for the storage of the refuse.
- (11) The provisions of these By-laws dealing with refuse containers delivered to premises for the storage of refuse in terms of subsections (1) and (3) shall apply *mutatis mutandis* in respect of mass containers delivered to premises in terms of subsection (10).
- (12) The owner(s) and/or occupier(s) of any premises shall keep the contents of the refuse container or other approved waste container (except for bulk containers) covered at all times (save when refuse is being deposited therein or discharged therefrom). The owner(s) and/or occupier(s) of any premises shall be responsible for the loss of or damage to any such refuse container or refuse containers or any other waste container and costs for the repair /replacement of the waste container will be recovered from the owner of the container.
- (13) The Municipality shall remain the owner of the refuse containers or other approved containers delivered by it in terms of subsections (1) and (10)

8. PLACING OF BINS

- (1) The owner(s) and/or occupier(s) of the premises shall provide an approved space of adequate size and any other facilities considered necessary by the Municipality that complies with the National Building Regulations (SABS 0400 – 1990). Storage of the bins or containers on the premises shall be determined by the Municipality in terms of section 6 or for the equipment and containers mentioned in section 10.
- (2) The space provided in terms of subsection (1) shall-
 - (a) be in such a position on the premises as to allow the storage of bins or containers without their being visible from a street, a public place, or any other premises except if determined otherwise by the Municipality;
 - (b) be where business refuse is generated on the premises be in such a position as will allow the collection and removal of such refuse by the Municipality's employees without hindrance;
 - (c) be where domestic refuse is generated on a premises the refuse containers or plastic lining with refuse therein must be properly tied and be placed outside the fence or boundary or any such other place as determined by the Municipality but only on the days of removal;
 - (d) be so located as to permit convenient access to and egress from such space for the Municipality's refuse collection vehicles; and
 - (e) be sufficient to house all refuse, including the materials and any containers used in the sorting and storage of the refuse contemplated in subsections 9(1)(a) and 10(6): Provided that this requirement shall not apply in the case of building erected, or buildings the building plans whereof have been approved, prior to the coming into operation of these By-laws.
- (3) The owner(s) and/or occupier(s) of premises shall place or cause the bins or containers delivered in terms of section 7 to be placed in the space provided in terms of subsection (1) and shall at all times keep it there.
- (4) Notwithstanding anything to the contrary in subsection (3) contained-
 - (a) in the case of buildings erected, or buildings the building plans whereof have been approved, prior to the coming into operation of these By-laws; and
 - (b) in the event of the Municipality, in its opinion, being unable to collect and remove refuse from the space provided in terms of subsection (1), the Municipality may, having regard to the avoidance of nuisance and the convenience of collection of refuse, indicate a position within or outside the premises where the refuse container/s shall be placed for the collection and removal of such refuse and such refuse containers shall be placed in such a position at such times and for such period as the Municipality may require.

9. REFUSE CONTAINER LINERS

- (1) In order to facilitate the collection of refuse, the Municipality may require that refuse container liners be used for the storage of such refuse in containers, where 80 liters or other approved containers are utilized;
- (2) The owner(s) and/or occupier(s) shall place the refuse container or cause the full refuse container liner properly tied up, to be placed just outside the fence or boundary of the premises on the street boundary of the premises before 07:00, as determined by the Municipality. Collection frequency shall be at least once per week in residential areas. This rule excludes the central business areas where refuse containers or liners shall be placed out before 08:00 on a daily basis and/or occupier(s) shall be responsible of placing the refuse to be collected as determined by the Municipality;
- (3) No business may put out their refuse in the afternoons for collection;
- (4) The full refuse container liner placed in accordance with subsection (2) shall be undamaged;
- (5) Only refuse container liners approved by the Municipality may be used;
- (6) All occupiers of plots in areas provided with collection services at their plots are required to place their refuse receptacles at the street side in front of their plot prior to 07:00 on the assigned day(s) of collection as designated by the Municipality or its agent;
- (7) No person shall allow refuse to leak, spill, blow off or drop from any vehicle on any municipal street during loading, unloading or transportation of said waste.

10. USE AND CARE OF REFUSE CONTAINERS

- (1) The owner(s) and/or occupier(s) of premises, to which refuse containers have been delivered by the Municipality in terms of section 7, or where containers are supplied by the owner(s) and/or occupier(s) shall ensure that-
 - (a) all domestic or business refuse generated on the premises shall be placed and kept in such refuse containers for removal by the Municipality: Provided that the provisions of this subsection shall not prevent any owner(s) and/or occupier(s) who has obtained the Municipality's prior written consent from selling or otherwise disposing of any swill, corrugated cardboard, paper, glass, or other material for recycling in a manufacturing process or, in the case of swill, for consumption;
 - (b) no hot ash, unwrapped glass or other business or domestic refuse or toxic and noxious waste which may cause damage to refuse containers or refuse container liners or which may cause injury to the Municipality's employees while carrying out their duties in terms of these By-laws, shall be placed in refuse containers before suitable steps have been taken to avoid such damage or injury;
 - (c) every refuse container (except for bulk containers) on the premises shall be covered with a suitable lid save when refuse is being deposited therein or discharged therefrom, and every refuse container shall be kept in a clean and hygienic condition.

- (2) No refuse container so delivered in accordance with section 7, may be used for any purpose other than the storage of business or domestic refuse and no fire shall be lit in such container/bin.
- (3) The refuse containers so delivered in accordance with section 7, may be emptied by the Municipality at such intervals as per the refuse removal calendar or at other intervals as it may deem necessary.
- (4) In the event of a mass waste container having been delivered in terms of subsection 7(10), where no fixed interval for removal was specified, the owner(s) and/or occupier(s) of such premises shall, 24 hours before the container is likely to be filled to capacity, inform the Municipality thereof.
- (5) All waste generated by occupiers of premises located in unplanned areas may be collected by the Municipality or its agent using skips or common receptacles placed along access routes to and from said unplanned developments. In areas where skips or common receptacles are provided, it shall be the occupier's responsibility to transport the waste from their premises to the collection skip or common receptacle
- (6) In unplanned areas, or any other area where the Municipality does not provide a collection service, the occupier of a plot in said area shall cause his refuse to be buried in pits located on the premises, or otherwise disposed of in such a manner as will not give rise to any public nuisance or danger to public health.
- (7) The owner(s) and/or occupier(s) of premises to which refuse containers were delivered in terms of section 7 or to which containers were delivered in terms of subsection 7(10), shall be liable to the Municipality for the loss thereof and for all damage caused thereto except for such loss or damage as may be caused by the employees of the Municipality.
- (8) The owner(s) and/or occupier(s) of premises to which refuse containers were delivered shall report all damages to refuse containers to the Municipality.

11. COMPACTION OF REFUSE

- (1) Should the quantity of refuse generated on premises be such as to require the daily removal of 240 litre bins and should, in the opinion of the Municipality, the major portion of such refuse be compactable, or should the owner(s) and/or occupier(s) of premises wish to compact any volume of such refuse, such owner(s) and/or occupier(s), shall compact that portion of such refuse as is compactable, the refuse shall be put into an approved container or wrapper, and the provision of section 7 shall not apply to such compactable refuse, but shall apply to all other refuse.
- (2) The contents of the wrapper mentioned in subsection (1) shall not exceed 35 kilograms and shall constitute one service.
- (3) After the refuse, treated as contemplated in subsection (1), has been put into the wrapper, it shall be placed in the refuse container or other approved container and shall be stored so as to prevent damage to the wrapper or any nuisance arising until collected.
- (4) The containers or wrappers mentioned in subsection (1) shall be supplied by the owner(s) and/or occupier(s) of the relevant premises.
- (5) (a) Any container used in terms of subsection (1) shall be collected, emptied and returned to the premises by the Municipality at such intervals as it may deem necessary; and

- (b) The owner(s) and/or occupier(s) of the premises shall prepare the container for collection and reconnect it to the compaction equipment forthwith after its return by the Municipality to the premises.
- (6) The provision of this section shall not prevent any owner(s) and/or occupier(s) of premises who has obtained the Municipality's prior written consent, from selling or otherwise disposing of any swill, corrugated cardboard, paper, glass or other material for recycling in a manufacturing process or, in the case of swill, for consumption.
- (7) "Approved", for the purpose of subsection (1), shall mean approved by the Municipality, regard being had to the fitness of the container or wrapper for its purpose, and also to the reasonable requirements of the particular case from the point of view of public health, storage, refuse removal or refuse disposal.

12 SORTING

- (1) The Municipality shall support and encourage the sorting of refuse at the point of generation for the removal of materials from refuse which are recyclable or have value for other uses.
- (2) Any person wishing to place specialized containers on any plot, street or public place, for the purpose of sorting, storing and collecting recyclable materials such as paper, plastic, tins or glass bottles, or food waste for animal consumption, shall make written application to the Municipality including the following information:
 - (a) description of materials to be sorted;
 - (b) description of containers, bins or skips for storing said materials;
 - (c) the specific locations of all sorting containers for which application is being made;
 - (d) the schedule and method of collecting the materials;
 - (e) a plan to be employed to control litter around the sorting container;
- (3) Upon receipt and evaluation of an application for maintaining sorting containers, the Municipality, may by written notice;
 - (a) accept and approve of the application as submitted;
 - (b) modify the request in terms of the number or type of containers to be placed;
 - (c) reject the application and order the removal of any or all existing sorting containers;
 - (d) require the applicant to perform other measures as determined by the Municipality to protect human health or the environment;
 - (e) require a tariff for the location of sorting containers;
- (4) All persons maintaining sorting containers on the effective date of these By-laws are granted an interim permit to continue maintaining said sorting containers for a period of ninety (90) days. Within ninety days (90) of the effective date of these By-laws, all persons maintaining sorting containers shall make application to the Municipality as stipulated in subsection (2) above.
- (5) Any person operating a material sorting operation and fails to abide by the provisions of this section is subject to citation for creating a public nuisance and if found guilty shall be subject to the fines and penalties as prescribed in these By-laws.

13. SCAVENGING

- (1) No person shall separate refuse for the purpose of removing food waste for human consumption

CHAPTER 4

INDUSTRIAL AND TRADE REFUSE

14. MUNICIPALITY'S SERVICE

- (1) Subject to the provisions of section 15, the provisions of Chapter 3 in respect of business and domestic refuse shall apply *mutatis mutandis* to industrial refuse: Provided that the provisions of section 11 shall not apply unless the owner(s) and/or occupier(s) of premises wishes to compact such refuse.
- (2) The owner(s) and/or occupier of premises on which industrial and trade refuse is generated shall ensure that, until such time as such refuse is removed from the premises on which it was generated and subject to subsection 10(1)(a) which shall apply *mutatis mutandis*, such refuse be stored in the refuse containers or other approved containers delivered by the Municipality.
- (3) The owner(s) and/or occupiers of such premises shall ensure that no dust or other nuisance is caused by industrial and trade refuse generated on the premises.
- (4) Informal traders who generate trade refuse shall ensure that the refuse is removed from the premises on which it was generated and subject to subsection 10(1)(a) such refuse be stored in the refuse containers or other approved containers delivered by the Municipality.

15. REMOVAL OF INDUSTRIAL AND TRADE REFUSE BY PRIVATE PERSONS

- (1) Notwithstanding the provisions of Chapter 3, the owner(s) and/or occupiers of new or existing premises or building(s) may use the services of a person authorized in writing by the Municipality to remove industrial and trade refuse if the Municipality is advised in writing to this effect by the owner(s) and/or occupiers before such service is commenced with, and the Municipality shall determine the type and frequency of such service and written permission shall be given thereto.
- (2) The Municipality may give its authorization and/or permission referred to in subsection (1) subject to such conditions as it may deem fit. In laying down the conditions, the Municipality may have regard to:
 - (a) Ensuring that no refuse container or other approved container, used for the storage and removal of industrial refuse from premises, shall be kept in a public place except if otherwise approved by the Municipality;
 - (b) the equipment which is intended to be used;
 - (c) the containment of the industrial and trade refuse in transit;
 - (d) ensuring that the industrial and trade refuse is deposited at a sanitary landfill site approved by the Municipality; and proof of a safe disposal certificate shall be made available by the Municipality as and when required;

- (e) ensuring that the service rendered by the person authorized in terms of subsection (1) shall be in respect of industrial and trade refuse only; and
 - (f) in the event of a person authorized in terms of subsection (1) the owner(s) and/or occupier(s) shall notify the Municipality of the composition and quantity of the industrial and trade refuse removed.
- (3) In the event of a person authorized in terms of subsection (1) be in breach of any condition upon which the authorization was granted, the Municipality may cancel such authorization.
 - (4) In the event of the owner(s) and/or occupier(s) of premises or building(s) on which industrial and trade refuse is generated having notified the Municipality in terms of subsection (1) such owner(s) and/or occupier(s) shall ensure that such refuse is disposed of in terms of the provisions of this chapter within a reasonable time after the generation thereof.
- 16. STORAGE AND DISPOSAL OF INDUSTRIAL AND TRADE REFUSE**
- (1) A person authorized by the Municipality to remove industrial and trade refuse shall dispose of such refuse in a manner approved by the Municipality and according to the Minimum Requirements for Waste Disposal Landfill Act of 1998.

CHAPTER 5

GARDEN, AND BULKY REFUSE

17. REMOVAL AND DISPOSAL OF GARDEN AND BULKY REFUSE

- (1) The owner(s) and/or occupier(s) of premises on which garden, or bulk refuse is generated shall ensure that such refuse is disposed of in terms of this Chapter within a reasonable time considered by the Municipality after the generation thereof: Provided that garden refuse may be retained on the premises in an approved manner for the making of compost if it will not cause a nuisance.
- (2)
 - (a) Any person may remove and dispose of garden refuse, bulky refuse or builders rubble: Provided that once it has been removed, free of charge or at a prescribed tariff as determined by the Municipality, from the premises of which it was generated, it is deposited on an approved sanitary landfill site or refuse mini dump station. Builders rubble may be disposed of at the mini disposal sites with light delivery vans or trailers not exceeding 1 ton or loads determined by the Municipality.
 - (b) The owner(s) and/or occupier(s) of premises in which garden refuse, builder's rubble or bulky refuse is generated shall ensure that such refuse is deposited as per subsection (2)(a) and a proof of safe disposal certificate of such refuse be submitted to the Municipality as and when required.
 - (c) Notwithstanding the provisions of subsection (2)(a), the owner(s) and/or occupier(s) of premises shall utilise the services of a person authorized by the Municipality to remove special domestic or bulk refuse provided that the authorization has been obtained prior to the commencement of the service and such person complies with the conditions that the Municipality may deem fit. Such refuse may only be brought to the refuse transfer station in loads not exceeding 1m³ in volume on light delivery vehicles, or trailers not exceeding 1 ton or loads determined by the Municipality or at mini disposal sites with light

delivery vans or trailers not exceeding 1 ton or loads determined by the Municipality.

- (d) No person entering a free mini disposal site shall deposit any refuse other than that contemplated in subsection (2)(a) in the containers provided at such sites.
 - (e) For the purpose of reclamation of land, builders refuse may with the written consent of the Municipality, be deposited at a place other than the Municipality's refuse disposal site or mini disposal sites.
- (3) The provision of sections 20 and 22 shall apply *mutatis mutandis* when containers are used for the collection of garden, special domestic and bulky refuse.

18. THE MUNICIPALITY'S SPECIAL SERVICE

- (1) At the request of the owner(s) and/or occupier(s) of premises and after payment of the tariff charge or by submission of the account number to the Municipality, the Municipality shall provide containers or by means of special mechanical grab method from ground level for removal of garden, builders and bulky refuse from premises or side walks, provided that the Municipality is able to do so with its refuse removal equipment.
- (2) At the request of the owner(s) and/or occupier(s) or manager of premises the Municipality may provide a special service for the removal of refuse at the prescribed tariff as determined by the Municipality from time to time.
- (3) At the request of the owner(s) and/or occupier(s) of premises and if the Municipality is not able to remove such refuse with its equipment, the owner(s) and/or occupier(s) is responsible to load such containers or refuse.
- (4) At the request of the owner(s) and/or occupier(s) of premises, the Municipality may enter premises if owner(s) and/or occupier(s) take responsibility for damages to premises.

CHAPTER 6

BUILDERS REFUSE

19. RESPONSIBILITY FOR BUILDERS RUBBLE

- (1) The owner(s) and/or occupier(s) of premises on which builders refuse is generated shall ensure that –
 - (a) such refuse is disposed of in terms of section 21 within a time considered reasonable by the Municipality after the generation thereof; and
 - (b) until such time as builders refuse is disposed of in terms of section 21 and subject to the provision of section 20, such refuse together with the containers used for the storing or removal thereof, shall be kept on the premises on which it was generated.
- (2) No person may, without the Municipality's written permission on such conditions as it deems fit, use the services of any other person for the removal of builders refuse, unless such other person has been authorized by the Municipality on such conditions as the Municipality may impose, to remove builders refuse.

20. CONTAINERS

- (1) If a mass waste container used for the removal of builders refuse from premises should in the opinion of the Municipality not be kept on the premises, such mass waste container may with the written consent of the Municipality be placed in an allocated area outside the premises for the period of such consent.
- (2) Any consent given in terms of subsection (1) shall be subject to such conditions as the Municipality may consider necessary.
- (3) The Municipality may determine a charge for any such consent.

21 Every mass waste container authorized in terms of subsection 20(1) and used for the removal of builders refuse shall –

- (a) have clearly marked on it the name and address or telephone number of the person in control of such mass waste container;
- (b) be fitted with reflecting chevrons or reflectors which shall outline the front and the back thereof, and
- (c) be covered at all times during storage or transport so that no displacement of its contents can occur.

22. DISPOSAL OF BUILDERS RUBBLE

- (1) Subject to the provisions of subsection (2) hereof, all builder's refuse shall be deposited at a sanitary landfill site approved by the Municipality.
- (2) For the purpose of land reclamation builders refuse may with the written consent of the Municipality be deposited at a place other than the sanitary landfill site approved by the Municipality.
- (3) Any consent given in terms of subsection (2) shall be subject to such conditions as the Municipality may deem fit.

CHAPTER 7**SPECIAL INDUSTRIAL, HAZARDOUS, MEDICAL AND INFECTIOUS REFUSE****23. NOTIFICATION OF GENERATION OF SPECIAL INDUSTRIAL, HAZARDOUS, MEDICAL AND INFECTIOUS REFUSE**

- (1) Any person engaged in an activity which causes special industrial, hazardous, medical or infectious refuse to be generated, shall notify the Municipality within seven days of such generation of the composition thereof, the quantity generated, method of storage, the proposed duration of storage, and the manner in which it will be removed.
- (2) It is required by the Municipality that the notification referred to in subsection (1) shall be substantiated by an analysis certified by a duly qualified industrial chemist.
- (3) Subject to the provisions of section 72 of the Local Government Ordinance, 1939, the Municipality or any person duly authorized by the Municipality may enter premises at any reasonable time to ascertain whether special industrial, hazardous, medical or

infectious refuse is generated on such premises and may take samples and test any refuse found on the premises to ascertain its composition.

- (4) Having notified the Municipality in terms of subsection (1), the person referred to in subsection (1) shall notify the Municipality of any changes in the composition and quantity of the special industrial, hazardous, medical or infectious refuse occurring thereafter.

24. STORING OF SPECIAL, INDUSTRIAL, HAZARDOUS, MEDICAL AND INFECTIOUS REFUSE

- (1) The person referred to in subsection 23(1) shall ensure that the special industrial, hazardous, medical or infectious refuse generated on the premises is kept and stored thereon in terms of subsection 23(1) until it is removed from the premises in terms of section 25.
- (2) Special industrial, hazardous, medical or infectious refuse stored on premises shall be stored in such manner that it cannot become a nuisance, safety hazard or pollute the environment.
- (3) If special industrial, hazardous, medical or infectious refuse is not stored in terms of subsection (2) on the premises on which it is generated the Municipality may order the owner(s) and/or occupier(s) of the premises and/or the person referred to in subsection 23(1) to remove such refuse within a reasonable time and, if thereafter such refuse is not removed within such time, the Municipality may itself or through any person remove it at the owner(s) and/or occupier(s) expense or the expense of the person referred to in subsection 23(1), or both, as the case may be.
- (4) Hazardous, medical or infectious refuse shall be stored in a container approved by the Municipality and such container shall be kept in an approved storage area for a period not exceeding the maximum period to be stipulated by the Municipality before removal in terms of section 25.
- (5) The containers for medical and infectious waste must comply with the following minimum requirement:
 - (a) All infectious waste must be placed at the point of generation into a container approved by the Municipality;
 - (b) the container used for the storage of sharp objects must be constructed of such a material that the object cannot pierce the container. The container must be fitted with a safe and hygienic lid, which must be sealed after use;
 - (c) the container used for the removal of other contagious materials has to be manufactured of a material which will prevent the contents from leaking out. The container has to be equipped with a safe and hygienic lid, and has to be sealed after utilization; and
 - (d) all containers must be clearly marked with the universal bio-hazardous waste symbol.

25. REMOVAL OF SPECIAL, INDUSTRIAL, HAZARDOUS, MEDICAL; AND INFECTIOUS REFUSE

- (1)
 - (a) No person may, without or not in accordance with the Municipality's written approval of conditions, remove special industrial, hazardous, medical and infectious refuse from the premises at which it has been generated.
 - (b) Hazardous, medical or infectious refuse may only be transported in accordance with the requirements of the Municipality, with the focus on the type of vehicle, its markings, the way it is manufactured, safety procedures and hygiene and documentation regarding the origin, transport and disposal of such refuse.
- (2) The person referred to in subsection 23(1) shall inform the Municipality, at such intervals as the Municipality may stipulate, having regard to the information to be given to the Municipality in terms of that section, of the removal of special industrial, hazardous, medical or infectious refuse, the identity of the remover, the date of such removal, the quantity and the composition of the special industrial, hazardous, medical or infectious refuse removed.
- (3) The Municipality may give its consent in terms of subsection (1), subject to such conditions as it may deem fit.
- (4) In laying down conditions the Municipality shall have regard to :
 - (a) the composition of the special industrial, hazardous, medical and infectious refuse;
 - (b) the suitability of the vehicle and container to be used;
 - (c) the place where the refuse shall be disposed of; and
 - (d) proof to the Municipality of such disposal.
- (5) The Municipality shall not give its consent in terms of subsection (1), unless it is satisfied that the person applying for such consent is competent and has the equipment to remove the special industrial, hazardous, medical and infectious refuse and comply with the conditions laid down by the Municipality.
- (6) No person shall dispose of any infectious refuse by incinerating it unless the Municipality's prior written permission has been given to incinerate such refuse.
- (7) Should any person be convicted of contravening the provisions of this section, such person shall in addition to any penalty imposed on him/her, dispose of the refuse as directed by the Municipality, or the Municipality or an approved contractor may dispose of such refuse and recover the costs from such person.
- (8) Should any person be caught disposing illegally special industrial, hazardous, medical and infectious refuse, such person contravenes the Environment Conservation Act 73 of 1989 and shall be handled as such.

CHAPTER 8

SOLID WASTE DISPOSAL

26. GENERAL

- (1) All solid waste generated, produced and collected within the municipal boundaries shall be disposed of only at such disposal or processing facilities as may be designated by the Municipality. Said designations may differentiate between types of waste materials, persons, refuse collectors, and waste sorters, as may be necessary to provide for the efficient and environmentally safe disposal or recycling of the said waste. In its capacity as service authority for the regulation of waste disposal, the Municipality shall enforce these By-laws for all municipal facilities within the area of its authority.

27. PROHIBITED MATERIALS

- (1) The following materials are prohibited from all municipal disposal or processing facilities:
- (a) liquid wastes including latrine pumping, sewage or sludge;
 - (b) waste oil;
 - (c) burning or hot ashes;
 - (d) hazardous or trade waste for which no municipal permit has been issued

28. FACILITY OPERATING PLAN

- (1) The Municipality shall prepare, or cause to be prepared, facility operating plans for all designated waste disposal and processing facilities which shall govern the operation of the said facility. Each facility operating plan shall be in accordance with all relevant DWAF Regulations and include a set of facility rules which are by reference included as part of these By-laws, carrying the same weight of jurisdiction, enforcement and penalties. All facility rules shall be adopted by the Municipality and may be revised from time to time.

29. WASTE SORTING AND PROCESSING

- (1) Any person wishing to perform sorting of waste materials, for the purpose of recycling or composting at any municipal disposal facility shall make application in writing to the Municipality for permission to do so and shall submit the following information:
- (a) a description of the material(s) he wishes to sort;
 - (b) the anticipated volume of said materials;
 - (c) a description of the manner of sorting so as not to disrupt the normal operation of the facility;
 - (d) the number of employees to be utilized;
 - (e) a description of storage containers to be used, their location and frequency of collection;
 - (f) a health and safety plan for all sorting workers to include safety clothing and training;
 - (g) all sorting activities shall conform to the facility operating plan and facility rules.
- (2) Upon receipt and evaluation of an application for sorting at a municipal disposal or sorting facility, the Municipality may, upon written notice:
- (a) accept the application as submitted and issue a permit, or;
 - (b) amend the application after conclusion with the facility operator, or;

- (c) reject the application;
- (d) if in the judgement of the Municipality, the sorting activity will increase operating costs such as additional security, the Municipality may impose a tariff for the sorting permit.

- (3) A permit issued for sorting at a municipal facility shall be valid for a period of five (5) years and may be revised or revoked by the Municipality, for cause, at any time during that period.

30. SCAVENGING

- (1) The unauthorized scavenging or separation of waste for materials or food waste for any purpose at any solid waste disposal or processing facility is strictly prohibited.

31. ON-SITE DISPOSAL

- (1) Any person occupying a premises in an unplanned, informal residential area or any area which does not receive collection services, may dispose of waste materials in dug earth pits or borrow areas, which must be covered on a periodic basis. Under no circumstances shall waste be placed in drainage ways, streams or lakes. The storage of organic material, food waste or manure for the purpose of creating compost for garden or farm use shall be permitted on any plot.

32. FILL AREAS

- (1) Any owner or occupier of a plot or premises wishing to fill an area, plot or premises with inert construction or demolition waste or any other inert material shall make application in writing to the Municipality for permission to do so, and shall submit the following information:

- (a) a map or sketch of the plot or premises to be filled showing the horizontal and vertical limits of the fill;
- (b) the present condition of the site including all buildings, watercourses, vegetation and trees;
- (c) the type of materials to be used in filling the site;
- (d) any other information which the Municipality may request regarding the nature and environmental impacts of the filling operation.

- (2) Upon receipt and evaluation of an application for a fill area, the Municipality may, upon written notice:

- (a) accept the application as submitted and issue a permit, or;
- (b) amend the application after review and consultation, or;
- (c) if in the judgement of the Municipality, the filling operation will create an undue impact on the environment or public health, or constitute a public nuisance, the application may be rejected;

- (3) Any person found filling a plot or premises and fails to abide by the provisions of this section is subject to citation for creating a public nuisance and if found guilty shall be subject to the fines and penalties as prescribed in these By-laws.

33. OUTSIDE WASTE

- (1) Any person wishing to dispose or process any waste in any municipal facility that has been generated outside of the municipal boundaries, shall make application to the Municipality or its designated agent, for permission to do so, and shall submit:

- (a) the origin of the waste, Municipality, business, et cetera;

- (b) the categories of all waste to be considered, general, hazardous, medical, et cetera;
 - (c) a general description of the composition of any hazardous waste;
 - (d) the intended method of storage and transportation, including vehicle routing;
 - (e) the reason why the waste cannot be disposed of in the Municipality of origin;
 - (f) any other information which the Municipality may request regarding the nature and environmental impacts of the disposal operation;
- (2) Upon receipt and evaluation of an application for disposal or processing of outside waste, the Municipality may, upon written notice:
- (a) accept the application as submitted and issue a permit, or;
 - (b) amend the application after review and consultation, or;
 - (c) attach conditions to the permit relative to the nature of the waste or threat to human health or the environment, including proof of insurance, spill prevention plans in the event of an accident during transportation disposal;
 - (d) if in the judgement of the Municipality, the disposal, processing or transportation of outside waste will create an undue impact on the environment or public health, or constitute a public nuisance, the application may be rejected;
- (3) The Municipality may levy a surcharge for the disposal, processing or transportation of outside waste within municipal boundaries;
- (4) Permits issues under this by-law will be for a period of 3 (three) years;
- (5) The Municipality may revoke a permit issued under these By-laws for failure to abide by the permit conditions or for any other reason; or
- (6) Any person found to be transporting, disposing or processing outside waste who fails to abide by the provisions of this section, is subject to citation for creating a public nuisance and if found guilty shall be subject to the fines and penalties as prescribed in these By-laws.

CHAPTER 9

LANDFILL STANDARDS

34. GENERAL

- (1) All Solid waste Landfills shall be located, designed and operated in conformance with all national, provincial and local regulations. Solid Waste Landfills shall be so located that an emission or discharge from the facility will not unduly harm the public health and have minimal impacts upon the environment.
- (2) All proposed landfill facilities must have completed an Environmental Impact Assessment, in accordance with the rules and procedures of the Department of Water Affairs and Forestry (DWAF)

35. RESTRICTED AREAS

- (1) Landfill facilities shall not be located in the following areas:

- (a) National park or wildlife preservation area;
- (b) 25 year periodical flood area;
- (c) Geological fault area;
- (d) An area having national historical or archeological significance;
- (e) Any area not designated by the Municipality in its Integrated Development Plan (IDP) or zoning of waste disposal facilities

36. CLOSURE AND POST CLOSURE RESERVE FUND

- (1) All waste management facilities, whether public or private, shall establish a fund and maintain a reserve fund to insure the proper closure and post closure monitoring of the site. The said reserve fund shall be established in the name of both the facility owner and the Municipality and funded from tariffs or other mutually agreeable fee. Any withdrawal from the reserve fund shall require the written approval of both parties.

CHAPTER 10

LANDFILL AND MINI DISPOSAL SITES AND REFUSE TRANSFER STATIONS

37. PROCEDURES AT LANDFILL, MINI DISPOSAL SITES AND TRANSFER STATIONS

- (1) Every person who for the purpose of disposing of refuse enters a landfill site, mini disposal site or transfer station controlled by the Municipality, shall-
 - (a) enter the landfill site or satellite station at an authorized access point;
 - (b) give the Municipality all the particulars required in regard to the composition of the refuse; and
 - (c) follow all instructions given to him/her with regard to the actual disposal point, the place where and the manner in which the refuse should be deposited;
 - (d) enter the landfill site, refuse transfer station or mini disposal site at their own risk and the Municipality shall not be held responsible for any losses, damages or injuries sustained by any such persons.
- (2) No person shall bring any intoxicating liquor onto a landfill site or refuse transfer station or mini disposal site controlled by the Municipality.
- (3) No person shall enter a landfill site, transfer station or mini disposal site controlled by the Municipality for any purpose other than the disposal of refuse in terms of these By-laws, and then only at such times and between such hours as the Municipality may from time to time determine and as displayed at the waste disposal site.
- (4) No person shall enter a landfill site, a transfer station or mini disposal site for purposes of scavenging unless the Municipality gave written permission.
- (5) The owner(s) and/or occupier(s) of premises, in the jurisdiction of the Municipality, on which domestic refuse, garden refuse, small quantities of bulky refuse and builders rubble is generated, may dispose of such waste free of charge or at a prescribed tariff determined by the Municipality from time to time at the landfill site.
- (6) The owner(s) and/or occupier(s) of residential premises, in the jurisdiction of the Municipality, on which garden refuse and small quantities of bulky refuse is generated, may dispose of such waste free of charge or at a prescribed tariff determined by the Municipality at the Municipality's mini disposal sites, provided the

waste is not generated on a business premises and the load of the vehicle does not exceed 1000 kg.

38. OWNERSHIP OF REFUSE

- (1) All refuse on landfill sites, refuse transfer stations or mini disposal sites controlled by the Municipality shall be the property of the Municipality and no person who is not duly authorized by the Municipality to do so, shall remove or interfere therewith.

CHAPTER 11

LITTERING, DUMPING AND ANCILLARY MATTERS

39. LITTERING

- (1) No person shall-
- (a) throw, let fall, deposit, spill or in any other way discard, any refuse into or onto any public place, vacant erf, farm portion, stream or watercourse, other than into a refuse container provided for the purpose or onto a landfill site or mini dumping site controlled by the Municipality;
 - (b) sweep any refuse into a gutter, on a road reserve or any other public place; and
 - (c) allow any person under his/her control to do any of the acts contemplated in subsections (a) and (b).

40. DUMPING

- (1) Subject to any provision to the contrary in these By-laws contained, no person shall cause or leave anything under his/her control at a place to which such thing has been brought with the intention of abandoning it.
- (2) Once it has been alleged that a person has left a thing or allowed a thing to be left at a place which he/she is not the owner(s) and occupier(s), he/she shall be deemed to have contravened the provisions of subsection (1) until the contrary is proved.
- (3) Any person who contravenes the provisions of subsection (1), shall be guilty of an offence and shall be liable for penalty as provided for in these bylaws and the Municipality's charges in respect of such removal and disposal.

41. ABANDONED THINGS

- (1) Anything other than a vehicle deemed to have been abandoned in terms of section 14 of the Road Traffic Act, No 29 of 1989, is in the light of such factors as the place where it is found, the period it has been lying at such places and the nature and condition of such thing, reasonably regarded by the Municipality as having been abandoned, may be removed and disposed of by the Municipality as it may deem fit.

42. LIABILITY OF RESPONSIBLE PERSONS

- (1) Where anything has been removed and disposed of by the Municipality in terms of section 41 the person responsible shall be liable to pay the Municipality the tariff charge in respect of such disposal.
- (2) For the purposes of subsection (1) the person responsible shall be-

- (a) the last owner of the abandoned thing, before it was collected by the Municipality or the Municipality's Contractor, 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 he/she can prove that he/she 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.
- (3) Where refuse bins or containers have been stolen, the owner(s) and/or occupier(s) of premises shall be responsible for the replacement of the bins or containers.

CHAPTER 12

GENERAL PROVISION

43. ACCESS TO PREMISES

- (1) Where the Municipality provides a refuse collection service, the owner(s) and/or occupier(s) of premises shall grant the Municipality access to the premises for the purpose of collecting and removing refuse and shall ensure that nothing obstructs, frustrates or hinders the Municipality in the carrying out of its service and the Municipality shall not be liable for any damage of property caused by the heavy refuse removal vehicle.
- (2) Where in the opinion of the Municipality the collection or removal of refuse from any premises is likely to result in damage to the premises or the Municipality's property, or injury to the refuse collectors or any person, it may, as a condition of rendering a refuse collection service in respect of the premises, require the owner(s) and or occupier(s) to indemnify it in writing in respect of any such damage or injury or any claims arising out of either or all the situations mentioned.

44. RECEPTACLES IN PUBLIC PLACES

- (1) The Municipality shall cause litter receptacles to be placed in public places where excessive littering is likely to occur, including parks, public markets, commercial shopping areas, bus and train stations. Receptacles shall be emptied at least once per week by the Municipality.
- (2) All public and private buses operating on any public street shall be equipped with litter receptacles and notices in conspicuous places, notifying all passengers that littering is an offence under the laws of the Republic of South Africa.

45. AVAILABILITY OF BY-LAWS

A copy of these by-laws shall be included in the Municipality's Municipal Code as required in terms of the legislation.

46. CONFLICT OF LAW

- (1) When interpreting a provision of these by-laws, any reasonable interpretation which is consistent with the purpose of the Act, must be preferred over any alternative interpretation which is inconsistent with that purpose.
- (2) If there is any conflict between these by-laws and any other by-laws of the Municipality, these by-laws shall prevail.

CHAPTER 13**ENFORCEMENT****47. POWERS OF ENFORCEMENT**

- (1) The Municipality and its designated agents shall take all lawful, necessary and reasonable practicable measures for:
 - (a) prevention of littering on any street, public place or private plot as herein defined; and
 - (b) prevent the occurrence of a public nuisance or condition liable to be injurious or dangerous to public health, and to take measures, including proceedings at law against any person causing or responsible for littering or the occurrence or continuation of a public nuisance;
 - (c) The Municipality may appoint enforcement officers for the purposes of enforcing these Bylaws.

48. ENFORCEMENT PROCEDURES

- (1) Any authorized enforcement officer who observes any person, business or other entity committing a littering offense or creating or continuing a public nuisance shall have the authority to issue a citation for the offense observed, and to impose a fine in accordance with the schedule of penalties then in effect. The citation shall include the following:
 - (a) the By-laws or law under which the citation is issued;
 - (b) the nature of the offence;
 - (c) the name and address of the person, business or entity receiving the citation;
 - (d) the name of the officer issuing the citation;
 - (e) a statement that payment of the prescribed fine consists of an admission of guilt, and that the person receiving the citation has the right to appeal the citation;
 - (f) the name and location of the Municipality office where the fine is to be paid, or a notice of appeal is to be filed;
 - (g) the length of time for payment of the fine or notice of appeal; and
 - (h) a warning that failure to pay the fine or file a notice of appeal within the time specified may result in arrest and further judicial action.
- (2) If the person to whom the citation was issued fails to pay the fine or file an appeal within the time specified, the Municipality may cause a complaint to be made before a magistrate or other duly appointed judicial officer who shall thereupon issue a summons requiring the person to appear before the court.

- (3) If the person to whom the citation was issued files an appeal within the specified time frame, the Municipality shall weigh the issues of the appeal and may, at its discretion, either dismiss the proceedings or proceed with a court complaint as described in subsection (2) above.

CHAPTER 14

PAYMENT OF CHARGES, OFFENCES AND PENALTIES.

49. CHARGES

- (1) Save where otherwise provided for in these By-laws, the person to whom any service mentioned in these bylaws has been rendered by the Municipality shall be liable to the Municipality for the tariff charged and determined by the Municipality.
- (2) Services rendered by the Municipality in respect of which a tariff charge is prescribed, may be altered by the Municipality if it has ascertained that an increase or decrease in such services is justified, or after receipt of a written notification from the owner(s) and/or occupier(s) of the premises to which the service is rendered, that the generation of domestic or business refuse on the premises has ceased, or reduced in volume, and the Municipality is satisfied that a change in service is justified.
- (3) If written consent in subsection (2) is not received, the tariff charge will not be reduced and shall be payable until the Municipality is satisfied that an alteration in service is justified.
- (4) Tariff charges shall become due and payable on the same date as the general assessment rate levied; Provided that if such tariff charges are increased, any unpaid balance owing to the Municipality on the total amended charges will be due and payable to the Municipality on demand.
- (5) Any person who fails to pay the tariff charge in respect of services rendered by the Municipality shall be guilty of an offence.
- (6) Should any organisation be able to produce a certificate of registration as a nonprofit organisation issued by the Department of Social Development, such an organisation may apply for exemption from refuse removal levies, it either be:
 - (a) Levied the applicable domestic refuse removal charge as reflected in the tariff schedule;
 - (b) the organisation be exempted from paying all refuse removal charges.
- (7) Where bulk container services are not rendered on a scheduled basis or at least once per month, a minimum basic charge for the rendering of one bulk container service shall be levied.
- (8) Where tariffs are not provided in the tariff schedule of the Municipality's Solid Waste Management By-laws for the rendering of exceptional services such a tariff will be calculated on the basis of the estimated cost plus 20%, excluding VAT."

50. OFFENCES AND PENALTIES

- (1) Any person who –
 - (a) Who obstructs or hinders the Municipality in exercising the powers or performance of functions or duties;

- (b) Contravenes or fails to comply with any provision of these by-laws;
- (c) Fails to comply with the terms of a notice served upon him or her in terms of these by-laws shall be guilty of an offence and liable upon conviction to a fine of R10 000,00 (TEN THOUSAND RANDS) or to a period of imprisonment or community service not exceeding 24 (TWENTY FOUR) months or in the event of a continued offence a further fine of R2 000,00 (TWO THOUSAND) for every day during the continuance of such offence.

CHAPTER 15

REVOCATION OF BY-LAWS

51. REPEAL

- (1) All the Refuse (Solid Waste) By-laws applicable within the area of authority of Emfuleni Local Municipality, are hereby repealed; Provided that such repeal shall not affect the continued validity of charges determined by the Municipality under these By-laws.
- (2) Any reference –
 - (a) in these By-laws to a charge determined by the Municipality shall include a charge determined by the Municipality under the By-laws repealed by subsection (1), until the Municipality's determination of charges under these By-laws comes into operation; and
 - (b) in a determination of charges made under the By-laws so repealed, to a provision in those By-laws shall be deemed to be a reference to the corresponding provision in these By-laws.
- (2) Anything done under the provisions of these By-laws repealed by subsection (1), shall be deemed to have been done under the corresponding provision of these By-laws and such repeal shall 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.

52. SHORT TITLE AND COMMENCEMENT DATE

- (1) These bylaws are called the Solid Waste Management By-laws of the Emfuleni Local Municipality.
- (2) These by-laws shall come into operation and effect on date of promulgation by the Emfuleni Local Municipality by way of a notice in the Provincial Gazette.

LOCAL AUTHORITY NOTICE 263

ELECTRICITY BYLAWS

OF

EMFULENI LOCAL MUNICIPALITY

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**CHAPTER 1
DEFINITIONS**

1. For purposes of these By-laws any word or expressions to which a meaning has been assigned in the Act shall bear the same meaning in these By-laws and unless the context indicates otherwise -

Definitions - In these By-laws, unless inconsistent with the context-

"account" means any account rendered for municipal services provided;

"act" means any applicable law, proclamation, ordinance, act of parliament or enactment having force of law;

"accredited person" means a person registered in terms of the Regulations as an electrical tester for single phase, an installation electrician or a master installation electrician, as the case may be;

"agreement" means the contractual relationship between the Municipality and a customer, whether written or deemed;

"applicable standard specification" means the standard specifications as listed in Schedule 1 attached to these By-law;

"approved" means approved by the Municipality;

"area of supply" means any area within or partly within the area of jurisdiction of the Municipality to which electrical services are provided;

"authorized agent" means -

- (a) any person authorized by the Municipality to perform any act, function or duty in terms of, or exercise any power under these By-laws; and or
- (b) any person to whom the Municipality has delegated the performance of certain rights, duties and obligations in respects in respect of providing electrical supply services; and or
- (c) any person appointed by the Municipality in terms of a written contract as a service provider to provide electricity to consumers on its behalf, to the extent authorized in such contract;

"certificate of compliance" means a certificate issued in terms of the Regulations in respect of an electrical installation or part of an electrical installation by an accredited person;

"consumer" in relation to premises means:

- (i) any occupier thereof or any other person with whom the Municipality has contracted to supply or is actually supplying electricity thereat; or
- (ii) if such premises are not occupied, any person who has a valid existing agreement with the Municipality for the supply of electricity to such premises; or
- (iii) if there is no such person or occupier, the owner of the premises;

"credit meter" means a meter where an account is issued subsequent to the consumption of electricity;

"electrical contractor" means an electrical contractor as defined in the Regulations;

"electrical installation" means an electrical installation as defined in the Regulations;

"engineer" means the Engineer of the Municipality, or any other person authorized to act on his or her behalf;

"emergency" means any situation that poses a risk or potential risk to life, health, the environment or property;

"high voltage" means the set of nominal voltage levels that are used in power systems for bulk transmission of electricity in the range of $44\text{kV} < U_n \leq 220 \text{ kV}$. [SABS 1019];

"illegal connection" means a connection to any system through which electrical services are provided that is not authorized or approved by the Municipality;

"indigent customer" means a household customer qualifying and registered with the municipality as an indigent in accordance with the Credit Control and Debt Collection bylaws;

"low voltage" means the set of nominal voltage levels that are used for the distribution of electricity and whose upper limit is generally accepted to be an a.c. voltage of 1000V (or a d.c. voltage of 1500 V). [SABS 1019]

"medium voltage" means the set of nominal voltage levels that lie above low voltage and below high voltage in the range of $1 \text{ kV} < U_n \leq 44 \text{ kV}$. [SABS 1019]

"meter" means a device which records the demand and/or the electrical energy consumed and includes conventional and prepayment meters;

"motor load, total connected" means the sum total of the kW input ratings of all the individual motors connected to an installation;

"motor rating" means the maximum continuous kW output of a motor as stated on the maker's rating plate;

"motor starting current" in relation to alternating current motors means the root mean square value of the symmetrical current taken by a motor when energised at its rated voltage with its starter in the starting position and the rotor locked;

"municipality" means –

- (a) the Emfuleni Local Municipality or its successors-in-title; or
- (b) the municipal manager of the Emfuleni Local Municipality in respect of the performance of any action or exercise of any right, duty, obligation or function in terms of these By-laws;
- (c) an authorized agent of the Emfuleni Local Municipality;

"municipal council" means the municipal council as referred to in section 157(1) of the Constitution, 1996 (Act No. 108 of 1996);

"municipal manager" means the person appointed by the municipal council as the municipal manager of the Municipality in terms of section 82 of the Local Government Municipal Structures Act, 1998 (Act No. 117 of 1998) and includes any person –

- (a) acting in such position; and
- (b) to whom the municipal manager has delegated a power, function or duty in respect of such a delegated power, function or duty;

"municipal services" means for purposes of these bylaws, services provided by the municipality which among others include the electricity services and pre-paid electricity services;

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

"owner" –means

- a) the person in whom from time to time is vested the legal title to premises;
- b) in a case where the person in whom the legal title to premises is vested is insolvent or deceased, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- c) in any case where the Municipality is unable to determine the identity of such person, a person who has a legal right in or to the benefit of the use of such of such premises or a building or buildings thereon;
- d) in the case of premises for which a lease agreement of 30 years or longer has been entered into, the lessee thereof;
- e) in relation to:
 - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, Act No. 95 of 1986, the developer or the body corporate in respect of the common property, or
 - (ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed and includes lawfully appointed agent of such person;
- f) a person occupying land under a register held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

"person" means any natural person, local government body, a company or close corporation incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

"point of consumption" means a point of consumption as defined in the Regulations;

"point of metering" means the point at which the consumer's consumption of electricity is metered and which may be at the point of supply or at any other point on the distribution system of the Municipality or the electrical installation of the consumer, as specified by the Municipality or any duly authorised official of the Municipality; provided that it shall meter all of, and only, the consumer's consumption of electricity;

"point of supply" means the point determined by the Municipality or any duly authorised official of the Municipality at which electricity is supplied to any premises by the Municipality;

"premises" means any piece of land, the external surface boundaries of which are delineated on :

- (a) a general plan or diagram registered in terms of the Land Survey Act, Act No. 9 of 1927 (as amended); or in terms of the Deeds Registries Act, Act No 47 of 1937 (as amended); or
- (b) a sectional plan registered in terms of the Sectional Titles Act, Act No. 95 of 1986;
- (c) a register held by a tribunal authority or in accordance with a sworn affidavit made by a tribal authority;

"professional engineer" means a person registered in terms of the Engineering Profession Act, 2000, Act No. 46 of 2000, as a professional engineer;

"prepayment meter" means a meter that can be programmed to allow the flow of pre-purchased amounts of energy in an electrical circuit;

"public notice" means publication in an appropriate medium that may include one or more of the following:

- a) publication of a notice, in the official languages determined by the municipal council; -
 - (i) in the local newspaper or newspapers in the area of supply of the Municipality; or
 - (ii) in the newspaper or newspapers circulating in the area of supply of the Municipality determined by the municipal council as a newspaper of record; or
 - (iii) by means of radio broadcasts covering the area of supply of the Municipality; or
- b) displaying a notice at appropriate offices and paypoints of the Municipality; or
- c) communication with customers through public meetings and ward committee meetings;

"Regulations" means Regulations made in terms of the Occupational Health and Safety Act, 1993 (Act 85 of 1993), as amended;

"safety standard" means the Code of Practice for the Wiring of Premises SABS 0142 incorporated in the Regulations;

"service connection" means all cables and equipment required to connect the supply mains to the electrical installation of the consumer at the point of supply;

"service protective device" : means any fuse or circuit breaker installed for the purpose of protecting the Municipality's equipment from overloads or faults occurring on the installation or on the internal service connection;

"service provider agreement" means an agreement entered into between the Municipality and a service provider in terms of which a service provider is required to provide electrical services;

"service provider" means any person who has entered into a service delivery agreement with the municipality in terms of the section 81(2) of the Local government Systems Act, 1998 (Act No. 117 of 1998);

"standby supply" means an alternative electricity supply not normally used by the consumer;

"supply" means a supply of electricity from the supply main;

"supply mains" means any part of the Municipality's electricity network;

"tariff" means, for the purposes of these bylaws, the charges promulgated by the municipal council in respect of the supply of electricity and collected from the consumer by the municipality;

"token" means the essential element of a prepayment metering system used to transfer information from a point of sale for electricity credit to a prepayment meter and *vice versa*;

"unauthorized services" means receipt, use or consumption of any electrical services which is not in terms of an agreement, or authorized or approved by the Municipality;

"voltage" means the root-mean-square value of electrical potential between two conductors.

CHAPTER 2 SERVICE PROVIDERS

2. Agreement, Delegation and Customer Care Charter

- (1) Subject to the provisions of subsection (2), the municipality may discharge all or some of its obligations under these by-laws for the rendering of electrical services by entering into a service delivery agreement with the service provider or service providers in terms of section 81(2) of the Systems Act.
- (2) Subject to the provisions of the Systems Act or any other law, the municipality may assign to a service provider any power enjoyed by the municipality under these by-laws: Provided that the assignment is necessary to enable the service provider to discharge any obligation under its service delivery agreement.
- (3) Any reference to these by-laws to "municipality or service provider" must be read as "municipality" if the municipality has not entered into a service delivery agreement; and if the municipality has entered into a service delivery agreement, must read as "service provider".
- (4) Without derogating from the generality of the provisions of subsection (1), the municipality may not discharge its obligation to monitor and enforce the provisions of these by-laws by entering into an agreement with a service provider to do so.
- (5) A service provider established in terms of subsection (1) must prepare a customer care charter which shows how the service provider intends to deal with complaints and customer care.

3. Tariffs

- (1) Notwithstanding the provisions of section 2(1), the municipality retains the responsibility to establish maximum tariffs for electrical services.
- (2) The municipality must evaluate and promulgate maximum tariffs annually, prior to 1 July of each year.

CHAPTER 3 GENERAL CONDITIONS OF SUPPLY

4. **Provision of Electricity Services** – Only the Municipality shall supply or contract for the supply of electricity within the jurisdiction of the Municipality.
5. **Supply by agreement** - No person shall use or be entitled to use an electricity supply from the Municipality unless or until such person shall have entered into an agreement in writing with the Municipality for such supply, and such agreement together with the provisions of these By-laws shall in all respects govern such supply. If a person uses an electricity supply without entering into an agreement he/she shall be liable for the cost of electricity used as stated in section 43 of these by-laws.
6. **Service of notice** -
 - (1) Any notice or other document that is served on any person in terms of these by-laws is regarded as having been served-

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- (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgement of the posting thereof from the postal service is obtained;
 - (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 by paragraphs (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 property or premises, if any, to which it relates.
- (2) When any notice or other document must be authorised or served on the owner, occupier or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and it is not necessary to name that person.
- (3) Any legal process is effectively and sufficiently served on the Municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.
7. **Compliance with notices** - Any person on whom a notice duly issued or given under these by-laws is served shall, within the time specified in such notice, comply with its terms.
8. **Application for supply** -
- (1) Application for the supply of electricity shall be made in writing by the prospective consumer on the prescribed form obtainable at the office of the Municipality, and the estimated load, in kVA, of the installation, shall be stated therein. Such application shall be made as early as possible before the supply of electricity is required in order to facilitate the work of the Municipality.
 - (2) An application for an electricity supply for a period of less than one year shall be regarded as an application for a temporary supply of electricity and shall be considered at the discretion of the Municipality or any duly authorised official of the Municipality, which may specify any special conditions to be satisfied in such case.
9. **Processing of requests for supply** - Applications for the supply of electricity will be processed and the supply made available within the periods stipulated in NRS 047.
10. **Wayleaves** -
- (1) The Municipality may refuse to lay or erect a service connection above or below ground on any thoroughfare or land not vested in the Municipality or on any private property, unless and until the prospective consumer shall have obtained and deposited with the Municipality written permission granted by the owner of the said private property or by the person in whom is vested the legal title to the land or thoroughfare as aforesaid exists, as the case may be, authorising the laying or erection of a service connection thereon.

- (2) If such permission is withdrawn at any time or if the aforesaid private property or thoroughfare changes ownership and the new owner refuses to grant or continue such permission, the cost of any alteration required to be made to a service connection in order that the supply of electricity may be continued, and of any removal thereof which may become necessary in the circumstances, shall be borne by the consumer to whose premises the supply of electricity is required to be continued.

11. Statutory Servitude -

- (1) Subject to the provisions of subsection (3) the Municipality may within its municipal area:
- (a) provide, establish and maintain electricity services;
 - (b) acquire, construct, lay, extend, enlarge, divert, maintain, repair, discontinue the use of, close up and destroy electricity supply mains;
 - (c) construct, erect or lay any electricity supply main on, across, through, over or under any street or immovable property and the ownership of any such main shall vest in the Municipality;
 - (d) do any other thing necessary or desirable for or incidental, supplementary or ancillary to any matter contemplated by paragraphs (a) to (c).
- (2) If the Municipality constructs, erects or lays any electricity supply main on, across, through, over or under any street or immovable property not owned by the Municipality or under the control of or management of the Municipality it shall pay to the owner of such street or property compensation in an amount agreed upon by such owner and the Municipality or, in the absence of agreement, be determined either by arbitration or a court of law.
- (3) The Municipality shall, before commencing any work other than repairs or maintenance on or in connection with any electricity supply main on immovable property not owned by the Municipality or under the control or management of the Municipality, give the owner or occupier of such property reasonable notice of the proposed work and the date on which it proposes to commence such work.

12. Right of admittance to inspect, test and/or do maintenance work -

- (1) The Municipality shall, through its employees, contractors and their assistants and advisers, have access to or over any property for the purposes of-
- (a) doing anything authorised or required to be done by the Municipality under these by-laws or any other law;
 - (b) inspecting and examining any service mains and anything connected therewith;
 - (c) enquiring into and investigating any possible source of electricity supply or the suitability of immovable property for any work, scheme or undertaking of the Municipality and making any necessary survey in connection therewith;
 - (d) ascertaining whether there is or has been a contravention of the provisions of these by-law or any other law, and
 - (e) enforcing compliance with the provisions of these by-laws or any other law,

- (2) Neither employees of the Municipality nor any person, body, organization or corporation acting on behalf of the Municipality is liable for any damage arising from any omission or act done in good faith in the course of his or her duties.
 - (3) Where the Municipality is authorised to execute on the property concerned any work at the cost of such person or some other person or to execute on such property any work and recover the cost thereof from such person or some other person, compensation in such amount as may be agreed upon by the Municipality and such person or, in the absence of agreement, as may be determined by arbitration or court of law.
 - (4) An employee of the Municipality authorised thereto by such Municipality may, by notice in writing served on the owner or occupier of any property, require such owner or occupier to provide, on the day and at the hour specified in such notice, access to such property to a person and for a purpose referred to in sub-section (1).
 - (5) The Municipality may gain access to or over any property without notice and may take whatever action as may, in its opinion, be necessary or desirable in consequence of the existence of a state of war or the occurrence of any calamity, emergency or disaster.
13. **Refusal or failure to give information** - No person shall refuse or fail to give such information as may be reasonably required of him/her by any duly authorised official of the Municipality or render any false information to any such official regarding any electrical installation work completed, in progress or contemplated.
14. **Refusal of admittance** - No person shall wilfully hinder, obstruct, interfere with or refuse admittance to any duly authorised official of the Municipality in the performance of his duty under these by-laws or of any duty connected therewith or relating thereto.
15. **Improper use** - If the consumer uses the electricity for any purpose or deals with the electricity in any manner which the Municipality has reasonable grounds for believing interferes in an improper or unsafe manner or is calculated to interfere in an improper or unsafe manner with the efficient supply of electricity to any other consumer, the Municipality may, with or without notice, disconnect the electricity supply but such supply shall be restored as soon as the cause for the disconnection has been permanently remedied or removed. The fee as prescribed by the Municipality for the disconnection and reconnection shall be paid by the consumer before the electricity supply is restored, unless it can be shown that the consumer did not use or deal with the electricity in an improper or unsafe manner.
16. **Deposits** - The Municipality reserves the right to require the consumer to deposit a sum of money as security in payment of any charges which are due or may become due to the Municipality. The amount of the deposit in respect of each electricity installation shall be determined by the Municipality, and each such deposit may be increased if the Municipality deems the deposit held to be inadequate. Such deposit shall not be regarded as being in payment or part payment of any accounts due for the supply of electricity for the purpose of obtaining any discount provided for in the electricity tariff referred to in these by-laws. On cessation of the supply of electricity, the amount of such deposit, free of any interest, less any payments due to the Municipality shall be refunded to the consumer.
17. **Payment of charges** -
- (1) The consumer shall be liable for all charges listed in the prescribed tariff for the electricity service as approved by the Municipality. A copy of the prescribed tariff is obtainable free of charge from the Municipality.

- (2) All accounts shall be deemed to be payable when issued by the Municipality and each account shall, on its face, reflect the due date and a warning indicating that the supply of electricity may be disconnected should the charges in respect of such supply remain unpaid after the due date.
 - (3) An error or omission in any account or failure to render an account shall not relieve the consumer of his obligation to pay the correct amount due for electricity supplied to the premises and the onus shall be on the consumer to satisfy himself/herself that the account rendered is in accordance with the prescribed tariff of charges in respect of electricity supplied to the premises.
 - (4) Where a duly authorised official of the Municipality has visited the premises for the purpose of disconnecting the supply of electricity in terms of subsection (2) and he/she is obstructed or prevented from effecting such disconnection, the prescribed fee shall become payable for each visit necessary for the purpose of such disconnection.
 - (5) After disconnection for non-payment of an account, the prescribed fees and any amounts due for electricity consumed shall be paid before the electricity supply is re-connected.
- 18. Interest on overdue accounts -** The Municipality may charge interest on accounts which are not paid by the due date appearing on the account, at a interest rate as approved by the Municipality from time to time.
- 19. Principles for the resale of electricity –**
- (1) Unless otherwise authorised by the Municipality, no person shall sell or supply electricity, supplied to his/her premises under an agreement with the Municipality, to any other person or persons for use on any other premises, or permit or suffer such resale or supply to take place. If electricity is resold, the electricity resold shall be measured by a submeter of a type which has been approved by the South African Bureau of Standards.
 - (2) The rates at which and the conditions of sale under which electricity is thus resold shall not be less favourable to the purchaser than those that would have been payable and applicable had the purchaser been supplied directly with electricity by the Municipality, and every reseller shall at the request of the purchaser furnish him/her with such information as may be necessary to enable him/her to determine whether the electricity accounts received by him/her are correct,
 - (a) provided that the reseller shall be permitted to recover his/her actual electricity cost equitably from all purchasers, and that he/she must substantiate these costs if called upon to do so by the purchaser,
 - (b) provided further, that the reseller of electricity may recover the administration costs incurred in metering, reading and billing from the purchaser of the electricity resold, and that, at the request of such purchaser, the reseller must furnish the purchaser such information as may be necessary to enable him/her to determine whether the administration costs are fair and reasonable.

20. Right to disconnect supply –

- (1) The Municipality shall have the right to disconnect the supply of electricity to any premises if the person liable to pay for such supply fails to pay any charge due to the Municipality in connection with any supply of electricity which he/she may at any time have received from the Municipality in respect of such premises, or, where any of the provisions of these By-law and/or the Regulations are being contravened, provided the Municipality has given the person 14 (fourteen) days notice to remedy his/her default and the person has failed to remedy such default after notice has been given, or, in the case of a grave risk to person or property, or as envisaged in terms of Section 26 of these By-law, without notice. After disconnection for non-payment of accounts or the improper or unsafe use of electricity, the fee as prescribed by the Municipality shall be paid.
- (2) In the case where an installation has been illegally reconnected on a consumer's premises after having been previously legally disconnected by the Municipality, or in the case where the Municipality's electrical equipment has been tampered with to prevent the full registration of consumption by the meter, the electricity supply may be physically removed from those premises.

21. Non-liability of the Municipality- The Municipality shall not be liable for any loss or damage, direct or consequential, suffered or sustained by a consumer as a result of or arising from the cessation, interruption or any other abnormality of the supply of electricity, unless caused by negligence on the part of the Municipality.

22. Leakage of electricity - Under no circumstances shall any rebate be allowed on the account for electricity supplied and metered in respect of electricity wasted owing to leakage or any other fault in the electrical installation.

23. Failure of supply - The Municipality does not undertake to attend to a failure of supply of electricity due to a fault in the electrical installation of the consumer, except when such failure is due to the operation of the service protective device of the Municipality. When any failure of supply of electricity is found to be due to a fault in the electrical installation of the consumer or to the faulty operation of apparatus used in connection therewith, the Municipality shall have the right to charge the consumer the fee as prescribed by the Municipality for each restoration of the supply of electricity in addition to the cost of making good or repairing any damage which may have been done to the service main and meter by such fault or faulty operation as aforesaid.

24. Seals of the Municipality - The meter, service protective devices and all apparatus belonging to the Municipality shall be sealed or locked by a duly authorised official of the Municipality, and no person not being an official of the Municipality duly authorised thereto shall in any manner or for any reason whatsoever remove, break, deface, or tamper or interfere with such seals or locks.

25. Tampering with service connection or supply mains -

- (1) No person shall in any manner or for any reason whatsoever tamper or interfere with any meter or metering equipment or service connection or service protective device or supply mains or any other equipment of the Municipality.
- (2) Where prima facie evidence exists of a consumer and/or any person having contravened sub-section(1), the Municipality shall have the right to disconnect the supply of electricity immediately and without prior notice to the consumer. The person shall be liable for all fees and charges levied by the Municipality for such disconnection.

- (3) Where a consumer and/or any person has contravened sub-section(1) and such contravention has resulted in the meter recording less than the true consumption, the Municipality shall have the right to recover from the consumer the full cost of his estimated consumption.

26. Protection of Municipality's supply mains -

- (1) No person shall, except with the consent of the Municipality and subject to such conditions as may be imposed –
- (a) construct, erect or lay, or permit the construction, erection or laying of any building, structure or other object, or plant trees or vegetation over or in such a position or in such a manner as to interfere with or endanger the supply mains
 - (b) excavate, open up or remove the ground above, next to, under or near any part of the supply mains
 - (c) damage, endanger, remove or destroy, or do any act likely to damage, endanger or destroy any part of the supply mains
 - (d) make any unauthorized connection to any part of the supply mains or divert or cause to be diverted any electricity there from.
 - (e) The owner or occupier shall limit the height of trees or length of projecting branches in the proximity of overhead lines or provide a means of protection which in the opinion of the Municipality will adequately prevent the tree from interfering with the conductors should the tree or branch fall or be cut down. Should the owner fail to observe this provision the Municipality shall have the right, after prior written notification, or at any time in an emergency, to cut or trim the trees or other vegetation in such a manner as to comply with this provision and shall be entitled to enter the property for this purpose.
- (2) The Municipality may subject to obtaining an order of court demolish, alter or other wise deal with any building, structure or other object constructed, erected or laid in contravention with these By-law.
- (3) The municipality may in the case of an emergency or disaster remove anything damaging, obstructing or endangering or likely to damage, obstruct, endanger or destroy any part of the electrical distribution system.

27. Prevention of tampering with service connection or supply mains - If the Municipality decides that it is necessary or desirable to take special precautions in order to prevent tampering with any portion of the supply mains, service connection or service protective device or meter or metering equipment, the consumer shall either supply and install the necessary protection or pay the costs involved where such protection is supplied by the Municipality.

28. Unauthorised connections - No person other than a person specifically authorised thereto by the Municipality in writing shall directly or indirectly connect, attempt to connect or cause or permit to be connected any electrical installation or part thereof to the supply mains or service connection.

29. Unauthorised reconnections -

- (1) No person other than a person specifically authorised thereto by the Municipality in writing shall reconnect, attempt to reconnect or cause or permit to be reconnected to the supply mains or service connection any electrical installation or installations which has or have been disconnected by the Municipality.
- (2) Where the supply of electricity that has previously been disconnected is found to have been reconnected, the consumer using the supply of electricity shall be liable for all charges for electricity consumed between the date of disconnection and the date the electricity supply was found to be reconnected and any other charges raised in this regard. Furthermore, the Municipality reserves the right to remove part or all of the supply equipment until such time as payment has been received in full. In addition, the consumer will be responsible for all the costs associated with the reinstatement of such supply equipment.

30. Temporary disconnection and reconnection -

- (1) The Municipality shall, at the request of the consumer, temporarily disconnect and reconnect the supply of electricity to the consumer's electrical installation upon payment of the fee as prescribed by the Municipality for each such disconnection and subsequent reconnection.
- (2) In the event of the necessity arising for the Municipality to effect a temporary disconnection and reconnection of the supply of electricity to a consumer's electrical installation and the consumer is in no way responsible for bringing about this necessity, the Municipality shall waive payment of the fee hereinbefore referred to.
- (3) The Municipality may only under exceptional circumstances temporarily disconnect the supply of electricity to any premises without notice, for the purpose of effecting repairs or carrying out tests or for any other legitimate purpose. In all other instances adequate notice shall be given.

31. Temporary supplies - It shall be a condition of the giving of any temporary supply of electricity, as defined in these By-law, that, if such supply is found to interfere with the efficient and economical supply of electricity to other consumers, the Municipality shall have the right, with notice, or under exceptional circumstances without notice, to terminate such temporary supply at any time and, the Municipality shall not be liable for any loss or damage occasioned by the consumer by such termination.

32. Temporary work - Electrical installations requiring a temporary supply of electricity shall not be connected directly or indirectly to the supply mains except with the special permission in writing of the Municipality. Full information as to the reasons for and nature of such temporary work shall accompany the application for the aforesaid permission, and the Municipality may refuse such permission or may grant the same upon such terms and conditions as it may appear desirable and necessary.

33. Load reduction -

- (1) At times of peak load, or in an emergency, or when, in the opinion of the Municipality, it is necessary for any reason to reduce the load on the electricity supply system of the Municipality, the Municipality may without notice interrupt and, for such period as the Municipality may deem necessary, discontinue the electricity supply to any consumer's electrically operated thermal storage water heater or any specific appliance or the whole installation.

The Municipality shall not be liable for any loss or damage directly or consequentially due to or arising from such interruption and discontinuance of the electricity supply.

- (2) The Municipality may install upon the premises of the consumer such apparatus and equipment as may be necessary to give effect to the provisions of subsection (1), and any duly authorised official of the Municipality may at any reasonable time enter any premises for the purpose of installing, inspecting, testing adjusting and/or changing such apparatus and equipment.
- (3) Notwithstanding the provisions of sub-section (2), the consumer or the owner, as the case may be, shall, when installing an electrically operated water storage heater, provide such necessary accommodation and wiring as the Municipality may decide to facilitate the later installation of the apparatus and equipment referred to in sub-section (2).

34. Medium and low voltage switchgear and equipment -

- (1) In cases where a supply of electricity is given at either medium or low voltage, the supply and installation of the switchgear, cables and equipment forming part of the service connection shall, unless otherwise approved by the Municipality or any duly authorised official of the Municipality, be paid for by the consumer.
- (2) In the case of a medium voltage supply of electricity, all such equipment shall be approved by any duly authorised official of the Municipality and installed by or under the supervision of any duly authorised official of the Municipality.
- (3) No person shall operate medium voltage switchgear without the written authority of the Municipality.
- (4) All earthing and testing of medium voltage equipment linked to the Municipality's network shall be conducted by or under the supervision of a duly authorized employee of the Municipality.
- (5) In the case of a low voltage supply of electricity, the consumer shall provide and install a low voltage main switch and/or any other equipment required by the Municipality or any duly authorised official of the Municipality.

- 35. Substation accommodation -** The Municipality may, on such conditions as may be deemed fit by the Municipality or any duly authorised official of the Municipality, require the owner to provide and maintain accommodation which shall constitute a substation and which shall consist of a separate room or rooms to be used exclusively for the purpose of housing medium voltage cables and switchgear, transformers, low voltage cables and switchgear and other equipment necessary for the supply of electricity requested by the applicant. The accommodation shall be situated at a point to which free, adequate and unrestricted access is available at all times for purposes connected with the operation and maintenance of the equipment.

The Municipality reserves the right to supply its own networks from its own equipment installed in such accommodation, and if additional accommodation is required by the Municipality, such additional accommodation shall be provided by the applicant at the cost of the Municipality.

36. Wiring diagram and specification -

- (1) When more than one electrical installation or electricity supply from a common main or more than one distribution board or meter is required for any building or block of buildings, the wiring diagram of the circuits starting from the main switch and a specification shall on request be supplied to the Municipality in duplicate for approval before the work commences.
- (2) Where an electrical installation is to be supplied from a substation on the same premises on which the current is transformed from high voltage, or from one of the substations of the Municipality through mains separate from the general distribution system, a complete specification and drawings for the plant to be installed by the consumer shall, if so required, be forwarded to the Municipality for approval before any material in connection therewith is ordered.

37. Standby supply - No person shall be entitled to a standby supply of electricity from the Municipality for any premises having a separate source of electricity supply except with the written consent of the Municipality and subject to such terms and conditions as may be laid down by the Municipality.

38. Consumer's emergency standby supply equipment -

- (1) No emergency standby equipment provided by a consumer in terms of any Regulations or for his own operational requirements shall be connected to any installation without the prior written approval of the Municipality. Application for such approval shall be made in writing and shall include a full specification of the equipment and a wiring diagram. The standby equipment shall be so designed and installed that it is impossible for the Municipality's supply mains to be energized by means of a back-feed from such equipment. The consumer shall be responsible for providing and installing all such protective equipment.
- (2) Where by special agreement with the Municipality, the consumer's standby generating equipment is permitted to be electrically coupled to, and run in parallel with the Municipality's supply mains, the consumer shall be responsible for providing, installing and maintaining all the necessary synchronizing and protective equipment required for such safe parallel operation, to the satisfaction of the Municipality.

39. Circular letters - The Municipality may from time to time issue Circulars detailing the requirements of the Municipality regarding matters not specifically covered in the Regulations or these By-law but which are necessary for the safe, efficient operation and management of the supply of electricity.

**CHAPTER 4
RESPONSIBILITIES OF CONSUMERS**

40. Consumer to erect and maintain electrical installation - Any electrical installation connected or to be connected to the supply mains, and any additions or alterations thereto which may be made from time to time, shall be provided and erected and maintained and kept in good order by the consumer at his own expense and in accordance with these By-law and the Regulations.

41. Fault in electrical installation -

- (1) If any fault develops in the electrical installation, which constitutes a hazard to persons, livestock or property, the consumer shall immediately disconnect the electricity supply. The consumer shall without delay give notice thereof to the Municipality and shall immediately take steps to remedy the fault.
- (2) The Municipality may require the consumer to reimburse it for any expense to which it may be put in connection with a fault in the electrical installation.

42. Discontinuance of use of supply - In the event of a consumer desiring to discontinue using the electricity supply, he/she shall give at least two full working days' notice in writing of such intended discontinuance to the Municipality, failing which he/she shall remain liable for all payments due in terms of the tariff for the supply of electricity until the expiration of two full working days after such notice has been given.

43. Change of occupier -

- (1) A consumer vacating any premises shall give the Municipality not less than two full working days' notice in writing of his intention to discontinue using the electricity supply, failing which he/she shall remain liable for such supply.
- (2) If the person taking over occupation of the premises desires to continue using the electricity supply, he/she shall make application in accordance with the provisions of section 5 of these By-law, and if he/she fails to make application for an electricity supply within ten working days of taking occupation of the premises, the supply of electricity shall be disconnected, and he/she shall be liable to the Municipality for the electricity supply from the date of occupation till such time as the supply is so disconnected.
- (3) Where premises are fitted with pre-payment meters any person occupying the premises at that time shall be deemed to be the consumer. Until such time as an application is made by this person for a supply of electricity, in terms of section 5 of these By-law, he/she shall be liable for all charges and fees owed to the Municipality for that metering point as well as any outstanding charges and fees whether accrued by that person or not.

44. Service apparatus -

- (1) The consumer shall be liable for all costs to the Municipality arising from damage to or loss of any metering equipment, service protective device, service connection or other apparatus on the premises, unless such damage or loss is shown to have been occasioned by an Act of God or an act or omission of an employee of the Municipality or caused by an abnormality in the supply of electricity to the premises.
- (2) If, during a period of disconnection of an installation from the supply mains, the service main, metering equipment or any other service apparatus, being the property of the Municipality and having been previously used, have been removed without its permission or have been damaged so as to render reconnection dangerous, the owner or occupier of the premises, as the case may be, during such period shall bear the cost of overhauling and/or replacing such equipment.
- (3) Where there is a common metering position, the liability detailed in subsection (1) shall devolve on the owner of the premises.
- (4) The amount due in terms of subsection (1) shall be evidenced by a certificate from the Municipality which shall be final and binding.

**CHAPTER 5
SPECIFIC CONDITIONS OF SUPPLY**

45. Service connection -

- (1) The consumer shall bear the cost of the service connection, as approved by the Municipality.
- (2) Notwithstanding the fact that the consumer bears the cost of the service connection, ownership of the service connection, laid or erected by the Municipality, shall vest in the Municipality, the Municipality shall be responsible for the maintenance of such service connection up to the point of supply. The consumer shall not be entitled to any compensation from the Municipality in respect of such service connection.
- (3) The work to be carried out by the Municipality at the cost of the consumer for a service connection to the consumer's premises shall be determined by the Municipality or any duly authorised official of the Municipality.
- (4) A service connection shall be laid underground, whether the supply mains are laid underground or erected overhead, unless an overhead service connection is specifically required by the Municipality.
- (5) The consumer shall provide, fix and/or maintain on his premises such ducts, wire-ways, trenches and fastenings as may be required by the Municipality for the installation of the service connection.
- (6) The conductor used for the service connection shall have a cross-sectional area according to the size of the electrical supply but shall not be less than 10 mm² (copper or copper equivalent), and all conductors shall have the same cross-sectional area, unless otherwise approved by any duly authorised official of the Municipality.
- (7) Unless otherwise approved, the Municipality shall only provide one service connection to each registered erf. In respect of two or more premises belonging to one owner and situated on adjacent erven, a single bulk supply of electricity may be made available provided the erven are consolidated or notarially tied.
- (8) Any covers of a wire-way carrying the supply circuit from the point of supply to the metering equipment shall be made to accept the seals of the Municipality.
- (9) Within the meter box, the service conductor or cable, as the case may be, shall terminate in an un-obscured position and the conductors shall be visible throughout their length when cover plates, if present, are removed.
- (10) In the case of blocks of buildings occupied by a number of individual consumers, separate wire-ways and conductors or cables shall be laid from the common metering room or rooms to each individual consumer in the blocks of buildings. Alternatively, if trunking is used, the conductors of the individual circuits shall be clearly identified (tied together every 1,5m) throughout their length.

46. Metering accommodation -

- (1) The consumer shall, if required by the Municipality or any duly authorised official of the Municipality, provide accommodation in an approved position, the meter board and adequate conductors for the Municipality's metering equipment, service apparatus and protective devices. Such accommodation and protection shall be provided and maintained, to the satisfaction of the Municipality, at the cost of the consumer or the owner, as the circumstances may demand, and shall be situated, in the case of credit meters, at a point to which free and unrestricted access shall be had at all reasonable hours for the reading of meters but at all times for purposes connected with the operation and maintenance of the service equipment. Access at all reasonable hours shall be afforded for the inspection of prepayment meters.
- (2) Where sub-metering equipment is installed, accommodation separate from the Municipality's metering equipment shall be provided.
- (3) The consumer or, in the case of a common meter position, the owner of the premises shall provide adequate electric lighting in the space set aside for accommodating the metering equipment and service apparatus.
- (4) Where in the opinion of the Municipality the position of the meter, service connection, protective devices or main distribution board is no longer readily accessible or becomes a course of danger to life or property or in any way becomes unsuitable, the consumer shall remove it to a new position, and the cost of such removal, which shall be carried out with reasonable dispatch, shall be borne by the consumer.
- (5) The accommodation for the Municipality's metering equipment and protective devices may, if approved, include the consumer's main switch and main protective devices. No apparatus other than that used in connection with the supply of electricity and use of electricity shall be installed or stored in such accommodation unless approved.

**CHAPTER 6
SYSTEMS OF SUPPLY**

47. Load requirements - Alternating current supplies shall be given as prescribed by the Electricity Act, 1987 (Act 41 of 1987), and in the absence of a quality of supply agreement, as set out in applicable standard specification.

48. Load limitations -

- (1) Where the estimated load, calculated in terms of the safety standard, does not exceed 15 kVA, the electrical installation shall be arranged for a two-wire single-phase supply of electricity, unless otherwise approved by the Municipality or any duly authorised official of the Municipality.
- (2) Where a three-phase four-wire supply of electricity is provided, the load shall be approximately balanced over the three phases but the maximum out-of-balance load shall not exceed 15kVA, unless otherwise approved by the Municipality or any duly authorised official of the Municipality.
- (3) No current-consuming appliance, inherently single phase in character, with a rating which exceeds 15kVA shall be connected to the electrical installation without the prior approval of the Municipality.

49. Interference with other persons' electrical equipment –

- (1) No person shall operate electrical equipment having load characteristics which, singly or collectively, give rise to voltage variations, harmonic currents or voltages, or unbalanced phase currents which fall outside the applicable standard specification.
- (2) The assessment of interference with other persons' electrical equipment shall be carried out by means of measurements taken at the point of common coupling.
- (3) Should it be established that undue interference is in fact occurring, the consumer shall, at his/her own cost, install the necessary equipment to filter out the interference and prevent it reaching the supply mains.

50. Supplies to motors –

Unless otherwise approved by the Municipality or any duly authorised official of the Municipality the rating of motors shall be limited as follows:

- (1) Limited size for low voltage motors –

The rating of a low voltage single-phase motor shall be limited to 2kW and/or the starting current shall not exceed 70A. All motors exceeding these limits shall be wound for three phases at low voltage or such higher voltage as may be required.

- (2) Maximum starting and accelerating currents of three-phase alternating current motors.-

The starting current of three-phase low voltage motors permitted shall be related to the capacity of the consumer's service connection, as follows:

Insulated service cable, size in mm ² , copper equivalent	Maximum permissible starting current	Maximum motor rating in kW		
		Direct on line (6x full-load current)	Star/Delta (2,5 x full-load current)	Other means (1,5 x full-load current)
mm ²	A			
16	72	6	13,5	23
25	95	7,5	18	30
35	115	9	22	36,5
50	135	10	25	45
70	165	13	31	55
95	200	16	38	67
120	230	18	46	77
150	260	20	52	87

- (3) Consumers supplied at medium voltage –

In an installation supplied at medium voltage the starting current of a low voltage motor shall be limited to 1,5 times the rated full-load current of the transformer supplying such a motor. The starting arrangement for medium voltage motors shall be subject to the approval of the Municipality.

51. Power factor -

- (1) If required by the Municipality, the power factor of any load shall be maintained within the limits 0,85 lagging and 0,9 leading.
- (2) Where, for the purpose of complying with sub-section (1), it is necessary to install power factor corrective devices, such corrective devices shall be connected to the individual appliance terminals unless the correction of the power factor is automatically controlled.
- (3) The consumer shall, at his/her own cost, install such corrective devices.

52. Protection - Electrical protective devices for motors shall be of such a design as effectively to prevent sustained overcurrent and single phasing, where applicable.**CHAPTER 7
MEASUREMENT OF ELECTRICITY****53. Metering -**

- (1) The Municipality shall, at the consumer's cost in the form of a direct charge or prescribed fee, provide, install and maintain appropriately rated metering equipment at the point of metering for measuring the electricity supplied.
- (2) Except in the case of prepayment meters, the electricity used by a consumer during any metering period shall be ascertained by the reading of the appropriate meter or meters supplied and installed by the Municipality and read at the end of such period except where the metering equipment is found to be defective, or the Municipality invokes the provisions of section 58(2) of these By-law, in which case the consumption for the period shall be estimated.
- (3) Where the electricity used by a consumer is charged at different tariff rates, the consumption shall be metered separately for each rate.
- (4) The Municipality reserves the right to meter the supply to blocks of shops and flats, tenement-houses and similar buildings for the buildings as a whole, or for individual units, or for groups of units.
- (5) No alterations, repairs or additions or electrical connections of any description shall be made on the supply side of the point of metering unless specifically approved in writing by the Municipality or any duly authorised official of the Municipality.

54. Accuracy of metering -

- (1) A meter shall be conclusively presumed to be registering accurately if its error, when tested in the manner prescribed in sub-section (5) hereof, is found to be within the limits of error as provided for in the applicable standard specifications.
- (2) The Municipality shall have the right to test its metering equipment. If it is established by test or otherwise that such metering equipment is defective, the Municipality shall -
 - (i) in the case of a credit meter, adjust the account rendered;

- (ii) in the case of prepayment meters, (a) render an account where the meter has been under-registering, or (b) issue a free token where the meter has been over-registering;

in accordance with the provisions of sub-section (6).

- (3) The consumer shall be entitled to have the metering equipment tested by the Municipality on payment of the prescribed fee. If the metering equipment is found not to comply with the system accuracy requirements as provided for in the applicable standard specifications, an adjustment in accordance with the provisions of sub-sections (2) and (6) shall be made and the aforesaid fee shall be refunded.
- (4) In case of a dispute, the consumer shall have the right at his own cost to have the metering equipment under dispute tested by an approved independent testing authority, and the result of such test shall be final and binding on both parties.
- (5) Meters shall be tested in the manner as provided for in the applicable standard specifications.
- (6) When an adjustment is made to the electricity consumption registered on a meter in terms of sub-section (2) or (3), such adjustment shall either be based on the percentage error of the meter as determined by the test referred to in sub-section (5) or upon a calculation by the Municipality from consumption data in its possession. Where applicable, due allowance shall be made, where possible, for seasonal or other variations which may affect the consumption of electricity.
- (7) When an adjustment is made as contemplated in sub-section (6), the adjustment may not exceed a period of six months preceding the date on which the metering equipment was found to be inaccurate. The application of this section does not bar a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.
- (8) Where the actual load of a consumer differs from the initial estimated load provided for under section 8(1) to the extent that the Municipality deems it necessary to alter or replace its metering equipment to match the load, the costs of such alteration or replacement shall be borne by the consumer.
- (9) (a) Prior to the Municipality making any upward adjustment to an account in terms of sub-section (6), the Municipality shall -
 - (i) notify the consumer in writing of the monetary value of the adjustment to be made and the reasons therefore;
 - (ii) in such notification provide sufficient particulars to enable the consumer to submit representations thereon, and
 - (iii) call upon the consumer in such notice to provide it with reasons in writing, if any, within 21 days or such longer period as the Municipality may permit why his/her account should not be adjusted as notified.
- (b) Should the consumer fail to make any representations during the period referred to in sub-section 9(a)(iii) the Municipality shall be entitled to adjust the account as notified in sub-section 9(a)(i).

- (c) The Municipality shall consider any reasons provided by the consumer in terms of sub-section (9)(a) and shall, if satisfied that a case has been made out therefor, adjust the account appropriately.
- (d) If a duly authorized official of the Municipality decides after having considered the representation made by the consumer that such representations do not establish a case warranting an amendment to the monetary value established in terms of sub-section (6), the Municipality shall be entitled to adjust the account as notified in terms of sub-section 9(a)(i), subject to the consumer's right to appeal the decision of the official in terms of section 62 of the Municipal Systems Act, 2000.

55. Reading of credit meters -

- (1) Unless otherwise prescribed, credit meters shall normally be read at intervals of one month and the fixed or minimum charges due in terms of the tariff shall be assessed accordingly. The Municipality shall not be obliged to effect any adjustments to such charges.
- (2) If for any reason the credit meter cannot be read, the Municipality may render an estimated account. The electrical energy consumed shall be adjusted in a subsequent account in accordance with the electrical energy actually consumed.
- (3) When a consumer vacates a property and a final reading of the meter is not possible, an estimation of the consumption may be made and the final account rendered accordingly.
- (4) If a special reading of the meter is desired by a consumer, this may be obtained upon payment of the prescribed fee.
- (5) If any calculating, reading or metering error is discovered in respect of any account rendered to a consumer, the error shall be corrected in subsequent accounts. Any such correction shall only apply in respect of accounts for a period of 6 months preceding the date on which the error in the accounts was discovered, and shall be based on the actual tariffs applicable during the period. The application of this section does not prevent a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.

56. Prepayment metering -

- (1) No refund of the amount tendered for the purchase of electricity credit shall be given at the point of sale after initiation of the process by which the prepayment meter token is produced.
- (2) Copies of previously issued tokens for the transfer of credit to the prepayment meter may be issued at the request of the consumer.
- (3) When a consumer vacates any premises where a prepayment meter is installed, no refund for the credit remaining in the meter shall be made to the consumer by the Municipality.
- (4) The Municipality shall not be liable for the reinstatement of credit in a prepayment meter lost due to tampering with, or the incorrect use or the abuse of, prepayment meters and/or tokens.

- (5) Where a consumer is indebted to the Municipality for electricity consumed or to the Municipality for any other service supplied by the Municipality (including rates) or for any charges previously raised against him/her in connection with any service rendered, the Municipality may deduct a percentage from the amount tendered to offset the amount owing to the Municipality, as set out in the section 5 agreement for the supply of electricity.
- (6) The Municipality may, at its discretion, appoint vendors for the sale of credit for prepayment meters and shall not guarantee the continued operation of any vendor.

**CHAPTER 8
ELECTRICAL CONTRACTORS**

- 57. In addition to the requirements of the Regulations the following requirements shall apply:
 - (1) Where an application for a new or increased supply of electricity has been made to the Municipality, any duly authorised official of the Municipality may at his/her discretion accept notification of the completion of any part of an electrical installation, the circuit arrangements of which permit the electrical installation to be divided up into well-defined separate portions, and such part of the electrical installation may, at the discretion of any duly authorised official of the Municipality, be inspected, tested and connected to the supply mains as though it were a complete installation.
 - (2) The examination, test and inspection that may be carried out at the discretion of the Municipality or any duly authorised official of the Municipality in no way relieves the electrical contractor/accredited person or the user or lessor, as the case may be, from his responsibility for any defect in the installation. Such examination, test and inspection shall not be taken under any circumstances (even where the electrical installation has been connected to the supply mains) as indicating or guaranteeing in any way that the electrical installation has been carried out efficiently with the most suitable materials for the purpose or that it is in accordance with these By-law or the safety standard, and the Municipality shall not be held responsible for any defect or fault in such electrical installation.
- 58. The Municipality shall not be held responsible for the work done by the electrical contractor/accredited person on a consumer's premises and shall not in any way be responsible for any loss or damage which may be occasioned by fire or by any accident arising from the state of the wiring on the premises.

**CHAPTER 9
COST OF WORK**

- 59. The Municipality may repair and make good any damage done in contravention of these By-law or resulting from a contravention of these By-law. The cost of any such work carried out by the Municipality which was necessary due to the contravention of these By-law, shall be to the account of the person who acted in contravention of these By-law.

**CHAPTER 10
OFFENCES AND PENALTIES**

60. (1) Any person who contravenes or fails to comply with any provisions of these by-laws shall be guilty of an offence.
- (2) Any person who continues to commit an offence after notice has been served on him/her to cease committing such offence or after he/she has been convicted of such offence shall be guilty of a continuing offence.
- (3) Any person convicted of an offence under these By-law for which no penalty is expressly provided shall be liable to a fine not exceeding ten thousand rands or imprisonment for a period not exceed six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment and, in the case of a continuing offence, to an additional fine not exceeding two hundred rands or additional imprisonment for a period not exceeding ten days or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued.
- (4) Every person committing a breach of the provisions of these By-law shall be liable to recompense the Municipality for any loss or damage suffered or sustained by it in consequence of such breach.

**CHAPTER 11
GENERAL PROVISIONS**

Responsibility for compliance with these By-laws

61. (1) The owner of the premises is responsible for ensuring compliance with these By-laws in respect of all or any matters pertaining to any electrical installation.
- (2) The consumer is responsible for compliance with these By-laws in respect of matters relating to the use of any electrical installation.

Provision of Information

62. An owner, occupier, consumer or person within the area of supply of the Municipality must provide the Municipality with accurate information reasonably requested by the Municipality, that, in the discretion of the Municipality, is needed for the implementation or enforcement of these By-laws.

Availability of By-laws

63. A copy of these By-laws shall be included in the Municipality's Municipal Code as required in terms of legislation.

Conflict of Law

64. (1) When interpreting a provision of these By-laws, any reasonable interpretation which is consistent with the purpose of the Act, must be preferred over any alternative interpretation which is inconsistent with that purpose.
- (2) If there is any conflict between these By-laws and any other By-laws of the Municipality, these By-laws will prevail.

Transitional Arrangements

65. (1) Installation work authorized by the Municipality prior to the commencement date of these By-laws or authorized installation work in progress on such date shall be deemed to have been authorized in terms of these By-laws. The Municipality may for a period of 90 days after the commencement of these By-laws authorize installation in accordance with the By-laws that regulated such work immediately prior to the promulgation of these By-laws.
- (2) Any reference in these By-laws to a charge determined by the municipal council shall be deemed to be a reference to a charge determined by the municipal council under the By-laws repealed by section 68, until the effective date of any applicable charges that may be determined by the municipal council in terms of these By-laws or By-laws relating to credit control and debt collection and any reference to a corresponding provision in these By-laws.
- (3) Any approval, consent or exemption granted under the repealed By-laws in terms of section 68 shall, save for the provisions of subsection (3), remain valid.

Repeal of existing Municipal Electricity By-laws

66. All the Electrical by-laws applicable within the area of authority of the Emfuleni Local Municipality are hereby repealed.

Short title

67. (1) These By-laws are called Electricity By-laws of Emfuleni Local Municipality.
- (2) The Municipality may, by notice in the Provincial Gazette, determine that the provisions of these By-laws, listed in the notice, does not apply in certain areas within its area of jurisdiction listed in the notice from a date specified in the notice.
- (3) Until any notice contemplated in subsection (2) is issued, these By-laws are binding.

SCHEDULE A

"applicable standard specification" means

- SABS 1607 Electromechanical watt-hour meters,
 - SABS 1524 Parts 0,1 & 2 - Electricity dispensing systems,
 - SABS IEC 60211 Maximum demand indicators, Class1.0,
 - SABS IEC 60521 Alternating current electromechanical watt-hour meter (Classes 0.5, 1 & 2),
 - SABS 0142 Code of practice for the wiring of premises;
 - NRS 047 National Rationalised Specification for the Electricity Supply - Quality of Service
 - NRS 048 National Rationalised Specification for the Electricity Supply - Quality of Supply, and
 - NRS 057 Electricity Metering: Minimum Requirements
-

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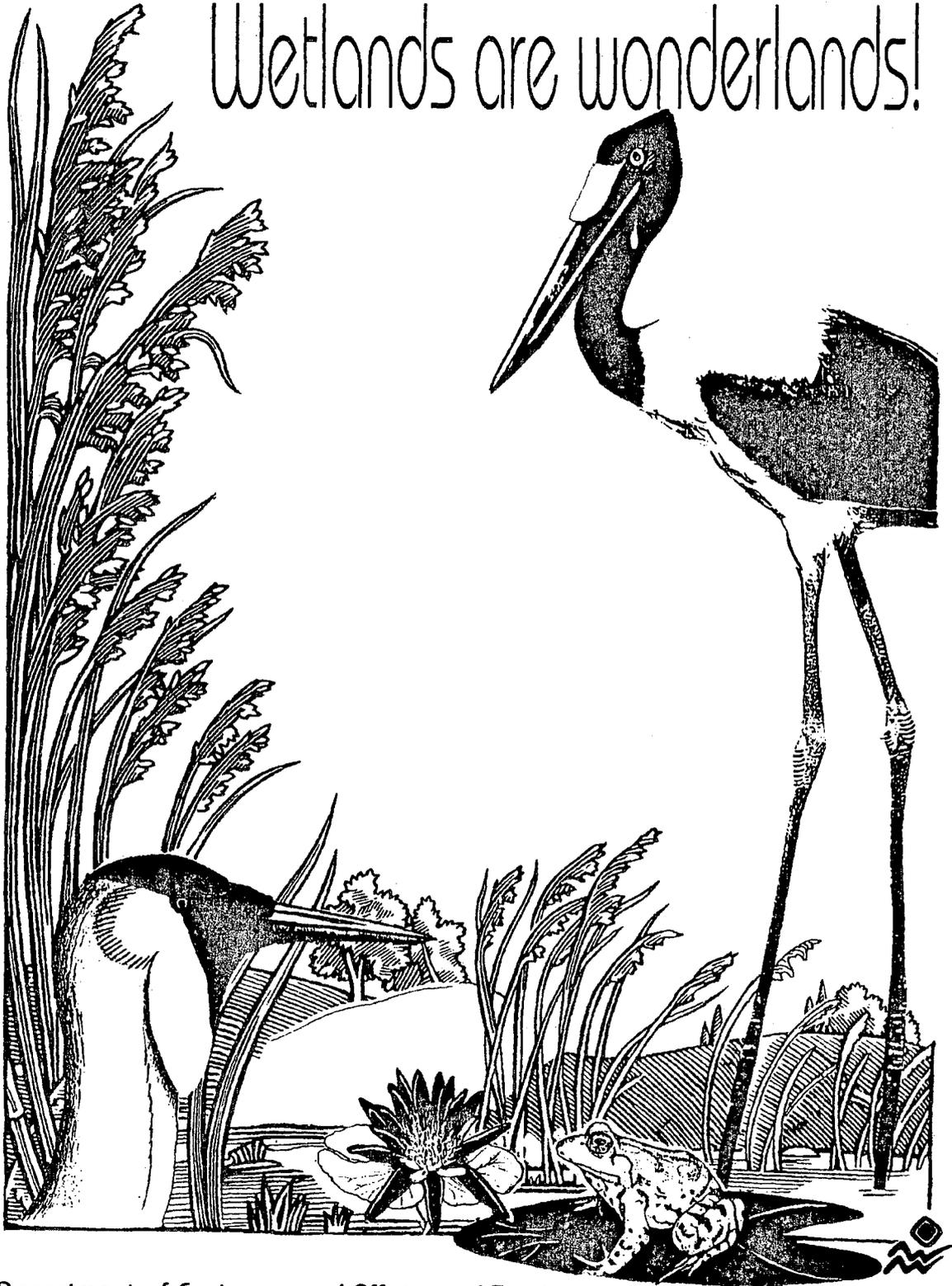
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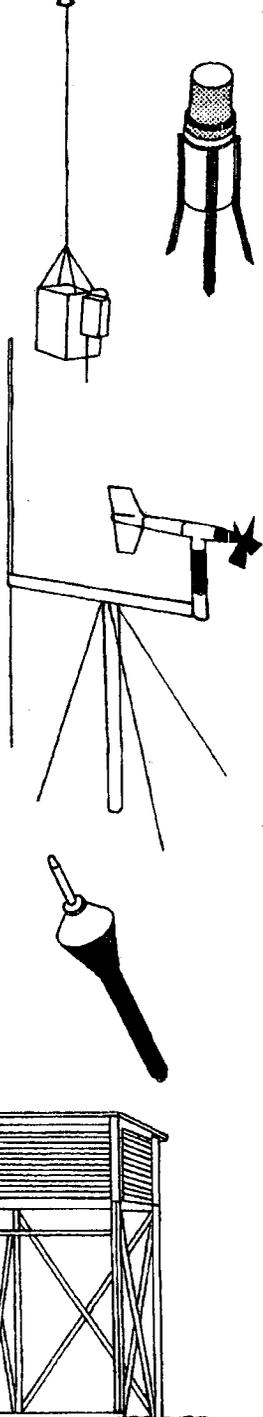
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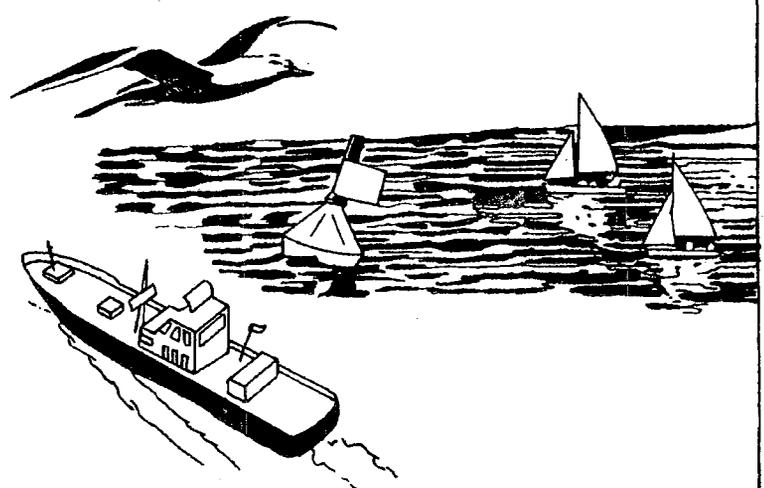
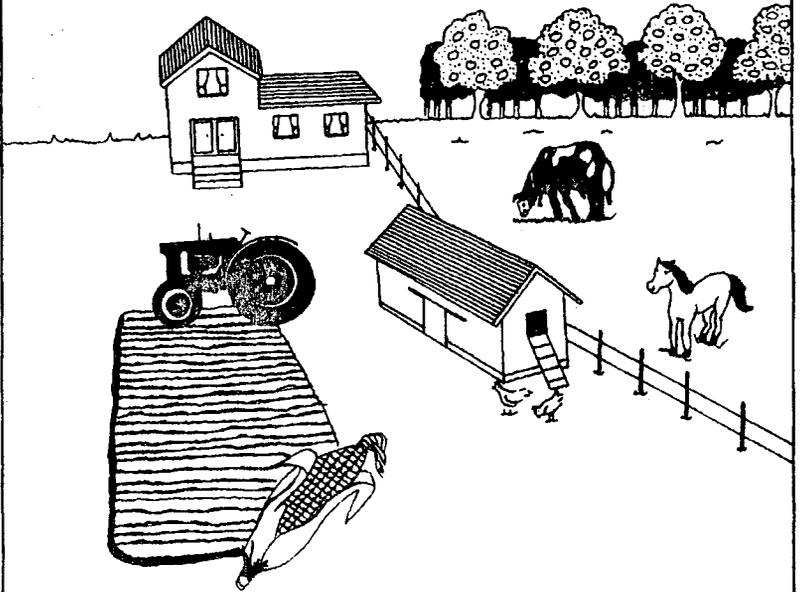
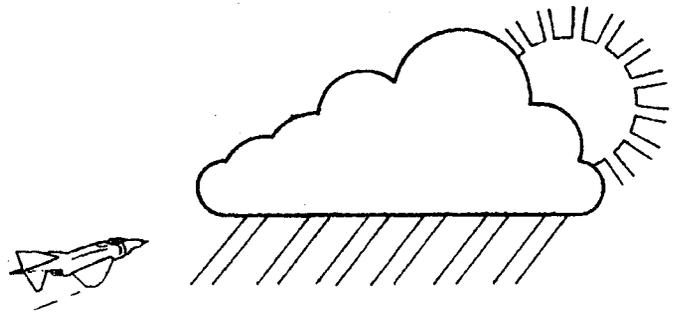


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Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
Publications: Tel: (012) 334-4508, 334-4509, 334-4510
Advertisements: Tel: (012) 334-4673, 334-4674, 334-4504
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