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## LOCAL AUTHORITY NOTICES

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### LOCAL AUTHORITY NOTICE 60

#### MOGALE CITY LOCAL MUNICIPALITY

#### STANDARD BY-LAWS RELATING TO INTEGRATED PEST CONTROL (FIRST DRAFT)

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## CHAPTER 1

### GENERAL

#### 1. Preamble

Mogale City Local Municipality recognizes the importance of pest and vermin control in providing a living environment of adequate health and safety for its residents and/or clients. To achieve this control, the Municipality has adopted an Integrated Pest Control Policy based on Integrated Pest Management Principles that will be implemented by Pest Control Operators and/or qualified assigned officials operating under the Directorate: Integrated Environmental Management (Sub-Directorate: Environmental Management).

#### 2. Definitions

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

**"Animal"** means any vertebrate or invertebrate species in the animal kingdom, wild or domesticated, other than human beings;

**"Contract"** means a binding written agreement, including but not limited to a contract, lease, permit, license or easement between a person, firm, corporation or other entity, including a governmental entity, and a Directorate of the Municipality, which grants a right to use or occupy property of Mogale City Local Municipality for a specified purpose or purposes in term of these By-laws;

**"Contractor"** means a person, firm, corporation or other entity, including a governmental entity that enters into a contract with the Municipality;

**"Integrated Pest Management"** means a decision-making process for managing pests that use monitoring to determine pest injury levels and combines biological, cultural, physical, and chemical tools to minimize health, environmental and financial risks. The method uses extensive knowledge about pests, such as infestation thresholds, life histories, environmental requirements and natural enemies to complement and facilitate biological and other natural control of pests. The method uses the least toxic synthetic pesticides only as a last resort to controlling pests.

**"Municipality"** means Mogale City Local Municipality in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

**"Nuisance"** means a nuisance as defined in the Health Act (Act 63 of 1977);

**"Owner"**, in relation to an animal, means any person having possession, charge, custody or control of the animal;

**"Person In Control"** means a person actually managing or in control of any premises or business;

**"Pest"** means an injurious, noxious or troublesome living organism, which is noxious, harmful to fauna, vegetation, crops or other goods, or may cause a public health hazard or public health nuisance, and without limitation, includes rats, mice, flies, mosquitoes, bed bugs, fleas, lice, termites and cockroaches, but does not include a virus, bacteria, fungus or internal parasite that exists on or in humans or animals. It also includes organisms declared as pests by the Municipality;

**"Pest Control Operator"** means a person authorised thereto by the Municipality, and includes any official of the Municipality duly authorised, trained and qualified who performs any function or



duty or exercises any power under these bylaws or any person associated with an approved organisation established for performing policing duties or functions or exercising powers in terms of Integrated Pest Management;

**"Pest Control Section"** means the division designated to control and manage pests within the area of jurisdiction of Mogale City Local Municipality that is currently operating under the Directorate: Integrated Environmental Management (Sub-Directorate: Environmental Management).

**"Pesticide"** means any substance, matter, or micro-organism, within the meaning of the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act (Act 36 of 1947-as amended) and the Agricultural Pests Act (Act 36 of 1986 – as amended) or similar legislation intended to control, destroy, reduce, attract or repel, directly or indirectly, an organism, which is noxious, harmful, or causing a nuisance for a human being, fauna, vegetation, crops or other goods, excluding medicine or vaccine;

**"Premises"** means –

- (a) any land without any buildings or other structures on it;
- (b) any building or other structure and the land on which it is situated;
- (c) any land which adjoins land referred to in paragraph (a) or (b) and any building or other structure on the adjoining land, if that land, building or structure is occupied or used in connection with any activity carried out on the premises referred to in paragraph (a) or (b); or
- (d) any vessel, vehicle or movable structure that is used for a scheduled use;

**"Prescribed Fee"** means a fee determined by the Council by resolution in terms of section 10G(7)(a)(ii) of the Local Government Transition Act, 1993 (Act No. 209 of 1993), or any other applicable legislation;

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

**"Public Health Hazard"** means any actual threat to public health, and without limitation to the generality of this definition, includes –

- (a) unsanitary conditions;
- (b) circumstances which make it easier for a communicable disease to spread;
- (c) circumstances which make food or drink, including water for domestic consumption, unhygienic or unsafe to eat or drink; and
- (d) circumstances that allow pests to infest any place where they may affect public health;

**"Public Health Nuisance"** means the use of any premises or place in a manner which creates conditions that significantly increase the risk of a public health hazard occurring or which compromises any aspect of public health to an extent that is more than trivial or insignificant;

**"Public Place"** means any road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden park, path, bus or taxi rank, servitude or enclosed space vested in the Council and includes any road, place or thoroughfare which is in the undisturbed use of the public or which the public have the right to use;

### 3. Scope

(1) The Municipality undertakes Integrated Pest Management in the following service areas:

- (a) Pest control treatments for, amongst other pest species, rats, mice, wasps and insects at the request of officials employed by the Municipality within Council buildings;

- (b) Pest control treatments for, amongst other pest species, rats, mice, wasps and insects on land owned by the Municipality;
  - (c) Provision of specialist advice to residents and businesses within the Municipality's area of jurisdiction;
  - (d) Provision of education and awareness programmes amongst targeted communities within the Municipality's area of jurisdiction;
  - (e) Forming partnerships with the private sector that specialises in wider pest control applications and operations in terms of contracts and agreements.
- (2) The first-mentioned two service areas referred to under subsection 1(a) and (b) should be seen as an enforcement role in terms of statutory requirements, whereas the last-mentioned service areas under subsection 1(c) and (d) comprise a service that is offered to residents and business at a cost recovery basis in terms of the approved Tariff Structure applicable to the Directorate: Integrated Environmental Management of the Municipality as amended from time to time, but involves no enforcement.

## CHAPTER 2

### REGULATIONS RESPECTING THE AUTHORISED USE OF PESTICIDES

#### 4. Notice of Pesticide Use

- (1) Pest Control Operators that uses any pesticide shall comply with the following notification procedures:
  - (a) Signs shall be posted at least three (3) days before application of the pesticide product and remain posted at least four (4) days after application of the pesticide;
  - (b) Signs shall be posted as follows:-
    - (i) at every entry point where the pesticide is applied if the pesticide is applied in an enclosed area, and
    - (ii) in highly visible locations around the perimeter of the area where the pesticide is applied if the pesticide is applied in an open area;
  - (c) Signs shall be of a standardised design that is easily recognisable to the public and workers;
  - (d) Signs shall contain the name and active ingredient of the pesticide product, the target pest, the date of pesticide use, the signal word indicating the toxicity category of the pesticide product, the date for re-entry to the area treated, and the name and contact number for the Pest Control Operator responsible for the application.
- (2) Pest Control Operators shall not be required to post signs in accordance with Section 4(1) in right-of-way locations that the general public does not use. However, Pest Control Operators that uses pesticides in such right-of-way locations shall develop and maintain a public access telephone number about pesticide applications in the right-of-way areas. Information readily available by calling the public access number shall include for any pesticide that will be applied within the next three (3) days or has been applied within the last four (4) days: A description of the area of the pesticide application, the name and active ingredient of the pesticide product, the target pest, the date of pesticide use, the signal word indicating the toxicity category of the pesticide product, the re-entry period of the area treated and the name and contact number for the Pest Control Operator responsible for the application. Information about the public access telephone number shall be posted in a public location at the City department's main office building.
- (3) Pest Control Operators using baits and/or bait stations shall not be required to post signs in accordance with Section 4(1). However, the Pest Control Operator shall post a permanent sign:
  - (a) in each building or vehicle where such baits and/or bait stations are used;
  - (b) when such baits and/or bait stations are used outdoors to control rats and other pests, in a conspicuous location outside of the area where they are used.
- (4) For the purposes of Section 4(3), the sign shall indicate the name and active ingredient of the pesticides used in and around the building or vehicle, the target pests, the signal word indicating the toxicity category of the pesticide product, the area or areas where the pesticides are commonly placed, and the contact number for the Pest Control Operator responsible for the application.

- (5) No notification procedures providing for a three-day advance notification in the event of a public health emergency or to comply with worker safety requirements are required. However, signs meeting the requirements of Section 4(1) shall be posted at the time of application and remain posted four (4) days following the application.

**5. Implementation of the Municipality's Integrated Pest Control Policy**

- (1) The responsibilities of the Pest Control Operators are to:
- (a) direct animal/pest control activities when there has been human exposure to a potential disease vector;
  - (b) direct animal/pest control activities when testing are required to address human exposure to a potential disease vector. For example, the Pest Control Operator will advise relevant Council Directorates in removal/capturing of (dead) target animals for testing in liaison with the Sub-Directorate: Health;
  - (c) investigate and report animal bites occurring on Council land/premises to the proper authorities. All animal bites will be reported to the Sub-Directorate: Health;
  - (d) compile relevant education and awareness programmes for targeted communities of MCLM regarding pest control issues, if required;
  - (e) review pest control policies and procedures on Council land and premises from time to time;
  - (f) inspect facilities and provide recommendations for minimizing pest problems;
  - (g) when requested, advise and assist MCLM personnel and community agencies, if necessary, when addressing pest and animal control problems occurring;
  - (h) respond to pest/animal complaints on grounds or inside of buildings;
  - (i) liaise with Public Safety & SAPS when live large animal removal is required;
  - (j) coordinate with the Sub-Directorate: Health when human exposure potential exists;
  - (k) maintain facilities to control animal/pest infestations by eliminating harbourage around buildings;
  - (l) maintain facilities to exclude entry and harbourage of pests;
  - (m) facilitate the location and disposal of dead animal carcasses found on Council land and premises via the Sub-Directorate: Waste Management;
  - (n) direct activities to minimize insect and small animal pests.
- (2) The Pest Control Operators shall respond to the control of the following pests:
- (a) The control of household pests and rodents (including, but not limited to, mice, rats, ants, beetles, cockroaches, fleas, mites, moths, silverfish, ticks, wasps, termites, bees, etc.);
  - (b) Bird, bat and snake control requires expertise to provide these services as requested or required and would be conducted with the assistance of appropriately trained internal or external personnel;

- (c) Any other animal or plant declared as a pest by the Municipality.
- (3) Procedures to follow by the Pest Control Operators:
- (a) any human exposure (bite, scratch, or exposure of the eyes or mouth with animal saliva) from a cat, dog, bat, or other carnivores must be reported to the Pest Control Operator, who will coordinate reporting, physician examination, if necessary, and animal capture;
  - (b) stray dogs and cats or any other wild animal entering the urban environment acting in a strange manner (i.e., acting drugged, dying, or attacking people unprovoked) should be reported to the Pest Control Operators in order for appropriate actions to be taken, which may include culling or hunted by an appropriately trained and qualified person.
- (4) The Municipality, in carrying out its pest control operations, shall assume pesticides are potentially hazardous to human and environmental health. Pest Control Operators shall give preference to reasonably available nonpesticide alternatives when considering the use of pesticides on Municipal property. For all pest problems on Municipal property, Pest Control Operators shall follow the Integrated Pest Management (IPM) approach outlined below:
- (a) Monitor each pest ecosystem to determine pest population, size, occurrence, and natural enemy population, if present. Identify decisions and practices that could affect pest populations; Keep record where relevant;
  - (b) Consider a range of potential treatments for the pest problem. Employ nonpesticide management tactics first. Consider the use of chemicals only as a last resort and select and use chemicals only within an IPM program and in accordance with the provisions of Integrated Pest Control Policy of the Municipality;
    - (i) Determine the most effective treatment time, based on pest biology and other variables, such as weather, seasonal changes in wildlife use and local conditions,
    - (ii) Design and construct indoor and outdoor areas to reduce and eliminate pest habitats,
    - (iii) Modify management practices, including watering, mulching, waste management, and food storage
    - (iv) Modify pest ecosystems to reduce food and living space,
    - (v) Use physical controls such as traps and barriers,
    - (vi) Use biological controls (introducing or enhancing pests' natural enemies);
    - (vii) All pesticides to be used within the Municipality's area of jurisdiction are to be legally registered in terms of the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act (Act 36 of 1947-as amended) and the Hazardous Substances Act (Act 15 of 1973 – as amended) and approved by the Pest Control Services Industries Board and the South African Pest Control Association.

- (5) Notwithstanding other provisions in terms of these By-laws, it is permitted to use a pesticide as long as the following conditions are met:
- (a) The use of pesticides be executed by a licensed Pest Control Operator only who is suitably trained, qualified and appropriately registered at the Pest Control Services Industries Board;
  - (b) The applicator must have and comply with material safety sheets available for each product they might apply and they must provide the sheet to any abutter of the property;
  - (c) That there be no application of pesticides within two (2) meters of the property lines;
  - (d) That there be no application of pesticides within ten (10) meters of any open watercourses or boreholes;
  - (e) That there be no application of pesticides when the wind velocity exceeds fifteen (15) km/hr;
  - (f) The pesticide will be applied in accordance with the written instructions of the manufacturer and the label on the container;
  - (g) That the pesticides are legally registered as per subsection 4(b)(vii).

#### **6. Executing Integrated Pest Control Programmes**

- (1) The aim of this section is to provide guidelines with regard to the management of pest control programmes, including contracted services, within the Municipality's area of jurisdiction, with special reference to land and premises owned by the Municipality:
- (a) The Director: Integrated Environmental Management shall be responsible for providing guidance on local policies and regulations on pest control, including close coordination with other key stakeholders.
  - (b) Where inadequate capacity exists within the Pest Control Operators when dealing with any kind of pest outbreak or situation that might endanger communities or the environment, pest control services should be accomplished through service contracts by private Pest Control Companies in line with other relevant Council policies. All contracts for pest control services must receive technical review and approval from trained and/or certified applicator of general-use or restricted-use pesticide (commensurate with the work to be performed), prior to advertisement of the contract and procurement of services.
  - (c) The Pest Control Operators will only respond whenever a duly authorized public health agency declares an emergency health hazard involving the Municipality's managed properties. The commonly accepted condition for declaring an emergency health hazard is when a vector-borne disease organism is identified in a scientifically established percent of vectors or blood samples of animals that act as the natural reservoirs of such a disease. In addition, declarations of vector emergency health hazards are normally for duration of one vector-breeding season, based upon findings of monitoring activities in that season.
  - (d) Information on pesticide spills (location, date, amount, type and cleanup action) shall be collected at the time of the spill. These records and reports as well as follow-up studies, maps, and inventories shall be maintained with the assistance of Disaster Management (West Rand District Municipality) in line with the following:



- (i) Immediate assistance for emergency-type pesticide spills which threaten life or gross contamination of the environment may be obtained by contacting the Emergency and Disaster Management Call Centre for the West Rand at 107 or (011) 951-3000 (all hours);
- (ii) Information on decontamination of non-emergency type pesticide spills also may be obtained by dialling the number given above. Guidance for decontamination of minor spillage or leakage will be obtained from Disaster Management (West Rand District Municipality).
- (e) In respect of Endangered Species Protection, the Endangered Species Protection Unit of the SAPS and in terms of Gauteng Department of Agriculture, Conservation & Environment's Red Data Species Policy requires that all pest control operators must ensure their actions will not jeopardize, endanger or threaten species and associated habitat. The Municipality shall review their pest control programs to ensure they do not impact endangered species and the said species' designated critical habitat.

## **7. Pest Control Operators' Actions, Roles and Responsibilities**

- (1) Personnel whose duties include supervision of pesticide applicators or administration of pesticide service contracts must have a practical knowledge of all relevant statutory requirements and appropriate application methodology for all pesticides and equipment used.
- (2) Pest control duties shall be identified in applicable job descriptions, performance standards, and job hazard analyses whether they constitute a major duty or not. Such job descriptions will also note the employee's responsibility for using personal protective equipment and clothing provided, note the requirement for training and/or certification under the Pest Control Services Industries Board and for following established health and safety practices and procedures, including the requirement for periodic medical examinations, as per Section 8(3) below. All job descriptions will be duly signed by individual employees, management and Union representatives, and kept at the Directorate: Human Resources.
- (3) The Municipality will provide a minimum medical surveillance program for employees applying pesticides other than bug bombs, space sprays and no-pest strips. The minimum program will consist of base-line annual - and pre-termination - physical exams at the expense of MCLM.
- (4) The Pest Control Operators must be registered with the Pest Control Services Industries Board and be members of the South African Pest Control Association. Compliance with the PCSIB and SAPCA norms & standards is a prerequisite. Annual subscription fees shall be paid by the Municipality as a Pest Control Service Provider and for appropriately trained Pest Control Operators.
- (5) All personnel directly involved in pesticide (other than bug bombs and other pre-mixed sprays and no-pest strips) applications must be properly trained and/or certified prior to making any applications by satisfactory completion of training as listed below. Under the provisions of Section 4 of the Fertilizers, Farm, Agricultural Remedies and Stock Remedies Act (36/1947), the National Department of Agriculture is responsible for certification of Pest Control personnel applying restricted-use pesticides. Records of training and/or certification will be maintained in official personnel files. Retraining/re-certification of personnel shall occur within three (3) years or in accordance with statutory requirements, namely:

- (a) General-Use Pesticide Training: Personnel involved in the application of general-use pesticides must be properly trained. The current plan for training of personnel, for general-use pesticides only, requires the satisfactory completion of Module 101 (Pretoria Technikon).
  - (b) Restricted-Use Pesticide Training: Personnel applying restricted-use pesticides are required to complete restricted-use pesticide training and certification as given at Pretoria Technikon.
- (6) Training and certification also apply to situations where firearms need to be used for controlled culling programmes and for ad hoc shooting of individual pest species that threatens peoples' properties and/or lives. In this regard, compliance with statutory requirements of the Firearms Control Act (Act 60 of 2000 – as amended) and all its relevant Regulations shall be upheld by the Municipality. Training in context of the said act entails a proficiency rating that entails the successful completion of the written prescribed test on knowledge of the Act and other related legislation in terms of Section 9(2)(q) of the said Act (to be read with Section 11 of the Transitional Provisions) from an accredited Training Provider.
- (7) All training highlighted above, including ABET where required, will be done in line with the Directorate: Integrated Environmental Management's Skills Development Plan and in line with the Municipality's approved budget.
- (8) The availability and use of a certified pesticide must be directly related to the hazard of the situation. During general-use pesticide applications, where a certified Pest Control Operator is not required to be physically present, "supervision" shall include verifiable instruction to the competently trained applicator, as follows:
  - (a) detailed guidance for applying pesticide properly, and
  - (b) provisions for contacting the certified applicator in the event he/she is needed.
- (9) Restricted-use pesticides will be applied only by, or under the direct supervision, of a certified restricted-use Pest Control Operator. "Direct supervision" shall include the restricted-use applicator being at the specific location where the work is conducted and maintaining a line-of-sight view of the work performed.
- (10) Basic health and safety practices and procedures, including personal protective equipment and clothing (including but not limited to face shields, respirators, gloves, and bee suits, as statutory required), shall be availed by the Municipality for the Pest Control Operators.
- (11) Pesticide contaminated clothing will be disposed of in an appropriate manner. The use of disposable protective clothing, such as disposable rubber gloves & disposable facemasks shall be availed by the Municipality.
- (12) In case of pesticide poisoning, the 107 Emergency & Disaster management Call Centre of the West Rand District Municipality must be contacted for immediate assistance in terms of their normal operating procedures (i.e. access control; evacuation; ambulance services; etc.).
- (13) Material Safety Data Sheets (MSDS) shall be obtained from the manufacturer or distributor for each pesticide and adjuvant used and be readily available to employees at the work place.



- (14) Certified applicator personnel and safety and fire prevention officers will perform and record inspections in accordance with their criteria. Records shall be kept on each application, whether performed by hired labour or contract, and retained at the Sub-Directorate: Environmental Management. Records of employee exposure, personal monitoring, medical surveillance and other occupational health records shall be maintained and stored safely by the Sub-Directorate: Environmental Management.
- (15) The Pest Control Operators shall prepare and submit to the Sub-Directorate: Environmental Management, by 15 December of each year, their anticipated use of pesticides during the upcoming calendar year for review and submission to the Municipality.
- (16) The Pest Control Operator will prepare and submit to the Sub-Directorate: Environmental Management, by 30 August of each year, an accounting of the actual pesticide usage during the previous calendar year. Monthly reports must be submitted within the first week of each month.
- (17) Pesticides must be stored in a manner that is consistent with the Occupational Health & Safety Act (85/1993) and the Fertilizers, Farm, Agricultural Remedies and Stock Remedies Act (36/1947). Inspection of stored pesticides will be made on at least an annual basis. Certified applicator personnel and safety and fire prevention officers shall perform and record inspections in accordance with their criteria.
- (18) Pesticide Disposal
  - (a) Pesticides in deteriorated containers will be transferred to approve clean containers that are lined to protect against chemical reaction. Different formulations of the same pesticide will not be placed in the same container. Replacement containers will be labelled to include the name and strength of the pesticide formulation, the registration number, and other pertinent manufacturing data (e.g., log number, date of manufacture, and expiration date, and all hazard warning information including hazards, exposure symptoms, control measures, emergency medical procedures and the manufacturer's point of contact in case of an emergency, from the original label.
  - (b) Permissible disposal methods for excess pesticides will vary from one location to another based on availability of approved pesticide incinerators and specially designated landfills.
  - (c) Consultation on proper disposal procedures should be accomplished with the assistance of the Sub-Directorate: Integrated Waste Management. If instructed, Toxic Waste Facilities should be used in cases where disposal is not permitted at the Luipaardsvlei Landfill Site.
- (19) Pesticides approved in the annual plan must be applied according to the pesticide label. Pesticide uses that are different from the uses identified on the label must be approved by the PCSIB. This procedure may be used for emergency and non-emergency conditions.
- (20) Relevant Education & Awareness Programmes would be compiled and presented to targeted communities in line with the Environmental Education Policy of the Municipality. Where ever applicable, resources and capacity within the Directorate: Integrated Environmental Management (Sub-Directorate: Environmental Management) and the Directorate: Community Services (Sub-Directorate: Health) would be used to facilitate these Education & Awareness Programmes.

### CHAPTER 3

#### MISCELLANEOUS

#### 8. Inspections

- (1) The Pest Control Operator and any officer authorised thereto by the Municipality may, in order to satisfy himself or herself that the provisions of these by-laws are being complied with –
  - (a) at all reasonable times enter any land and/or premises –
    - (i) on which any pest is or has been reported;
    - (ii) on which any animal that potentially could be declared as a pest is reported;
    - (iii) on which any animal occurs that affects or potentially affects the environment, or may cause a public health hazard or public health nuisance, or affect land and/or premises owned by the Municipality;
  - (b) question any person on the premises or any person who has recently been on the premises regarding the provisions of these By-laws.

#### 9. General Provisions

- (1) If, in the opinion of the Municipality, any person performs any activity or fails to perform any activity as a result of which a pest affects the environment, or may cause a public health hazard or public health nuisance, or affect land and/or premises owned by the Municipality, the Municipality may in writing direct such person
  - (a) to cease such activity; or
  - (b) to take such steps as the Municipality may deem fit,within a period specified in the direction, with a view to eliminating the pest, which may include reducing or preventing the damage, danger or detrimental effect caused by the pest.
- (2) The Municipality may direct the person referred to in subsection (1) to perform any activity or function at the expense of such person with a view to rehabilitating any damage caused to the environment or land and/or premises owned by the Municipality as a result of the activity or failure referred to in subsection (1), to the satisfaction of the Municipality.
- (3) If the person referred to in subsection (2) fails to perform the activity or function, the Municipality may perform such activity or function as if he or it were that person and may authorise any person to take all steps required for that purpose.
- (4) Any expenditure incurred by the Municipality in the performance of any function by virtue of the provisions of subsection (3), including cost recovery fees and administration fees in terms of the Municipality's approved Tariff Structure applicable to the Directorate: Integrated Environmental Management (as amended from time to time), may be recovered from the person concerned.

- (5) Without limiting the generality of the duty in subsection (1), the persons on whom subsection (1) imposes an obligation to take reasonable measures, include an owner of land or premises, a person in control of land or premises or a person who has a right to use the land or premises on which or in which -

- (a) any activity or process is or was performed or undertaken; or
- (b) any other situation exists,

which causes, has caused or is likely to cause a pest to affect the environment, or may cause a public health hazard or public health nuisance, or affect land and/or premises owned by the Municipality.

#### 10. Offences and penalties

- (1) Any person who -

- (a) contravenes or fails to comply with any provisions of these By-laws; or
- (b) fails to comply with any notice issued in terms of or for the purposes of these By-laws; or
- (c) fails to comply with any lawful instruction given in terms of or for the purposes of these By-laws; or
- (d) obstructs or hinders any authorised representative or employee of the Municipality in the execution of his or her duties under these By-laws,

is guilty of an offence and liable on conviction to a fine of up to R20,000 (twenty thousand rand) or in default of payment to imprisonment for a period not exceeding six months and in the case of a continuing offence, to a further fine not exceeding R100 (One hundred rand), or in default of payment to imprisonment not exceeding one (1) day, for every day during the continuance of such offence after a written notice has been issued by the Municipality and served on the person concerned requiring the discontinuance of such offence.

#### 11. Serving of notices

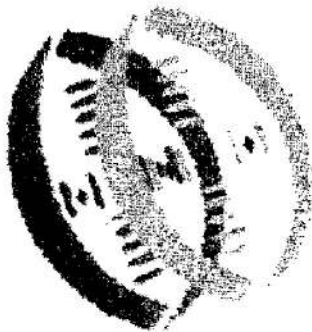
- (1) A notice, order or other document is regarded as having been properly served if -

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

- (2) A notice, order or other document that may in terms of these By-laws be served on the owner or occupier of premises may be addressed to the owner or occupier of the specified premises and need not bear the name of the owner or occupier.

LOCAL AUTHORITY NOTICE 61

# **INTEGRATED WASTE MANAGEMENT BY-LAWS**



**Mogale City**

Local Municipality

# **Mogale City Local Municipality: Integrated Waste Management By-Laws**

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Notice is hereby given in terms of section 13 of the Municipal Systems Act 32 of 2000; read with section 11 and 12 of the said Act, that the Mogale City Local Municipality publishes the by-laws set forth hereinafter.

## **CHAPTER 1**

### **DEFINITIONS**

1. For the purpose of these by-laws, unless the context otherwise indicates:

“240L bin” means an official bin supplied by the Municipality for the storage of waste, domestic and business refuse pending removal;

“bin liner,” means plastic bags as prescribed by the Municipality;

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

“bulky refuse” means refuse which emanates from any premises excluding industrial refuse and which cannot by virtue of its mass, shape, size or quantity be conveniently accumulated or removed in a special refuse bin including car wrecks;

“business refuse” means refuse generated by the use of premises other than a private dwellings-house used solely as a residence, but shall not include builders refuse, bulky refuse, domestic refuse or special refuse;

“container” means an approved receptacle with a capacity greater than 1,5 cubic metres for the temporary storage of waste in terms of these By-laws;

“Directorate” means Integrated Environmental Management Directorate (DIEM)

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

“domestic refuse”, which includes garden refuse, means refuse normally generated by the use as a residence of a private dwelling-house, including

flats, hospitals, schools, hostels, compounds, benevolent societies, churches and halls situated on mine or private property and which can be easily removed without damaging the bin liner or 240 L bin;

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

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

“garden refuse” means refuse which is generated as a result of normal gardening activities such as grass cuttings, leaves, plants, flowers and other similar small and light matter that can be easily removed utilising a bin without causing damage to it;

“general waste” means waste as such defined by DWAF that does not pose an immediate threat to man or the environment, i.e. household waste, inert builder’s rubble, garden waste, and certain dry industrial and commercial waste. It may, however, with decomposition, infiltration and percolation, produce leachate with unacceptable pollution potential.

“hazardous waste” means waste as such defined by DWAF, other than radioactive waste, which is legally defined as hazardous in the state in which it is generated, transported or disposed of. The definition is based on the chemical reactivity or toxic, explosive, corrosive or other characteristics which cause, or are likely to cause, danger to health or the environment, whether alone or when in contact with other waste.

“health care risk waste” means all hazardous component of health care waste generated in both large and small health care facilities which has the potential to create a number of environmental, health and safety risks, depending on the particular type of, the way it is handled, as well as the way in which exposure takes place.

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

“mass refuse” means business or domestic refuse which, in the opinion of the Municipality, cannot be placed in containers on account of the quantity;

“mass refuse containers,” means containers used solely for the accumulation of mass refuse;

“Municipality” means Mogale City Local Municipality, which is a Municipality as defined in the Local Government Municipal Systems Act 32 of 2000;

“nuisance” means any accumulation or deposit of refuse, offal, manure or other manner which is offensive, injurious or dangerous to health;

“occupier” means an occupier, and shall include any person in actual occupation of 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 the lodgers or tenants whether on his own account or as agent for any person entitled thereto or interested therein, and it will include a body corporate as defined in the Sectional Title Act 95 of 1986 in relation to such premises;

“owner” means an owner, and shall include any person receiving the rent or profits of any land or premises from any tenants or occupier thereof, or who would receive such rents or profits if such land or premises were let, whether on his own account or as agent for any person entitled thereto or interested therein, and will include a body corporate as defined by the Section Title Act 95 of 1986 in relation to such premises;

“premises” means any stand, erf or lot which in terms of the Mogale City Town-planning Scheme is zoned for any of the following purpose:

“recyclable waste” means waste which has been separated from the waste stream, and set aside for purposes of recycling;

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

residential, business, industrial, commercial, educational, government, special, institutional, amusement, parking and public garage;

“public place” means public place, and shall include any road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, foot path sidewalk, lane, open space, garden, park, enclosed space vested in a Local Municipality and which is in the undisturbed use of the public or which the public have the right to use;

“special refuse ” means refuse and shall include:

- (a) special and/or obnoxious refuse consisting of a liquid or sludge, resulting from a manufacturing process or the pre-treatment for disposal purpose of any industrial or mining liquid waste, which may not be discharged into a drain or sewer;
- (b) hazardous waste;
- (c) health care risk waste,

The Municipality has a promulgated “tariff charge” which means the charge prescribed in the Schedule to these by-laws up until the General Tariff By-Law has been promulgated,

“waste” means any undesirable or superfluous matter, material, by-product or residue of any process or activity that has been discarded, accumulated or store for the purpose of treatment, discarding or recycling and may be liquid or solid, may include products that contain a gaseous component and may originate from domestic, commercial, medical or industrial activities, but does not include any gas or gaseous product which may be regulated by national or Gauteng provincial legislation;

“waste disposal site” in the context of this document, a waste disposal site is referred to as a landfill, because the vast majority of all waste is ultimately disposed of on land, whether it be in trenches or other excavations, or above grade,

the male gender shall include the female gender and vice versa and singular shall include the plural and vice versa.

## **CHAPTER 2**

### **THE MUNICIPALITY'S SERVICE**

2. (1) The Municipality must render a service for the collection and removal of business, domestic, garden, builders, dry industrial refuse, bulky, mass, special refuse from any premises on payment of the tariff charge.
- (2) The occupier of premises on which business, mass or domestic refuse is generated, shall avail himself of the Municipality's service for the collection and removal of such refuse, except where special exemption is granted in writing by the Directorate.
- (3) The owner of the premises on which the mass, domestic or business refuse is generated shall be liable to the Municipality for all tariff charges in respect of the collection and removal of such refuse from such premises.

#### **Notice to Municipality**

3. The occupier of premises, or in the case of premises being occupied by more than one person, the owner of such 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-
  - (a) that the premises are being occupied;
  - (b) whether business refuse or domestic refuse is being generated on the premises.

#### **Provision of Refuse Containers**

4. (1) After investigation, the Municipality shall determine the number and type of containers required at any premises.

- (2) The owner of any premises shall personally be responsible for providing the predetermined type and number of containers required by the Municipality from time to time.
- (3) Mass refuse containers will be supplied and placed by the Municipality.
- (4) If required to do so, it shall be the duty of the producer of waste to provide the Municipality with measures that are taken to prevent or minimise waste such as through waste avoidance, reuse, recycling and/or in any other manner.

### **Placing of Refuse Containers**

5. (1) The occupier or owner of premises shall on an approved place on the premises provide sufficient space for the placing of the refuse containers.
- (2) No refuse containers shall be used for any other purpose than the storage of business, domestic or garden refuse and no fire shall be lit in any refuse container.
- (3) If required by the Municipality, the place of collection must be located so as to permit convenient access to and egress from such space for the Municipality's refuse collection vehicles.
- (4) A sufficient area must be provided to keep a special container for the storage of refuse as described in section 6(1)(a)(i) apart from the space necessary for the storage of refuse not kept in a special container.
- (5) The Municipality may at its discretion, indicate a position from where the refuse may be removed more conveniently.
- (6) Notwithstanding anything to the contrary, the Municipality may -
  - (a) in the case of buildings erected, or buildings whereof the building plans were 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 business refuse from the space provided in terms of subsection (1),

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 containers, be placed for the collection and removal of such refuse and such refuse containers shall then be placed in such position at such times and for such period as the Municipality may prescribe.

### **Use and Care of Bin Liners and 240L Bins**

6. (1) Every occupier of premises, or in the case of premises being occupied by more than one person, the owner of such premises shall ensure that –
  - (a) all the domestic or business refuse generated on the premises is placed and kept in such bin liners or 240L bins, as the case may be, for removal by the Municipality: Provided that the provisions of this subsection shall not prevent any occupier, or owner, as the case may be –
    - (i) who has obtained the Municipality's prior written consent, from selling or otherwise disposing of any swill, corrugated cardboard, paper, glass or other material being an element of business refuse for recycling in a manufacturing process, or in the case remains on the premises;
    - (ii) who has obtained the Municipality's prior written consent, from utilising such domestic refuse as may be suitable for making compost, provided that the refuse remains on the premises;
  - (b) no hot ash, unwrapped glass or other business or domestic refuse which may cause damage to bin liners and 240L bins or which may cause injury to the Municipality's employees while carrying out their duties in terms of these by-laws, is

placed in bin liners or 240L bins before he has taken such steps as may be necessary to avoid such damage or injury;

- (c) no material, including any liquid which, by reason of its mass or other characteristics, is likely to render such bin liners or 240L bin unreasonably difficult for the Municipality's employees to handle or carry, is placed in such bin liners or 240L bin.
- (2) Bin liners of at least 1 000 mm x 800 mm and 39 micrometer thick, or as may be determined by the Municipality from time to time, shall be used.
- (3) Bin liners or 240L bin refuse, properly closed, shall be placed outside the fence of the premises on the street boundary near the entrance or driveway entrance on the day of removal as determined by the Municipality.
- (4) If the premises are not fenced, such bin liners or 240L bin shall be placed on the boundary of the premises.
- (5) The bin liners shall be removed and 240L bin serviced by the Municipality, at such intervals, as the Municipality may deem necessary, only if such bin liners or 240L bins have been placed at the prescribed place.
- (6) The Municipality shall not be liable for the loss of or damage to a 240L bin: However, should a 240L bin be damaged or stolen having been placed at the prescribed place on the day prescribed by Municipality for their service thereof, the Municipality shall replace the 240L bin free of charge provided

that –

- (a) the theft or loss has been reported to the South African Police Services (SAPS). A copy of such report be lodged with the Directorate; and
- (b) a written report of the damage must be lodged within 72 hours with the Directorate.



- (7) If the occupier or owner of premises wish to compact any refuse, such an occupier or in the case of premises occupied by more than one person, the owner of such premises shall increase the density of that portion of the refuse as is compactable by means of approved equipment designed to shred or compact refuse and shall put the refuse as treated into an approved disposable container and thereafter in a container for purpose of removal. Prior permission to engage in such an activity must be obtained from the relevant Directorate of the Municipality.
- (8) "Approved" for the purpose of subsection (7) shall mean approved by the Municipality, with regard to the suitability of the equipment, lining or container for its purpose, and also with regard to the reasonable requirements of the particular case from a public health, storage, refuse removal or refuse disposal point or view.

## **CHAPTER 3**

### **GARDEN AND BULKY REFUSE**

#### **Removal and Disposal of Garden and Bulky Refuse**

7. (1) The occupier or, in the case of premises occupied by more than one person, the owner, of premises on which garden or bulky refuse is generated shall ensure that such refuse be disposed of in terms of this Chapter within a reasonable time after the generation thereof: Provided that garden refuse may be retained on the premises for making of compost, if prior permission was obtained from the relevant Directorate of the Municipality.
- (2) Any person or licensee (as per chapter 8) may remove and dispose of garden or bulky refuse.
- (3) Garden or bulky refuse shall, once it has been removed from the premises on which it was generated, be deposited on a site designated by the Municipality as a disposal site for such refuse against payment of the prescribed tariff charge.

### **The Municipality's Special Service**

8. At the request of the owner or any occupier of any premises and after payment of the prescribed tariff charge, the Municipality shall remove garden and bulk refuse from premises, provided that the Municipality is able to do so with its refuse removal equipment.

## **CHAPTER 4**

### **BUILDERS REFUSE**

#### **Responsibility for Builders Refuse**

9. (1) The owner of a premises on which builders refuse is generated and the person engaged in the activity which cause such refuse to be generated shall ensure that such refuse be disposed of in terms of section 10 within a reasonable time after the generation thereof.
- (2) Any person may operate a builders refuse removal service. Should the Municipality provide such a service, it shall be done at the tariff charge.

#### **Disposal of Builders Refuse**

10. (1) Subject to the provisions of subsection (2), all builders refuse shall be deposited at the Municipality's refuse disposal site/s.
- (2) For the purpose of reclaiming of land, builders refuse may with the written consent of the Municipality, be deposited at a place other than the Municipality's refuse disposal sites.
- (3) Any consent given in terms of subsection (2) shall be subject to such conditions as the Municipality may deem necessary: Provided that in giving its consent or in laying down conditions the Municipality shall have regard to –
  - (a) the safety of the public;
  - (b) the environment of the proposed disposal site;

- (c) the suitability of the area including the drainage thereof;
- (d) the expected manner and times of depositing of refuse at the site;
- (e) the levelling of the site;
- (f) the control of dust;
- (g) other relevant factors.

## **CHAPTER 5**

### **SPECIAL REFUSE**

#### **Notification of Generation of Special Refuse**

11. (1) The person engaged in the activity which causes special refuse to be generated shall inform the Municipality of the composition thereof, the quantity generated, how it is stored and how and when will it be removed and disposed of.
- (2) If so required by the Municipality, the notification referred to in subsection (1) shall be substantiated by an analysis certified by a registered industrial chemist.
- (3) The Municipality or any person duly authorized by the Municipality may enter premises at any reasonable time to ascertain whether special 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 mentioned in subsection (1) shall notify the Municipality of any changes in the composition and quantity of the special refuse occurring thereafter.

### **Storing of Special Refuse**

12. (1) The person referred to in section 11 (1) shall ensure that the special refuse generated on the premises is kept and stored thereon in terms subsection (2) until it is removed from the premises in terms of section 13.
- (2) Special refuse stored on premises shall be stored in such a manner that, in addition to any legal requirements for its storage, it cannot become a nuisance or pollute the environment.
- (3) If special refuse is not stored in terms of subsection (2) on the premises on which it is generated, the Municipality may order the owner of the premises and the person referred to in section 11 (1) to remove such refuse within a reasonable time and, if thereafter such refuse is not removed within such time, the Municipality may by itself or through a contractor remove it at the owner's expense.

### **Removal of Special Refuse**

13. (1) No person shall remove special refuse from the premises on which it was generated or stored without, or otherwise than in terms of, written consent of the Municipality.
- (2) The Municipality may give its consent in terms of subsection (1), subject to such conditions as it may deem fit. In laying down conditions the Municipality shall have regard to –
  - (a) the composition of the special refuse;
  - (b) the suitability of vehicle and container to be used;
  - (c) the place where the refuse shall be disposed of;
  - (d) proof to the Municipality of such disposal.
- (3) 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 refuse and will comply with the conditions laid down by the Municipality.

- (4) The person referred to in section 11 (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 section 11(1), of the removal of special refuse, the identity of the remover, the date of such removal, the quantity and the composition of the special refuse removed and where it was disposed of.
- (5) Should any person be caught in the act of contravening the provisions of this section, such person shall dispose of the special refuse removed by him as directed by the Municipality.

## **CHAPTER 6**

### **DISPOSAL SITES**

#### **Conduct at Disposal Sites**

14. (1) Any person who, for the purpose of disposing of refuse enters a refuse disposal site controlled by the Municipality, shall –
  - (a) enter the disposal sites only at an authorized access point;
  - (b) present the refuse for weighing in the manner required by the Municipality;
  - (c) give the Municipality all the particulars required in regard to the composition of the refuse;
  - (d) follow all instructions given to him in regard to access to the actual disposal point, the place where and the manner in which the refuse should be deposited;
  - (e) pay the tariff in respect of refuse disposed in accordance with the prescribed manner stipulated by the Municipality from time to time.

- (2) No person shall bring any intoxicating liquor onto a disposal site controlled by the Municipality;
- (3) No person shall enter a 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 time as the Municipality may from time to time determine;
- (4) No person who transports special refuse, business refuse, domestic refuse or bulky refuse for any benefit or for benefit renders a service for removal of such refuse may dispose such refuse on a disposal site controlled by the Municipality without written permission from the Municipality;
- (5) No person shall dispose any refuse on a disposal site under control of the Municipality other than refuse stipulated by the Municipality from time to time.
- (6) In general comply with any special conditions that the authorisation for the creation of a waste disposal site was subjected to.

### **Ownership of Refuse**

15. All refuse removed by the Municipality and all refuse 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.

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

### **Littering**

16. (1) No person shall –
  - (a) throw, let fall, deposit or spill any refuse into or onto any public space, vacant stand, vacant erf, stream or water course;

- (b) sweep any refuse into a gutter on a public place;
  - (c) allow any person under his control to do any of the acts referred to in paragraphs (a) and (b).
- (2) For the purpose of this section a person shall be deemed to have allowed the acts referred to in subsection (1) of persons under his control, unless the contrary is proven.

### **Prohibition of Dumping and Abandoning Articles**

17. (1) Subject to any provisions to the contrary in these by-laws contained, no person shall abandon anything or allow anything under his control to be abandoned at a place to which such thing has been brought with the intention of abandoning it there.
- (2) No person may dump waste
- (3) No person by his act, default or sufferance may cause or permit a nuisance to exist on any premises, and every owner and every occupier of any premises shall at all times maintain such premises clean and free from any nuisance
- (4) Whenever a nuisance exists, or has existed and is liable to recur on any premises, the municipality may serve a notice either upon the author of the nuisance, or upon the owner or occupier of the premises on which the nuisance exists, or has existed and is liable to recur, requiring him to remove or abate the nuisance and to do such work (with or without specifying the nature thereof) within reasonable time to be specified in the notice, as is necessary for the removal or abatement and the prevention of recurrence of the nuisance through a properly structured environmental management system,, as may be, provided that-
- Where the nuisance arises from want or defect of a structural character or where the premises are unoccupied, the notice shall be served on the owner
  - Where the person causing the nuisance cannot be found, and such a nuisance does not exist by the act of default or sufferance



of the occupier or owner of the premises, the municipality may itself take such steps as may be necessary to abate or remove the nuisance and prevent recurrence thereof

- (5) Where a person upon whom such a notice has been served fails to comply with the terms thereof, the municipality may enter upon the premises in respect of which such nuisance exists, or has existed and is liable to recur, and may itself carry out such work as may be necessary for the removal or abatement and the prevention of recurrence of the nuisance, as the case may be. The municipality may recover from such aforementioned person the amount of any expense incurred by it in carrying out such work and such person shall, on demand, refund such amount to the municipality (as per penalty schedule below)
- (6) The medical officer of Health or any Health Inspector or other official of the municipality duly authorised thereto may enter and inspect, or make inquiries on, any premises with a view to ascertaining the existence or cause of any nuisance thereon or in connection therewith
- (7) The municipality may do such work as may be necessary for ascertaining the existence of such nuisance and for remedying the same, and may recover from the owner or occupier of the premises or from the author of the nuisance the amount of such expenses incurred by it in respect thereof, and such owner or occupier or author shall, on demand, refund such amount to the municipality (as per penalty schedule below).

#### **Abandoned Articles**

18. (1) Anything, other than a vehicle deemed to have been abandoned which is, in light of such factors as the place where has been found, the period it has been lying at such place and the nature and conditions of such thing, reasonably regarded by the Municipality having been abandoned, may be removed and disposed of by the Municipality as it may deem fit.
- (2) If the municipality collects an article deemed abandoned and somebody claims ownership, they must lodge a claim in writing addressed to the Directorate in control of waste management in the



form of a sworn statement. In the statement, the nature of such a thing must be accurately described and the Municipality indemnified against all claims by other persons in respect of such a thing.

### **Liability of Responsible People**

19. (1) Where anything has been removed and disposed of by the Municipality in terms of section 18(1), the person responsible shall be liable to pay to the Municipality the tariff charge in respect of such removal and disposal.
- (2) For the purpose of subsections (1) the person responsible shall be –
  - (a) the owner of the article, and shall include any person who is entitled to be in possession of the article by virtue of a hire purchase agreement or an agreement or an agreement of lease at the time when it was abandoned or put in the place from which was so removed unless he can prove that he was not concerned and did not know of its being abandoned or put in such 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 article in the place aforesaid.

## **CHAPTER 8**

### **LICENCES**

#### **Licence requirements**

- 20 1) No person shall, for commercial purposes, collect or transport any of the refuse out of the following waste streams without having obtained from the municipality a licence for each waste stream, and being in possession of such licence or licenses authorising such collection and transportation:

- (a) general waste
  - (b) bulky refuse;
  - (c) industrial waste;
  - (d) special refuse;
  - (e) hazardous waste;
  - (f) recyclable waste
  - (g) health care risk waste; and
  - (h) builders refuse.
- (2) A licence issued under this chapter -
- (a) Cannot be ceded or assigned without the prior written consent of the Municipality;
  - (b) is valid only for the category of waste specified therein; and
  - (c) expires one year after the date of issue

### **Licence applications**

- 21 1) An application for a licence to provide a commercial service must be
- (a) made in writing on a form prescribed by the Municipality and accompanied by the documentation specified in that form; and
  - (b) accompanied by the prescribed fee.
- (2) The Municipality must consider each application, having regard to the following:
- a) The applicant's compliance, where relevant, with the national road traffic Act and or Regulations, and with these By-laws;
  - b) the environmental, health and safety record of the applicant, and
  - c) the nature of the commercial service to be provided.
- 3) Before considering an application made in terms of subsection (1), the Municipality may require the applicant to furnish such information as it may reasonably require.
- 4) After considering the application in terms of subsection (2), the Municipality must either-

- a) approve the application by issuing a licence subject to any condition it may impose; or
  - b) reject the application. No application shall be unreasonably rejected
- (5) If the Municipality fails to consider and grant or reject a licence application within 60 days of its receipt of the application it must inform the applicant in writing that the period for consideration is extended and must inform the applicant of the date by which a decision will be made.

### **Suspension and revocation of licences**

22 (1) A licence issued under this Chapter may be suspended or revoked by the Municipality on the grounds that the licence holder

- (a) has failed to comply with any provision of these By-laws;
  - (b) has failed to comply with any provision of any national or Gauteng provincial legislation which regulates the collection, transportation or disposal of waste;
  - (c) has failed to comply with any licence condition contemplated in section 21(4)(a); or
  - (d) on any other ground which the Municipality considers relevant, which is fair and reasonable in the circumstances.
- (2) A licence may only be suspended or revoked after -
- (a) the licence holder has been given written notice that the Municipality is considering the suspension or revocation of the licence; and
  - (b) after the licence holder has been given a period of 30 days after service of the notice to make representations to the Municipality as to why the licence should not be suspended or revoked.
- (3) The Municipality must -
- (a) make a decision within 14 days of receipt of the representations contemplated in subsection (2)(b), if any, or within 14 days after the licence holder informed the Municipality that he or she does not wish to make representations, or if no representations are

received, within 14 days of the expire of the period referred to in subsection (2)(b); and

- (b) inform the licence holder of its decision in writing within seven days of making it.
- (4) Subject to the provisions of the promotion of Access to Information Act, 2000 (Act No. 2 of 2000), the Municipality may not disclose any confidential commercial information submitted as part of a licence application procedure to any person other than a municipal official requiring such information to perform his functions for the purposes of these By-laws.

### **Licence terms and conditions**

23 (1) When issuing a licence under this Chapter, the Municipality may, subject to the provisions of subsection (2), impose any reasonably necessary condition in furthering national, provincial or municipal, waste management policy.

(2) Any licence issued under this chapter must -

- (a) specify the licence period contemplated in section 20(2)(c ) and the procedure for renewal of the licence;
- (b) specify every category of waste which the licence holder may collect and transport;
- (c) contain a requirement that the licence holder must comply with, and ensure compliance by his employees, agents and sub-contractors, with these By-laws and applicable national and Gauteng provincial legislation; and
- (d) require the licence holder to keep monthly written records on a form prescribed by the Municipality of the quantities of each category of waste collected and transported during the licence period.

### **Renewal of licences**

24 (1) A licence holder who wishes to renew his or her licence must apply to renew the licence concerned at least 90 days prior to the expire of the existing licence.

- (2) The Municipality must consider and grant or reject a licence renewal application within 60 days of the receipt of the application subject to the provisions of section 21(3) and in accordance with section 21(4).
- (3) If the Municipality fails to consider and grant or reject a licence renewal application within 60 days, it must inform the applicant in writing that the period for consideration is extended and must inform the applicant of the date by which a decision will be made.
- (4) A licence in respect of which application for renewal has been made in terms of subsection (1), remains valid until a final decision has been made in respect of that application.

### **Display of licences**

25. (1) Upon issuing a licence under this Chapter, the Municipality must issue to the licence holder a numbered sticker for each vehicle to be used for the purpose concerned confirming that the licence holder is authorised to collect and transport the category of waste specified on the sticker.

- (2) The stickers must vary in colour for each category of waste.
- (3) The licence holder must affix such sticker to each vehicle to be utilised to provide the service and display the sticker at all times.
- (4) Waste for processing or disposal at a waste disposal facility will only be received at such facility from a contractor who is licenced and on whose vehicle a sticker required in terms of subsection (3), is displayed.

### **Prohibited conduct**

26 No licence holder may -

- (a) intentionally or negligently operate in contravention of any condition of the licence concerned;

- (b) intentionally or negligently fail or refuse to give information, when required to do so in terms of these By-laws, or give false or misleading information;
- (c) intentionally or negligently fail to take all reasonable steps to prevent a contravention of these By-laws, by any act or an omission of his or her employee acting in the course and scope of his or her duties, or
- (d) collect or transport any waste except in a properly constructed, watertight vehicle or in a suitable container that prevents spillage of waste, the suitability of the vehicle to be dependant on the waste stream contemplated in section 20(1), to be collected or transported, as specified in the National Road Traffic Act/Regulations.

### **Exemptions**

27. The Municipality may, by notice in the Gauteng Provincial Gazette, exempt any type of commercial service from any provision of this Chapter to the extent and subject to the terms specified in such notice.

### **Transitional provisions**

28 (1) Any person who is at the commencement of these By-laws lawfully providing a commercial service for which a licence is require under this Chapter, must within 90 days of such commencement, make application for a licence in terms of section 21, failing which such person's right to provide such service lapses.

- (2) If an application is submitted in terms of subsection (1), the applicant may continue to provide the commercial service in respect of which the application has been made until a final decision has been taken in respect of that application

## **CHAPTER 9**

### **WASTE MANAGEMENT INFORMATION SYSTEM**

#### **Establishment of an information system**

29 (1) The municipality must establish and maintain a waste management information system which records how waste is managed within the municipal area.

(2) The information system may include any information relating to or connected with the management of waste within the municipal area.

#### **Purpose of the Information System**

30 (1) The purpose of the waste information system is for the Municipality to-

- (a) record data relating to the implementation of the integrated waste management plan and the management of waste in the municipal area;
- (b) record information held by the Municipality in relation to any of the matters referred to in section 22(1);
- (c) furnish information upon request by law to the Gauteng Provincial or National Government;
- (d) gather information and undertake strategic planning regarding potential and actual waste generators, service providers, and the local community in order to-
  - i. facilitate monitoring of the performance of the Municipality, service providers, and, where applicable, waste generators;
  - ii. stimulate research;
  - iii. assist the municipality in endeavouring integrated waste management planning.



### **Provision of Information**

31 (1) The Municipality may, subject to the provisions of any other law including the common law, require a waste generator, service provider or person involved in or associated with the provision of the municipal service or any commercial service within the municipal area to furnish the information to the Municipality which may reasonably be required for the information system, which may concern-

- (a) significant sources of waste generation and the identification of the generators of waste;
- (b) quantities and classes of waste generated;
- (c) management of waste by waste generators;
- (d) waste handling, waste treatment and waste disposal facilities;
- (e) population and development profiles;
- (f) reports on progress in achieving waste management targets;
- (g) the management of radioactive waste;
- (h) markets for waste by class of waste or category;
- (i) any other information required by legislation, regulations or guidelines

(2) The Municipality may determine when and how often the information must be furnished.

## **CHAPTER 10**

### **GENERAL PROVISIONS**

#### **Access to Premises**

32 (1) Where the Municipality provides a refuse collection service, the occupier 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 services.

- (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 other person, it may, as a condition or rendering a refuse collection service in respect of the premises, require the

owner or occupier to indemnify it in writing in respect of any such damage or injury or any claims arising out of either.

### **Accumulation of Refuse**

33 When any category of refuse defined in Chapter 1 of these by-laws accumulates on premises so as to constitute a nuisance or so as to render it likely that a nuisance will be created thereby, the Municipality may make a special removal of such refuse and the owner shall be liable in respect of such special removal to pay the tariff charge therefor.

### **Charges**

34 (1) Save where otherwise provided for in these by-laws, the person to whom any service mentioned in these by-laws has been rendered by the Municipality shall be liable to the Municipality for the tariff charge in respect thereof.

- (2) Services rendered by the Municipality in respect of which a tariff charge is prescribed, shall only be discontinued by the Municipality after receipt of a written notification from the owner or occupier of the premises to which the services are rendered, that the generation of domestic or business refuse on the premises has ceased, or when it has become obvious to the Municipality that the generation of such refuse on the premises has ceased.
- (3) Tariff charges shall be payable until receipt by the Municipality of the notice mentioned in subsection (2), or when it has become obvious to the Municipality that the generation of such refuse on the premises has ceased.
- (4) Charges in terms of the tariff shall become due and payable in advance.
- (5) Any person who fails to pay the tariff charge in respect of service rendered by the Municipality shall be guilty of an offence.

- (6) All the tariff charges mentioned in the schedule in terms of the By-law shall be applicable up until such time the General Tariff By-law has been promulgated by the Municipality.

### **Offence and Penalties**

35 (1) Any person who contravenes or fails to comply with any other provision of these by-laws shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R 10 000.00 or to imprisonment for a period not exceeding six months or to both of such fine and imprisonment. The following specific penalties are applicable:

### SCHEDULE OF FINES

OFFENCE	PENALTY
Failure to keep premises/private stands clean and free of any nuisance or waste material	A punitive charge which amounts to 100% of cleaning costs including administrative costs associated with the notice/s, inspections and billing
The dumping and or disposal of any general waste material in public places or any premises	Up to R10 000 or imprisonment for a period not exceeding 6 months or to both such fine and imprisonment.
The dumping and or disposal of any building rubble in public places or any premises	R5000 or imprisonment for a period not exceeding 6 months or to both such fine and imprisonment.
The dumping and or disposal of any hazardous or health care risk waste in public places or any premises	R10000 or imprisonment for a period not exceeding 6 months or to both such fine and imprisonment.
Fouling or littering in public places or any premises in terms of Section 15 of these By-Laws	R1000 or imprisonment for a period not exceeding 3 months or to both such fine and imprisonment.
Charge for the removal/or disposal of abandoned things	R5000 or imprisonment for a period not exceeding 3 months or to both such fine and imprisonment
Generation of special refuse without notifying/requesting permission from the municipality	R10000 or imprisonment for a period not exceeding 6 months or to both such fine and imprisonment
Any person who hinders or obstructs an official in the execution of his/her duties or in any way prevents proper execution of these By-Laws	To be determined by the Court

### **Repeal of Existing By-Laws**

36 The following By-laws as amended are hereby repealed:

- (1) Krugersdorp Municipality: Sanitary and Refuse Tariff By-laws published under the Administrator's Notice No. 158 dated 18 February 1970.
- (2) Krugersdorp Municipality: Refuse (solid waste) and Sanitary By-laws published under the Administrator's Notice No. 2193 dated 31 December 1975
- (3) Krugersdorp Municipality: Determination of Tariffs on Collection and Removal of Refuse and Rendering of Sanitary Service published under Local Authority Notice No. 1660 dated 6 August 1997.

## LOCAL AUTHORITY NOTICE 62

### MOGALE CITY LOCAL MUNICIPALITY BY-LAW RELATING TO URBAN GREENING AND BIO-DIVERSITY PRESERVATION

The Municipal Council hereby, in terms of Section 13 of the Local Government: Municipal Systems Act 32 of 2000 and Section 84(1)(p) of Local Government : Municipal Structures Act, 117 of 1998 publishes the By-Laws set forth hereinafter, which have been approved by the Council in terms of Sections 11 and 12 of the said Act.

#### 1. INTERPRETATION AND FUNDAMENTAL PRINCIPLES

##### 1.1 Terms and abbreviations:

In these By-Laws, unless the context otherwise indicates, the terms and abbreviations used will be interpreted as follows:

**Bio-Diversity-** means that the variability among living organisms from all sources including, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part and also includes diversity within species and while between species, and of ecosystems.

**Bio-Diversity Reserve-** Refers to any portion of land that has been set aside by legal process for the management and protection of its Bio-Diversity.

**Directorate Integrated Environmental Management-** The relevant department within the Mogale City Local Municipality that is responsible for managing all environmentally related functions in conjunction with relevant Directorates including Urban Greening.

**Directorate Local Economic Development-** The relevant department within the Mogale City Local Municipality that is responsible for managing all town planning, building control and economic development functions in conjunction with other departments.

**EATT-** Refers to the Environmental Advisory Task Team operating as an advisory committee to the Director of Integrated Environmental Management concerning environmental considerations for all property developments. The Deputy Director of Environmental Management or his/her duly authorized representative chairs the EATT.

**Environmental Management Framework-** Refers to a set of Geographic Information System based data sets that informs decision making about the environmental status and sensitivity of an area with reference to geology, Veld types, ridges, hydrology, bio-diversity etc.

**Fee-** will mean a fee determined by the Municipality in terms of its Tariff By-Law in respect of any matter dealt with in this By-Law;

**Garden/Landscape-** In this context will refer to a designated area for the cultivation of lawns, trees, shrubs, perennials and annuals in an organized, functional and aesthetic manner. A garden/landscape may include hard structures and surfaces such as footpaths that are purposefully designed to allow water to penetrate the area in which it is placed and will not sterilize the soils on which it is placed.

**GDACE-** Gauteng Department of Agriculture, Conservation and Environment that is the relevant authority in terms of Environmental Legislation.



**(ISC) Impermeable Surface Coverage-** Refers to the total surface area in a development which is covered by material impervious to water, which largely contributes to surface water runoff and storm water generation. This will include but not be limited to roof tiles, corrugated metal sheets, fibreglass sheets, polycarbonate sheets, glass, paving, concrete and tarmac. ISC can also be referred to as the footprint of such development, which for the purposes of this By-Law excludes gardens.

**Landscape Architect-** Refers to a professional practising in the sciences for the built environment and registered with the South African Council for Landscape Architects (SACLAP)

**Landscape Development Plan-** Refers to a two and three-dimensional plans illustrating the proposed layout of the natural landscape through soft and hard elements, which includes site or base plans, perspective drawings and Master plans.

**Municipal Open Space System-** Refers to the network of public and private open spaces within the Municipal area captured as a data set in the Municipality's Geographic Information System. Also abbreviated as MOSS.

**Municipality-** Refers to Mogale City Local Municipality or abbreviated as MCLM.

**Natural open space-** The remaining undisturbed natural and undeveloped areas within the urban edge. They are the areas that contain the core terrestrial, freshwater, estuarine and marine ecosystems. These ecosystems include land cover types such as grasslands, forests, beaches, estuaries, rivers, wetlands, etc.

**Private Open Space-** Refers to open space on private land, which is set aside for greening and or conservation and or recreation purposes and is specifically zoned as private open space. Private open space is not generally accessible to the public.

**Public Open Space-** Refers to erven that functions as open spaces and is specifically zoned as Park, Public Open Space, Agriculture or Undetermined to which the general public have access without restriction. This may include various park system classifications.

**Sub-Directorate of Parks Management-** The municipal unit responsible for parks management and urban greening as described in the context of this By-Law.

**Sustainability-** A desirable level of balance between the environment and human needs where consumption or use is equal or less than replenishment and does not compromise the ability of future generations to meet their own needs.

**Tree Ring-** Refers to a concrete ring that serves as kerbing around the base of a tree which defines a small root zone space for the tree where water can penetrate and soil gasses can exchange freely.

**Urban Greening-** Refers to a wide range of urban development actions that aim to facilitate a sustainable relationship between urban dwellers and their environment.

**Urban Greening Strategy-** Refers to a strategy document developed for Mogale City Local Municipality in which an action plan for the facilitation of urban greening in the city is presented. The Mayoral Committee approved this strategy document on 24 February 2005.

**Urban Open Space-** Any human made or legally designated places and areas within the Urban Edge that are developed for community use. They include parks, sports fields, agricultural fields, streets, town squares, road reserves, servitudes for services such as electricity transmission lines, dams, private gardens, etc."

**Visual Impact-** Refers to the visible impact a development has on the aesthetics of the environment.

**Visual Impact Assessment-** Refers to the study of the visual impact a development has on the environment and makes recommendations to mitigate such impacts.



**Visual Pollution**-Refers to developments or components of developments and/or the urban environment that forms clutter and/or visual confusion and/or detracts from the predominant sense of place of the existing environment and/or detracts from the natural beauty of the environment and/or defaces natural features in the environment.

These By-Laws emanate from the Urban Greening Strategy and should therefore be read and interpreted with this strategy document as reference.

## 1.2 Application of By-Laws

- 1.2.1 These By-laws apply to every private individual, organization, company or any other legal entity.
- 1.2.2 These By-laws are binding on the State.

## 1.3 Purpose of By-laws

The purpose of these By-laws is to provide in the area of Mogale City Local Municipality and in conjunction with other applicable legislation, an effective legal and administrative framework that also complies with national and provincial legislation –

(a) to create a green environment with instructions to all developers of property

- (i) to establish green areas;
- (ii) to create or maintain corridors for the movement of living organisms such as smaller and larger animals, plants and reptiles;
- (iii) to preserve and protect existing trees and other natural features;
- (iv) to protect the existing biodiversity;
- (v) to encourage the rehabilitation of areas to allow the biodiversity in that area to establish itself;
- (vi) to achieve an acceptable visual result;
- (vii) to structure the future use of the area being developed to be compatible to the aims set out above;

in each development in a manner that will allow each development to link to similar areas or potential areas in neighbouring developments.

(b) to achieve this aim, natural features such as water courses, existing or degraded wetlands, areas containing clumps of trees, clumps of natural growth, trees, rocky outcrops, ridges, actual or potential areas that will allow or did allow the development or protection of biodiversity and other similar areas should be introduced in Landscape Development Plans as measures

- so that green areas and corridors are created,
- the natural component of the development is protected and its biodiversity enhanced,
- hard structures and any proposed construction be planned around the natural areas, must complement them, must form an integral part of the

development with the green features and be developed in such a manner that the green features are protected,

- that projects are fully planned before such a development is undertaken and are included in the draft or final contracts entered into with all contractors and subcontractors on the project and be subjected if not implemented to appropriate penalty clauses,
- must ensure that the social, financial, economic and environmental liability of the development is not prejudiced.

(c) to ensure that the way in which the Municipality controls, manages and develops its municipal region is done in an environmentally sustainable way, and is in the long-term upholding the interests of the whole community of Mogale City, including future generations;

(d) to give guidance to all stakeholders involved in the planning, development and management of open spaces and other green infrastructure; and

(e) which clearly defines the rights and obligations of the public in relation to urban greening and sustainable development.

## **2. SUBMISSION OF LANDSCAPE DEVELOPMENT PLANS**

### **2.1 Targeted property developments**

- 2.1.1 The submission of Landscape Development Plans to the Directorate Integrated Environmental Management will be compulsory for any residential and business development whether developed as a single unit or sub-divided portions, except for individual residential erven smaller than 2000 square metres in extent and that the accepted conclusions in the Landscape Development Plan form part of and is integrated into the final development plans submitted to the Municipality for approval.
- 2.1.2 The Environmental Advisory Task Team (EATT) of the Directorate Integrated Environmental Management may exempt an applicant from submission of a Landscape Development Plan if it is in the opinion of the EATT not feasible, or if a written motivation for exemption is submitted. The decision of the EATT will be final in this regard.
- 2.1.3 A fee will be payable by the applicant for the submission and consideration of Landscape Development Plans, as determined in the Municipality's Tariff By-Law.

### **2.2 Scope of Landscape Development Plans**

The Landscape Development Plans will reflect the following information:

#### **Basic Information:**

- 2.2.1 Scale (1:100, 1:200, 1:250; 1:500 as norms)
- 2.2.2 North point indicated.
- 2.2.3 Erf Number of site, suburb and street names clearly indicated.

- 2.2.4 Project Name
- 2.2.5 Site Boundaries and their dimensions
- 2.2.6 The name of the Architect, Engineer, Surveyor or company where plan/base was obtained.
- 2.2.7 Entrance and windows of the ground floor of the development.
- 2.2.8 Contours at 1-meter intervals for plans less than 1:250 scale and 5 meter intervals for plans larger than 1:250 scale.
- 2.2.9 The 1:50 and 1:100 year flood lines where identified by an engineer.

**Hard Structures and Infrastructure Information:**

- 2.2.10 Boundary treatment indicating material, finish, height, and elevation.
- 2.2.11 Building lines
- 2.2.12 Servitudes including road reserves.
- 2.2.13 Existing buildings and other structures that are being conserved if applicable
- 2.2.14 Show phasing and proposed subdivision if applicable.
- 2.2.15 Hard Structures and surfaces area coverage, properties and layout.
- 2.2.16 Vehicular and pedestrian access to the site.
- 2.2.17 Provision of electricity HT/LT chamber, water connection, storm water pipes, and sewer lines and pumping stations.
- 2.2.18 Refuse area indicating whether it is covered or not and measures preventing spillage and drainage from the refuse area.
- 2.2.19 Surface water runoff direction, channelling, calming, discharging and seepage /retention areas and infrastructure.
- 2.2.20 Type of developments on surrounding areas indicated (Indicated as either open space, business, residential)
- 2.2.21 Details of retaining walls locality, elevation and finish.
- 2.2.22 Elevations including vegetation and boundary treatment

**Landscaping Information:**

- 2.2.23 Location of existing trees and large shrubs, presented in a site plan, indicating whether they will be retained or removed.
- 2.2.24 Location and size of natural rock outcrops, ridges and any other geological feature.
- 2.2.25 Location and size of any natural or manmade water body which will include but not be limited to wetlands, rivers dams, ponds or pools whether permanent seasonal or temporary
- 2.2.26 Plant selection indicating species, quantities and sizes in the planting plan. This will constitute a planting plan, which will be provided as an addendum to the landscape development plan.
- 2.2.27 Planting method and soil preparation as technical specification.
- 2.2.28 Irrigation system design, water source and volume distribution, if applicable and measures to reduce water consumption.

**2.3 Reviewing of Landscape Development Plans:**

The Sub-Directorate of Parks Management will review submitted Landscape Development Plans based on the following criteria:

- 2.3.1 Plant species selection with reference to Conservation of Agricultural Resources Act, Act 43 of 1983, bio-diversity preservation (National Bio-Diversity Act, Act 10 of 2004) and suitability of location.
- 2.3.2 Effective use of *existing natural resources* and other material for optimum impact and functionality.
- 2.3.3 Soil retaining and preservation measures to prevent erosion.
- 2.3.4 Surface water runoff management to reduce impact on engineering infrastructure, and river systems in consultation with the Sub-Directorate of Roads and Storm Water.
- 2.3.5 Irrigation water requirements of design.
- 2.3.6 Compliance of landscape development plans to the requirements of the Record of Decision of GDACE and Environmental Management Plans for the development in question.
- 2.3.7 Extent to which the landscape development addresses visual pollution and visual impacts the property development has. The Municipality may request a specific Visual Impact Assessment as addendum to the Landscape Development Plans if it is of the opinion that the landscape development plan does not optimally address the areas of visual pollution or if the nature of such property development has significant visual impacts on the surrounding areas and does not adhere to the general sense of place of the environment.
- 2.3.8 The Directorate of Local Economic Development will review submitted Landscape Development Plans based on the following criteria:

(i) Compliance to National Building Regulations.

- 2.3.9 The Directorate of Infrastructure Management will review submitted Landscape Development Plans based on the following criteria:

(i) Compliance to Engineering Standards and conditions set by the Municipality for on-site storm water infrastructure and surface water runoff management.

## 2.4 Additional Requirements

- i) Plans will only be drafted and signed off by Professional Landscape Architects registered with the South African Council for Landscape Architectural Professions (SACLAP) in terms of the South African Council of Landscape Architect Professions Act (Act 45 of 2000)
- ii) The Landscape Architect will provide his registration details on submission of the plans.
- iii) The Landscape Architect will provide a summary document of his brief, which will include the design concept, outlining technical specifications, construction work and materials, and design criteria.
- iv) The plans will be submitted in duplicate and folded to A4 size, comprising one colour and one monochrome of the landscape development plan, planting plan and other relevant supporting documentation.
- v) Specialized engineering infrastructure must be designed in consultation with a registered Civil Engineer.
- vi) Approval of the landscape development plan does not constitute final approval of the services infrastructure, and a final approval is still required from the Municipality's Directorate of Infrastructure.

## 2.5 Systems & Procedures

- 2.5.1 The Directorate Integrated Environmental Management will determine whether an applicant needs to submit a Landscape Development Plan during review of any consent use application and or rezoning and or sub-division and or township establishment and or removal of restrictive conditions application/s. The Landscape Development Plans are due with the submission of the site development plans.
- 2.5.2 The Directorate of Local Economic Development will inform any property developer where consent use application and or rezoning and or sub-division and or township establishment and or removal of restrictive conditions has already been approved but no building plans or site development plans has been submitted yet, of the Municipality's requirement for the submission of Landscape Development Plans in terms of section 1.1. The Landscape Development Plans are due with the submission of the site development plans.
- 2.5.3 A letter will be issued to the applicant stating the Municipality's requirements for Landscape Development Plans in terms of this By-Law.
- 2.5.4 The Landscape Development Plans, folded to A4 size, will be submitted with the building plans and/or site development plans to the Directorate of Local Economic Development.
- 2.5.5 The Directorate of Local Economic Development will, once it has determined that the hard infrastructure complies with National Building Regulations, forward the Landscape Development Plans to the Directorate of Integrated Environmental Management within twenty working days of receipt thereof. The Director's office will then forward such landscape development plans to the Sub-Directorate of Parks Management.
- 2.5.6 The Sub-Directorate of Parks Management will review the Landscape Development Plans within 30 working days and inform the landscape architect of any amendments required. The landscape architect will in turn inform his client of the required changes. The Sub-Directorate of Parks Management will in the 30-day review period consult with the Sub-Directorate of Roads & Storm Water with regard to the compliance of the design to engineering standards and conditions with specific reference to storm water infrastructure and surface water management.
- 2.5.7 The Landscape Development Plans will be approved once the necessary amendments have been made and the Sub-Directorate of Parks Management is satisfied that all the requirements of the Directorate Integrated Environmental Management, Directorate Local Economic Development, Directorate Infrastructure Management and of the By-Law are met.
- 2.5.8 The approved plans will be forwarded back to the Directorate of Local Economic Development that will in turn inform the applicant.
- 2.5.9 The Directorate of Local Economic development will withhold the approval of building plans and or site development plans if the applicant has failed to submit Landscape Development Plans in terms of section 1.1.
- 2.5.10 The Municipality will withhold the issuing of occupation certificates or the signing of a Section 101 certificate; whichever is applicable, if the applicant has failed to adhere to the requirements of the Municipality in terms of this By-Law.



### 3. PROVISION & PRESERVATION OF TREES ON PRIVATE PROPERTY DEVELOPMENTS

#### 3.1 Provision of trees on parking lots and pedestrian walkways

- i) Any property developer providing more than four parking bays per property, will plant trees at a density of one tree for every four parking bays.
- ii) Trees will be no smaller than 2 meters in height from at least a 50ℓ container.
- iii) Trees in lawn and paved areas will be provided with a concrete tree ring of no less than 1 meter in diameter and will be covered with a grid if such tree is closer than three meters from a pedestrian walkway.
- iv) The Municipality may specify the tree species if it is of the opinion that the property developer's selection is not suitable in terms of the provisions of the Conservation of Agricultural Resources Act, Act 43 of 1983 and the National Bio-Diversity Act, Act 10 of 2004.
- v) Property owners within private residential estates will only plant suitable indigenous tree species on their sidewalks, which will be determined by the Sub-Directorate of Parks Management. The estate manager will distribute a list of such suitable trees species to every new property owner within such residential estate. The estate manager will instruct property owners to remove tree species other than those specified on the prescribed list and upon failure to do so remove such trees at the cost of the property owner.

#### 3.2 Provision of trees on private roads

Trees will be planted at an interval of 15 meters on both sides of any private road longer than 30 meters of a property development, unless otherwise indicated by an approved Landscape Development Plan.

#### 3.3 Preservation of existing trees and other significant flora on properties prior to, during and after development:

3.3.1 Any applicant contemplated under section 1.1 will submit as an addendum to a Landscape Development Plan a site/base plan indicating:

- i) All existing trees and shrubs or groups of trees and shrubs.
- ii) Their location in relation to the proposed development.
- iii) If and how the trees and shrubs will be preserved.
- iv) How this natural features will be integrated into the proposed development plan

3.3.2 The Sub-Directorate of Parks Management may enforce the preservation of certain trees on the site if it is of the opinion that such tree/s are unique and has become a distinct landmark. In such a case

the onus will be on the developer to propose alternative site development plans to accommodate such trees.

- 3.3.3 The developer may lodge an objection to the Director of Integrated Environmental Management regarding the decision to protect certain trees on site if he can provide sufficient substantiation that it would not be feasible to preserve the tree/s. If no alternative to removal of the tree/s can be found, a penalty fee payable to the Municipality will apply for each tree, (otherwise destined for preservation) which needs to be removed. Such charge is based on the standard tree valuation method used by the Municipality. A fine of up to R5000 per tree plus the valuation of the tree/s removed is payable by developers who remove trees without the due authorization of the Municipality.
- 3.3.4 The Sub-Directorate of Parks Management may, in consultation with the landscape architect, determine the most suitable methods for preservation of the trees and shrubs on site prior to, during and after construction, which must be adhered to by the developer.

#### 4. ALLOCATION OF PRIVATE OPEN SPACE

- 4.1 All residential property developments or townships in excess of 1 ha in extent will show in their plans submitted for approval the use of natural areas in order to add value to the development and to the area, which area will be a minimum of 15% of the property in order to be zoned and used as private open space. Such zoned private open spaces will individually not be less than 1500 square metres in extent. Developments smaller than 1 ha in extent, if it cannot contribute a partial or complete beneficial use up to 15% of natural resources, shall pay a park contribution fee as determined by the Municipality.
- 4.2 All business estates including office parks and industrial parks in excess of 1 ha in extent will show in their plans submitted for approval the use of natural areas in order to add value to the development and to the area, which area will be a minimum of 10% of the property which will be zoned and used as private open space. Such zoned private open spaces will individually not be less than 1000 square metres in extent. Developments smaller than 1 ha in extent, if it cannot contribute 10% of its property for the use of natural areas, shall pay a park contribution fee as determined by the Municipality.
- 4.3 A minimum of 75% of the allocated private open spaces will be interconnected, forming a functional network of green spaces. Such open space connectivity may only be intersected by road infrastructure.
- 4.4 This private open space will exclusively be used for greening and/or conservation and recreation purposes, dependant on the provisions of the Record of Decision of the Gauteng Department of Agriculture, Conservation and Environment, the Environmental Management Plan and any other binding conditions of establishment laid down.
- 4.5 Private Open Spaces within any development will be registered as ecological servitudes as part of the conditions of establishment of the township and relevant title deeds to preserve such open spaces and natural areas from any future development. Any amendment to an ecological servitude will require authorization from the Provincial Department of Agriculture, Conservation and Environment.



## 5. ALLOCATION OF PUBLIC OPEN SPACE

- 5.1 The Municipality will ensure, through its Directorate of Local Economic Development and in consultation with the Directorate of Integrated Environmental Management, that in the planning of all new Municipal Townships, natural areas must be used in a way that will add value to the development and to the area, which area will be a minimum of 20% of the property set aside for public open space.
- 5.2 The Directorate of Integrated Environmental Management will, in consultation with the Directorate of Local Economic Development, determine the location, layout and extent of such open space systems. The Municipality's Environmental Management Framework, MOSS, and any other relevant and applicable environmental policy and legislative framework will inform the identification of suitable open spaces areas.
- 5.3 The Directorate of Integrated Environmental Management will determine which open space erven will be reserved for developed parks and recreation facilities, natural open spaces and Bio-Diversity Reserve.
- 5.4 A minimum of 75% of the allocated public open spaces will be interconnected, forming a functional network of green spaces. Such open space connectivity may only be intersected by road infrastructure.
- 5.5 The Municipality will, as far as is reasonably possible, ensure that additional land that can add to the biodiversity protection of the area, can enhance the upgrading of natural features, can create corridors for wild life, can be beneficially used by the people and can maximise the value of natural features is purchased for public open space systems.
- 5.6 The Directorate of Local Economic Development will ensure that the allocation of public open spaces is captured in its Precinct Plans and any other relevant town planning processes, as directed by this By-Law.

## 6. GREENING WITHIN LOW COST HOUSING PROJECTS

- 6.1 All contractors appointed for the development of low cost housing will plant one tree per house, which will be for the account of the contractor. This requirement will be a standard clause in tender specifications for low cost housing projects, whether the Municipality, the Provincial or National Department responsible for housing or its duly appointed representative administers such tender process.
- 6.2 During the planning phase for low cost housing projects the following must be ensured:
  - i) The house will be placed in such a manner so as to ensure that sufficient outdoor space is available for gardening purposes, which may often include household food gardens
  - ii) Households must be able to access grey water effluent for gardening purposes.
  - iii) Sidewalks must be a minimum width of 3 meters to allow for the planting of street trees.
  - iv) Landscape development plans will be submitted for each low cost housing project and its implementation will form part of the total project cost for such project.

## 7. EROSION & FLOOD CONTROL

7.1 In order to minimize the impact of storm water generated within urban areas on the environment, the Directorate of Integrated Environmental Management will regulate, in consultation with the Directorate of Local Economic Development and Directorate of Infrastructure the following parameters:

- i) The density of residential developments measured and limited to the number of residential units per Ha.
- ii) The maximum percentage of the property to be covered by impermeable surfaces, otherwise referred to as the development footprint.
- iii) The surface water runoff channelling, retaining, dissipating, seepage and discharging measures to be implemented on the development, with reference to the landscape development plans for such developments.

7.2 The Directorate of Integrated Environmental Management will determine these parameters for each township using the following environmental variables:

- i) Presence of ridges and its protection status.
- ii) Status, capacity and location of rivers, wetlands, dams, open spaces and water catchments likely to be affected by surface water runoff from the property. This will be verified by specialist studies where required by the Municipality.
- iii) Gradient of property affecting surface water runoff velocity and volume.
- iv) Presence or absence of engineering infrastructure to receive and channel surface water runoff.
- v) Current developed state and density of the surrounding areas the proposed development is situated in and its current cumulative impact on the environment.
- vi) Geology and soil conditions of the area.
- vii) State and presence of ecological reserve for primary water catchment and riverine systems.

7.3 The Directorate of Integrated Environmental Management will annually submit these parameters to the Mayoral Committee for approval, which will serve as an addendum to the Environmental Management Framework of the Municipality.

7.4 These parameters will be binding on all residential, business and industrial property developments.

## 8. WETLANDS & BIO-DIVERSITY PRESERVATION

### 8.1 Wetland preservation

- 8.1.1 Infilling, excavation, drainage and hardened surfaces (including buildings and asphalt) will not be located in any of the wetland zones (i.e. permanent, seasonal or temporary).
- 8.1.2 Hardened surfaces will be located at least 50 m outside of the outer boundary of the seasonal/permanent wetland zone (Note: if the width of the outer temporary zone is greater than 50 m and section 8.1.1 above is met then this requirement would automatically be met).
- 8.1.3 Extension to the buffer in localized areas will also be included to minimize the impact of concentrated storm water run-off into the wetland. Storm water outflows will not enter directly into the wetland. A predominantly vegetated buffer area at least 20 m wide will be included between the storm water outflow and the outer boundary of the wetland, with mechanisms for dissipating water energy and spreading and slowing water flow and preventing erosion. This buffer is particularly important when the catchment feeding the storm water drain comprises predominantly hardened surfaces.
- 8.1.4 Where the wetland has a particularly high biodiversity value, further buffering and linkages to other natural areas will be required, the width of which will depend on the specific requirements of the biota. In such cases, an environmental specialist will be appointed to determine the appropriate buffer and linkages
- 8.1.5 Roads will not be allowed to traverse a wetland. Thus, an alternative route will be sought if a wetland falls within the planned path of a road. If no viable alternative route exists then it will be ensured that the road has minimal affect on the flow of water through the wetland (e.g. by using a bridge or box culverts rather than pipes). No excavation of the wetland or any stream passing through the wetland (i.e. lowering of the base level) will be permitted. The developer will ensure that an adequate buffer is present to deal with run-off from the road (see section 8.1.3 above). Disturbance of the wetland will be minimal at, and adjacent to, the road-crossing site (see section 8.1.8).
- 8.1.6 Where a road runs alongside a wetland and it intercepts natural hill slope runoff into the wetland, the road will be set back from the boundary of the wetland by at least 20 m and feed-off points will be included at frequent intervals along the road (at least every 100 m) and the outflows of these should conform to the requirements of the storm water outflows (given in section 8.1.2 above).
- 8.1.7 Where development (e.g. hardened surfaces, infilling and drainage) in a wetland is unavoidable then the resulting impacts must be mitigated. In many cases, off-site mitigation may be the only means of achieving satisfactory mitigation.
- 8.1.8 Stringent controls will be put in place to prevent any unnecessary disturbance or compaction of wetland soils. Where any disturbance of the

soil takes place in a wetland, these areas must be stabilized and any alien plants which establishes itself should be cleared and follow up control undertaken for at least 3 years thereafter. Where compaction results, remedial measures must be taken (e.g. "ripping" the affected area).

- 8.1.9 Where the infiltration rate of a wetland's catchment is naturally high and the wetland is maintained predominantly by groundwater input, adequate surface for infiltration will be ensured. In such cases, specialist input will be obtained to determine this. Where the level of development is very high, reduced surface runoff will be enforced through mechanisms such as porous pavements (see section 6). (The inclusion of these mechanisms in areas dominated by hardened surfaces is generally sound catchment management practice, and will be encouraged widely as per section 7).
- 8.1.10 The Municipality will identify and delineate wetlands contained in its area of jurisdiction (according to the wetland inventory guidelines developed by National Department of Environmental Affairs and Tourism). Mapping will be undertaken at a minimum scale of 1: 50 000. All mapped wetlands will be protected and will be managed as per the provisions of this By-Law.
- 8.1.11 The developer will in addition to the provision of section 8.1.10, identify and delineate all wetlands in the project area at scale of 1:10 000 or smaller, depending on the proposed development. All wetlands in a development site must to be mapped as part of the Site Development Plan and Landscape Development Plan or Scoping Report and EIA procedures, and the impacts of a development on any wetlands present must be assessed.
- 8.1.12 Any development must comply with the requirements of the National Water Act. Through the concept of the "ecological reserve", this act makes provision for ensuring water of acceptable quantity and quality for maintaining the ecological functioning of wetlands and river systems.

## 8.2 Bio-Diversity Preservation

- 8.2.1 The Municipality may in consultation with the Gauteng Department of Agriculture, Conservation and Environment, National Department of Environmental Affairs and Tourism and relevant legislation, declare any portion of land as a Bio-Diversity Reserve, subject to section 8.2.2, if its unique natural status will contribute to bio-diversity preservation. Such declaration will be subject to the provisions of the National Bio-Diversity Act, Act 10 of 2004 and the National Forests Act, Act 84 of 1998 and the National Environmental Management: Protected Areas Act, Act 57 of 2003.
- 8.2.2 The Municipality will announce its intention to declare such portion of land as a Bio-Diversity Reserve through an advertisement in any local newspaper. It will also place visible notice/s on the proposed site of the reserve for at least thirty days. The Municipality will allow a window

period of sixty days from the date of placement of the notices for public comments and objections towards the establishment of the proposed reserve. The Gauteng Provincial Department of Agriculture, Conservation and Environment will hear any objections to the establishment of such reserve and make an appropriate ruling in this regard as per its own defined systems and procedures.

- 8.2.3 If no objections have been received and if all objections have been resolved according to section 8.2.2, the Municipality will, in addition to the regulations of relevant legislation, declare the portion of land as a Bio-Diversity Reserve through a Council Resolution and publish such notice in the Government Gazette.
- 8.2.4 The Municipality may fence such reserve off and restrict access to ensure the preservation of the reserve's bio-diversity. The reserve may be used for controlled recreation and leisure activities within the guidelines determined by the Directorate of Integrated Environmental Management.
- 8.2.5 Development of recreational facilities and infrastructure in a Bio-Diversity Reserve will be subject to approval from GDACE.
- 8.2.6 The Municipality may furthermore institute a buffer zone, which will be determined through a research and consultative process, around such reserve in which certain restrictions in terms of type and density of developments are established. Such restrictions will be published as addendum to the Council Resolution and Government Gazette Notice contemplated under section 8.2.3.
- 8.2.7 The Municipality may place such reserve under private management through a Public Private Partnership subject to the provisions of the Municipal Finance Management Act, Act 56 of 2003, in order to optimise its resources.

## **9. GARDEN/LANDSCAPE ADVERTISING**

9.1 The Municipality may offer its traffic islands and gardens for the placement of semi-permanent advertisements for the purposes of funding Urban Greening Initiatives and maintenance thereof.

9.2 These advertisements will:

- i) Not obstruct traffic view
- ii) Not obstruct movement of pedestrians
- iii) Not cause visual pollution or appear to be unsightly
- iv) Will be tastefully low key, as will be defined by the Municipality.
- v) Will not unrightfully interfere with other existing advertising rights.

9.3 These advertisements will also conform to the Municipality's Outdoor Advertising Policy.



- 9.4 Advertising space will be allocated on a first come first serve basis at a tariff determined in the Municipality's Tariff By-Law.
- 9.5 Applicants will submit a graphic design of the proposed advertisement, which will be subject to the approval of the Directorate of Integrated Environmental Management, Directorate of Marketing, Directorate of Local Economic Development, and Directorate of Public Safety.
- 9.6 The applicant will erect his advertisement on the allocated position once the application has been approved.
- 9.7 The lease will be valid for a period of 12 months after which the applicant can request for renewal.
- 9.8 Should a leaseholder prefer not to renew his lease, the advertising location will become available to the next applicant.
- 9.9 A penalty, as determined in the Municipality's Tariff By-Law will be payable to any leaseholder who wishes to exit such lease prior to its expiry date.
- 9.10 No other advertisement may be placed on such traffic island or garden except for temporary lamp pole advertisements. Offenders may be liable to a fine.
- 9.11 The Municipality may waive the mentioned tariff partly or in full should the applicant upgrade and develop the area and maintains such garden/landscape at its own cost to the satisfaction of the Directorate of Integrated Environmental Management.

## **10. PENALTIES**

Any person who contravenes any of the provisions of these By-Laws will be guilty of an offence and on conviction liable to a fine not exceeding R 20 000.00 (TWENTY THOUSAND RAND) or in default of payment, to imprisonment for a period not exceeding 6 (six) months or to such other sentence as a Court may deem appropriate. This fine is not applicable to the fine contemplated under 3.3.3 of this By-Law.

## **11. Recommended**

It is recommended to the Municipal Council:

- 1.1 That the By Law related to Urban Greening and Bio-Diversity Preservation be approved.
- 1.2 That the Directorate of Corporate Services facilitates the publication of the By-Law in the Government Gazette by April 2006
- 1.3 That the Directorate of Public Safety legalize the fine determination for contraventions of the By Law through the local Magistrate by May 2006
- 1.4 That the Directorate of Integrated Environmental Management implements the By-Law from June 2006.

.....  
**MUNICIPAL MANAGER**

.....  
**DATE**

**MS. I. MOKATE**

Recommended/ not recommended

.....  
**PORTFOLIO HEAD:**

.....  
**DATE**

**INTEGRATED ENVIRONMENTAL MANAGEMENT**

**CLLR: B. MANELI**

Recommendation approved/ not approved due to the following reasons:

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

.....  
**THE EXECUTIVE MAYOR:**

.....  
**DATE**

**ADV. L. MOKGATLE**

**APPROVED/ NOT APPROVED**

## **ANNEXURE A**

### **FEE STRUCTURE FOR THE URBAN GREENING BY-LAW**



The following fees will be payable for the submission of Landscape Development Plans for approval:

SIZE OF PROPERTY DEVELOPMENT	FEE PAYABLE ON SUBMISSION
2000m <sup>2</sup> to 10,000m <sup>2</sup>	R500
10,001m <sup>2</sup> to 5Ha	R1000
50,001m <sup>2</sup> to 10Ha	R1500
Larger than 10Ha	R2000

The following fees are payable with respect to section 3.3.3 of the Urban Greening By-Laws:

- R18.00 per cm of wood up to a stem diameter of 20cm
- R40.00 per cm of wood up to a stem diameter of 21-30cm
- R90.00 per cm of wood up to a stem diameter of 31-50cm
- R200.00 per cm of wood above a stem diameter of 51cm

The following fees are payable for the lease of advertising space in public traffic islands and gardens:

Number of advertising locations	Price per location
One to five locations leased	R1500 per location per month
Five to fifteen locations leased	R1250 per location per month
More than fifteen locations leased	R1000 per location per month

A lease cancellation penalty of R100 per location per month prior to lease expiry date will be payable if an advertising location leaseholder wishes to exit this lease agreement with the Municipality.

**LOCAL AUTHORITY NOTICE 63****MOGALE CITY LOCAL MUNICIPALITY:****CEMETERY BY-LAWS**

**THE MOGALE CITY LOCAL MUNICIPALITY HEREBY, IN TERMS OF SECTION 13 OF THE LOCAL GOVERNMENT; MUNICIPAL SYSTEMS ACT 32 OF 2000 AND SECTION 84(1)(p) OF LOCAL GOVERNMENT : MUNICIPAL STRUCTURES ACT, 117 OF 1998, PUBLISHES THE BY-LAWS SET FORTH HEREINAFTER, WHICH HAVE BEEN APPROVED BY THE COUNCIL IN TERMS OF SECTION 11 AND 12 OF THE SAID ACT:**

**CHAPTER 1****GENERAL****Section 1: Definitions****1. In these by-laws, unless inconsistent with the context:**

“Adult” means any deceased person over the age of 12 years whose coffin will fit into the grave opening prescribed for adults in terms of section 18;

“Artisan” means any person qualified to do any work as contemplated in this by-law;

“Assistant Cemetery Manager” means the official employed by the Municipality in the capacity as Assistant Cemetery Manager or any other person authorized to act in that capacity. The Deputy Director may in the absence of the Assistant Cemetery Manager delegate the duties and functions of the Assistant Cemetery Manager to any person deemed fit to act in such position;

“Cemetery” means any portion of land set apart by the Municipality for the purpose of a public cemetery; or any private land for which a license has been granted by the Municipality to the owner/s for the operation of a private cemetery.

“Child” means any deceased person of the age of 12 years and under, whose coffin will fit into the grave opening prescribed for children in terms of section 18;

“Undertaker” means the person who-

- 1.1.1 Has registered as undertaker and paid for the charges as determined by the Municipality in a general tariff by-law; and
- 1.1.2 Has obtained any rights or interest as set out in these by-laws; and
- 1.1.3 Has obtained the right to have any memorial work erected or constructed;

“Council” means the Mogale City Local Municipality as defined in the Local Government: Municipal Systems Act (Act 32 of 2000);

“Deputy Director” means the Deputy Director of Parks Management who is responsible for parks and cemeteries.

“Director” means Director Integrated Environmental Management being the official employed by the Municipality in that capacity or any other person authorized to act in that capacity;

“Grave” means any piece of ground laid out for a single grave within any cemetery in respect of which the exclusive right to use it for the purpose of burying a human body, has been purchased;

“Medical Official” means a medical officer of health appointed in terms of section 22 (1) of the Health Act and includes an environmental health practitioner/officer;

“Memorial work” means any tombstone, railing, fence, monument, memorial inscription or other work, which may be or has been erected on any grave;

“Municipal area” means the geographic area or area of jurisdiction of the Mogale City Local Municipality;

“Non-resident” means any person who is not or does not qualify as a resident in terms of the Municipality’s Policy on the Provision and Preservation of Burial Space;

“Plot” means any piece of ground laid out for one or more graves and in respect of which the right to bury, has been obtained or reserved in terms of these or any previous by-laws;

“Registrar of Deaths” means any person appointed by the Government to register the death of a person;

“Resident” means any person who, at the time of death, ordinarily resided within the municipal area or any person who, at the time of death, must have been the owner of fixed property within the municipal area for a period of at least six months prior to death and as further contemplated in the Municipality’s Policy on the Provision and Preservation of Burial Space;

“Single Standard Grave” means a grave for the burial of a single coffin;

“Single Deep Grave” means a grave deep enough for the burial of two coffins.

*The male gender will include the female gender and vice versa and singular will include the plural and vice versa.*

## **Section 2: Establishment of Cemeteries**

- 2.1 The Council shall, from time to time and as it deems fit, apply for permission to establish a cemetery and no person may bury or cause anybody to be buried in any place other than a cemetery.
- 2.2 The Council may authorise any person to apply in terms of the relevant legislation for the environmental authorisation of the establishment of a cemetery and, after considering the environmental processes performed in compliance with the legislation, issue a license for the establishment of a private cemetery subject to the provisions of the Policy on the Provision and Preservation of Burial Space.

### **Section 3: Reservation of Cemeteries or part thereof for religious purposes**

- 3.1 The Council may reserve any cemetery or part thereof for the burial of persons of a particular religious group subject to the following:
- 3.1.1 Provided that no particular group is disadvantaged or discriminated against during such reservation, but limited to the requirements for association with such religious group.
  - 3.1.2 Provided that there is sufficient burial space available for such allocation
  - 3.1.3 In the case of a dispute between an individual and a religious organization about burial rights in such reserved cemetery, the Deputy Director will have authority to resolve such dispute at his own discretion.
  - 3.1.4 The allocation of reserved space will only apply to religious groups including Hinduism, Islam and Judaism who have special burial requirements.
  - 3.1.5 No provision will be made in any cemetery for the separation of any group other than for those provided for under section 3.1.4. An applicant will have the right to be buried or allow a person to be buried in any section in any cemetery provided that the necessary fees applicable to that section or cemetery has been paid and subject to the provisions of this By-Law.

### **Section 4: Disposal of a Body**

4. No person may dispose of a body in any other manner than by burying it in a cemetery or having it cremated in an approved crematorium in terms of the provisions of the Crematorium Ordinance, 1965, as amended or any other Act, Ordinance or By-laws which regulates the cremation of a body.

### **Section 5: Permission to Bury**

- 5.1 No person may bury or cause any body to be buried within any cemetery without the permission of the Assistant Cemetery Manager.
- 5.2 The permission referred to in section 4 may only be granted on submission of a written order signed by the Registrar of Deaths, authorizing burial, together with notice of such burial.

### **Section 6: Free Burial**

6. The Municipality may, at the request of a magistrate, bury a body in such grave as it may deem fit and in such manner as is the Municipality's responsibility in terms of these by-laws or in terms of any other law.

### **Section 7: Hours of Admission for Visitors**

- 7.1 Every cemetery must be open to the public daily from **07:00 to 16:00**: Provided that the Municipality have the power to close any cemetery or part thereof to the public for such period as it may deem fit, if it is in the discretion of the Municipality and in the interest of the public to do so.
- 7.2 No person may be or remain in any cemetery or part thereof before 07:00 or after 16:00 or during any period when it is closed to the public.
- 7.3 The Municipality may announce the closing time of a cemetery with a siren.

7.4 Burials administered by the Islam faith may take place after these hours provided that it is organized by or through the relevant association.

### **Section 8: Children**

8. No person under 12 years of age may enter any cemetery unless such person is under the supervision of a person of 18 years or older.

### **Section 9: Keeping of Paths**

9. Except where otherwise stated, any person entering the cemetery must use the entrance and exit roads, the designated paths and designated parking areas provided in the cemetery.

### **Section 10: Entrance and Exit from Cemeteries**

10. No person may enter or leave any cemetery except through the gates provided for that purpose and no person may enter any office, enclosure or nursery in a cemetery, except for official purposes.

### **Section 11: Distribution of Tracts or Advertisements**

- 11.1 Subject to the provisions of section 11.2, no person may conduct any business, order or exhibit, distribute or leave any tract, business card or advertisement within any cemetery, or use any cemetery road, walk or concrete path for the conveyance of any goods, parcels or other material, except such as are intended for use in such cemetery.
- 11.2 The Municipality may allocate areas in the cemetery where advertising is permitted, subject to the specifications of the Deputy Director and the payment of fees for placement of such advertisements.

### **Section 12: Prohibited behavior within Cemeteries**

12. No person may:
  - 12.1.1 commit any nuisance within any cemetery;
  - 12.1.2 ride any animal, cycle or quad bike within any cemetery;
  - 12.1.3 bring or allow any pet, fowl, bird or other animal to wander inside any cemetery. Any such pet, fowl, bird or animal found in any cemetery, may be destroyed or confiscated by the Municipality without paying any compensation to the owner thereof;
  - 12.1.4 plant, cut, pick or remove any plant, shrub or flower without the permission of the Assistant Cemetery Manager;
  - 12.1.5 hold or take part in any demonstration in any cemetery;
  - 12.1.6 interrupt any official, workman or labourer employed by the Municipality during the performance of his duties;
  - 12.1.7 obstruct, resist or oppose the Assistant Cemetery Manager in the course of his duties or refuse to comply with any order or request which the Assistant Cemetery Manager is entitled to in terms of these by-laws, to give or make;
  - 12.1.8 use or cause any cemetery to be used for any immoral or indecent purpose;

- 12.1.9 practice any sorcery, witch-craft or Satanism or any other occult related activities or attend any rituals related thereto, within or in the immediate vicinity of a cemetery;
- 12.1.10 damage or deface any wall, building, fence gate, memorial work or other erection within the cemetery or stand or climb upon or over any memorial work, gate, wall, fence or building in any cemetery;

### **Section 13: Complaints and Notices**

- 13.1 Any complaint should be in writing and addressed to the Deputy Director.
- 13.2 Any written consent, notice or other order issued by the Municipality in terms of these by-laws, must be signed by the Director or his delegate and is prima facie evidence thereof.

### **Section 14: Charges**

- 14. The Municipality may, from time to time and as it deems fit, levy any charges in respect of the cemeteries and such charges must be payable to the Municipality in advance.

### **Section 15: Rights to Ground Within Cemeteries**

- 15. No person may acquire any right 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, as right offered by the Municipality through a Public Private Partnership as defined in the Municipal Finance Management Act no 56 of 2003.

## **CHAPTER 2**

## **BURIALS**

### **Section 16: Application for and Purchase of the Use of a Grave**

- 16.1 Any person desiring to have a body buried in a grave must make a written application on a form as required by the Municipality, subject to the provisions of sub sections 16.2 and 16.3
- 16.2 The application referred to in sub section 16.1, must be submitted to the Assistant Cemetery Manager, as follows:
  - 16.2.1 during weekdays: - at least *one day* before burial;
  - 16.2.2 during weekends: - not later than *12:00 the Thursday* preceding the burial;
  - 16.2.3 burial arrangements may only be made with the Assistant Cemetery Manager between *08:00 and 14:00*
- 16.3 The application referred to in sub section 16.1 must be signed by the undertaker; provided that if the Assistant Cemetery Manager is satisfied that the signature of the undertaker cannot be obtained in time, he may, in his discretion, approve an application signed by any other interested person.
- 16.4 This application must be submitted 9 working hours before the burial, failing to which the Municipality may refuse the application. Applications for enlargement of a grave must also be submitted at least 9 working hours before the burials.



- 16.5 Notice of cancellation or postponement of a burial must be given at least 4 (four) hours before the burial, failing to which the applicant must pay an additional fee of fifty percent (50%) of the prescribed fee.
- 16.6 The Municipality may on payment of the applicable amount by the undertaker or the responsible person, approve the application and sell the use of any grave in a section of the cemetery.
- 16.7 Burials may only be executed under the direct charge of a registered undertaker and no private burials will be permitted.
- 16.8 The Assistant Cemetery Manager must keep a burial register in which the following is recorded in respect of each burial, where applicable;
  - 16.8.1 the section and grave number of the cemetery where the burial took place;
  - 16.8.2 the reference number of the burial order;
  - 16.8.3 The following information relating to the deceased;
    - a. Surname and Christian or given names;
    - b. Identity number;
    - c. Last known residential address;
    - d. Dates of birth and death;
  - 16.8.4 the date of burial or date of cremation;
  - 16.8.5 in the case of re-burials – the name of the cemetery exhumed;
  - 16.8.6 the date of exhumation;
  - 16.8.7 the account or receipt or reference number and amount;
  - 16.8.8 the name of the undertaker;
  - 16.8.9 the provider of a memorial and the date erected;
  - 16.8.10 the date of entry of data;
  - 16.8.11 any note related to the grave or memorial;

#### **Section 17: Alteration of Particulars of Burial**

- 17. Should the time and/or date previously determined for a burial change, notice of such alteration must be given to the Assistant Cemetery Manager at the cemetery at least one hour before the altered time for such burial.

#### **Section 18: Dimensions of Grave Apertures**

- 18.1 The fixed measurements of the grave apertures must be as follows:
  - 18.1.1 For the body of an adult:
    - Length: 2250 mm;
    - Breadth at shoulders: 750 mm;
    - Breadth at head: 600 mm;
    - Breadth at the feet: 450 mm.
  - 18.1.2 For the body of a child:
    - Length: 1350 mm;
    - Breadth at shoulders, head and feet: 535 mm.
- 18.2 Any person, requiring an aperture of dimensions in excess of that provided for in terms of sub section 18.1, must together with the notice of burial, give the measurements of the coffin, including fittings and pay the subsequent fees as determined for grave enlargements.

#### **Section 19: Purchase of Graves**

- 19.1 The Municipality may, at its discretion, sell to any person the use of any piece of ground for burial purposes in the cemetery as a single grave.



- 19.2 Any person desiring to purchase the use of any such grave or plot must make application to the Assistant Cemetery Manager, who may allot such grave, but subject to the provisions of these by-laws.
- 19.3 The Municipality will no longer permit the reservation of burial space due to the shortage of burial space. Only reservation of mausoleum graves will be considered.

#### **Section 20: Consent of the Assistant Cemetery Manager to Transfer**

- 20. No person may, without the written consent of the Assistant Cemetery Manager, sell or transfer to any other person any right relating to a grave, which he has obtained or may obtain in terms of these by-laws.

#### **Section 21: Covering of casks**

- 21. There must be at least one meter of earth between a coffin and the surface of the ground.

#### **Section 22: Disturbance of Human Remains**

- 22. Subject to the provisions of an exhumation order given in terms of any Act relating to the exhumation of bodies, no person may disturb any mortal remains or any ground surrounding it in any cemetery, without the permission of the Municipality.

### **CHAPTER 3**

### **FUNERALS**

#### **Section 23: Religious Ceremonies**

- 23.1 The members of any religious denomination may conduct religious ceremonies in connection with any burial or memorial service, subject to the control and by-laws of the Municipality.
- 23.2 Provision may be made for the burial requirements or procedures of different cultures or sections of the public but subject to the contents of these by-laws and the approval of the Deputy Director.

#### **Section 24: Exposure of Bodies**

- 24.1 No person may transport a body in an unseemly manner or expose such body or any part thereof in any street, cemetery or public place.
- 24.2 Any body being transported must be transported in a body bag or coffin in a vehicle or trailer approved by the medical official and such vehicle or trailer must be sealed in such a manner that no body fluids can escape.
- 24.3 No person may remove any coffin lid or slide in the cemetery.

#### **Section 25: Instructions of Assistant Cemetery Manager**

- 25.1 Every person taking part in any funeral procession or ceremony in a cemetery, must follow properly in file and must park his vehicle in such a place as indicated by the Assistant Cemetery Manager.
- 25.2 Should any undertaker, artisan or workman fail to execute any work in the cemetery to the satisfaction of the Assistant Cemetery Manager and fail to

correct any such work after a written notice by the Assistant Cemetery Manager, the Assistant Cemetery Manager will inform the Deputy Director who may at his discretion prohibit such undertaker, artisan or workman to enter the cemetery for the purpose of executing any work until such work has been rectified to the satisfaction of the Assistant Cemetery Manager.

#### **Section 26: Music**

26. No music may be made in any cemetery, except where it forms part of the burial or cremation ceremony.

#### **Section 27: Hours of Burial**

27.1 Subject to the Assistant Cemetery Manager's discretion not to allow a burial on a certain day, burials may be held on any day of the week, weekends and public holidays included.

27.2 Burials may only be held between 07:30 and 14:00, provided that the Assistant Cemetery Manager may, in exceptional circumstances, and in his discretion, approve burials before or after the specified times. Burials from the Muslim and Hindu community are excluded from this time rule.

#### **Section 28: Numbers of Graves**

28. No person may fix a peg on any grave not properly allocated in terms of these by-laws and no person may bury a body in any grave, which has not been indicated by the Assistant Cemetery Manager.

### **CHAPTER 4**

### **EXHUMATION OF BODIES AND RE-OPENING OF GRAVES**

#### **Section 29: Exhumations**

29.1 Subject to the provisions of any Act relating to the removal of gravestones and/or dead bodies, no grave may be opened without the written consent of the Municipality.

29.2 Subject to the provisions of section 21 or any other Act, no person may exhume or cause any body to be exhumed or removed without the written consent of the Medical Official.

29.3 The consent referred to in sub section 28.2 must be submitted to the Assistant Cemetery Manager at least two days before the date fixed for the exhumation or removal of such body.

#### **Section 30: Time of Exhumation**

30. No person may exhume or cause a body to be exhumed during such time, as the cemetery is open to the public.

#### **Section 31: Screening of Activities**

31. The grave from which any body is to be removed must be effectively screened from view during the exhumation.

#### **Section 32: Medical Official to be Present**

32. No exhumation or removal by any person may take place unless the Medical Official is present.

## **CHAPTER 5**

### **CARE OF GRAVES**

#### **Section 33: Shrubs, Flowers and Gardening**

- 33.1 Any person may, with the permission of the Assistant Cemetery Manager, plant a shrub, perennial or annual upon any grave: Provided that no shrub, plant or flower may be cut or removed by any person without giving notice or making any payment of compensation to anybody.
- 33.2 Unless otherwise provided in these by-laws, the Municipality is responsible for keeping its public cemeteries in a neat and tidy condition.
- 33.3 Any person may garden on a grave subject to the directions and control of the Assistant Cemetery Manager and provided that:
- 33.3.1 no trees or large shrubs may be planted on the graves;
  - 33.3.2 the graves must be left in a neat and tidy condition;
  - 33.3.3 the Assistant Cemetery Manager may in his discretion, remove dead or living plants, as well as receptacles, that are unsightly;
  - 33.3.4 the boundaries of other graves must not be encroached upon;
  - 33.3.5 the height of the grave and plants thereon must not exceed 300 mm at any time;
- 33.4 The holder of a grave is responsible to maintain the grave in question, but the Municipality will have the right to maintain any grave at its own costs.
- 33.5 In a berm or lawn section, no planting or mounding may be allowed.
- 33.6 Private contractors must apply for a work permit to enter any cemetery to maintain graves and will pay the relevant fees applicable to the issuing of such permit.
- 33.7 In a landscape section, no planting or mounding may be allowed, and only a standard grave marker with a standard concrete base will be allowed.

## **CHAPTER 6**

### **ERECTION AND MAINTENANCE OF MEMORIAL WORK**

#### **Section 34: Written Consent of Assistant Cemetery Manager**

34. No person may erect, alter, paint, clean, renovate, decorate, remove or otherwise interfere with any memorial work or cut any inscription thereon in any cemetery, without the written consent of the Assistant Cemetery Manager and the next of kin of the deceased.

#### **Section 35: Position of Memorial Work**

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

#### **Section 36: Repairs of Memorial Work**

- 36.1 The Assistant Cemetery Manager may in writing order the holder of any grave, should there be a holder, to make such repairs within a stated time that the Assistant Cemetery Manager, in his discretion, deems necessary.
- 36.2 Should there be no holder of a grave or a holder fails to do the necessary repairs the Assistant Cemetery Manager may make such repairs as he deems necessary and in the case of there being a holder then the holder will be responsible for the costs of the repairs effected by the Assistant Cemetery Manager.

#### **Section 37: Damaging of Memorial Works**

37. Subject to section 36 the Municipality is not responsible for any damage, which may at any time occur to any memorial work, and which is not due to the negligence of the Municipal employees.

#### **Section 38: Bringing Material into the Cemetery**

38. No person may bring into the cemetery any material for the purpose of construction therewith any memorial work on any grave unless and until:
- 38.1 a sketch with the essential dimensions of 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, have been submitted to the Assistant Cemetery Manager at least three days prior to the date on which such material is intended to be brought into the cemetery;
- 38.2 all charges due in respect of such grave or plot have been duly paid;
- 38.3 the Assistant Cemetery Manager's written approval of the proposed work has been given to at the applicant; and
- 38.4 the contractor is in possession of a valid permit to operate in the cemetery

#### **Section 39: Cleaning-up of Memorial Works by the Municipality**

- 39 Any memorial work placed, built, altered, decorated, painted, or otherwise dealt with in the cemetery in such manner that any provisions of these by-laws are contravened thereby, may be removed by the Assistant Cemetery Manager without giving notice.

#### **Section 40: Requirements for erection of Memorial Work**

- 40.1 Any person engaged upon or erecting any memorial work, must effect such work to the satisfaction of the Assistant Cemetery Manager and must comply with the following requirements:

- 40.1.1 where any part of any memorial work is to be joined to any other part, iron dowels of approved thickness and of sufficient length must be used for such purpose. The holes into which the dowels fit should be at least 50 mm deep. (95 mm dowels);
- 40.1.2 any part of such work, which rests upon the ground or any stone or other foundation, must be fairly squared and bedded;
- 40.1.3 no stones of uneven thickness, or having any corner wanting may be used unless shown on the sketch submitted in terms of section 36.1;
- 40.1.4 the base of all memorial work must be set at least 50 mm below the natural level of the ground;
- 40.1.5 no curbstones may be used which protrude more than 225 mm above the surface of the ground or are more than 200 mm thick;
- 40.1.6 all head and curbstones must be properly secured from the inside with iron pins;
- 40.1.7 all headstones up to 150 mm in thickness must be securely attached to the base in an approved manner;
- 40.1.8 all memorial work must be completed as far as possible before it is brought into the cemetery;
- 40.1.9 in the case of single graves, foot curbs must consist of one solid piece;
- 40.1.10 any memorial work must be constructed or made of marble, granite or any other material approved by the SABS and the Assistant Cemetery Manager;
- 40.1.11 no person may do any stonework, chiseling or other work upon any memorial work not connected with the fixing of such work except where such work is expressly permitted by these by-laws;
- 40.1.12 all memorial work must have an adequate concrete foundation traversing the head of the grave and where joints occur in the curbstone, all joints must be filled with good cement mortar;
- 40.1.13 where memorial work has a base on ground level such base must be at least 900 mm wide by 250 mm by 250 mm;
- 40.1.14 with the consent of the Assistant Cemetery Manager, the name of the maker may be affixed to any memorial work, provided that no address or other particulars may be added thereto;
- 40.1.15 a memorial tablet to be erected on a grave 600 mm by 600 mm in extent, containing ashes of a cremated body, must consist of one solid piece of marble or granite or any other material approved by the SABS and Assistant Cemetery Manager, measuring 450 mm by 150 mm laid on a concrete foundation at least 100 mm deep.

#### **Section 41: Inferior memorial work**

- 41 The Council may prohibit the erection of a memorial work or may remove erected memorial work which is –
- (a) of inferior workmanship or quality;
  - (b) is indecent, offensive or objectionable; or
  - (c) in contravention of these by-laws, without compensating the owner.

#### **Section 42: Inscription on memorial work**

- 42.1 Any memorial work must display the number assigned to the grave by the officer-in-charge, in permanent and visible markings –

- 42.1.1 on the side of the base of the memorial work; and
- 42.1.2 on the upper surface, in the lower left hand corner, of a tablet erected on a grave in a landscape section.

- 42.2 The name of the maker, designer or erector of the memorial work may appear on the work and must be placed at the base of the memorial work.

#### **Section 43: Conveying of Memorial Works**

- 43 No person may convey any stone, brick or memorial work or any portion thereof within any cemetery upon any vehicle or truck which is not drawn or pushed and furnished with wheels having pneumatic tyres, and of a kind which, in the opinion of the Municipality, is not likely to damage the paths or grounds of the cemetery, provided that no such vehicle may be drawn or pushed along any path which in the opinion of the Municipality is too narrow or otherwise unsuitable for such vehicle.

#### **Section 44: Vehicles and Tools**

- 44 Every person engaged in any work upon any grave or plot, must provide such vehicles, tools and other appliances as may be required by him, provided that no such vehicles, tools or appliances may be of such a kind as to contravene these by-laws.

#### **Section 45: Complying with Municipality's Directions**

- 45 Every person carrying out any work within any cemetery must in all aspects comply with the directions of the Assistant Cemetery Manager.

#### **Section 46: Prohibitions**

- 46.1 No person may at any time leave rubbish, soil, stone or other debris within any cemetery or in any way damage or deface any part of any cemetery or anything contained therein.
- 46.2 No person may bring memorial work or material into the cemetery or do any work within the cemetery other than the dismantling of memorial work for burial purposes, except during normal working days at 07:00 to 16:00 on Mondays to Fridays.
- 46.3 No person may fix or place any memorial work during inclement weather or while the soil is, in the opinion of the Assistant Cemetery Manager, in an unsuitable condition.



**Section 47: General**

- 47.1 Any person charged with work or on his way to or from work within the cemetery, must, when requested to do so, produce the written permit, which has been issued to him in terms of these by-laws, to do such work.
- 47.2 No person may employ any person other than an artisan for the erection of any memorial work in any cemetery: Provided that the Deputy Director may issue temporary written permission for a period not exceeding twelve months, to any person who is not an artisan if he is satisfied that such person is capable of executing the work to the Assistant Cemetery Manager's satisfaction: Provided further that such written permission may at any time be withdrawn by the Deputy Director for whatever reason.
- 47.3 No person may commence the erection of any work in any cemetery unless he submits immediately before the commencement of the work to the Assistant Cemetery Manager, a permit to perform such work.
- 47.4 The Assistant Cemetery Manager may summarily stop the carrying out of any particular memorial:
  - 47.5 until the proof required in terms of section 46.3, is produced to him; or
  - 47.6 whenever he reasonably suspects that the provisions of the by-laws are not being adhered to.

**CHAPTER 7****Section 48: Monumental Section**

- 48. The Assistant Cemetery Manager may set apart in every cemetery, a section that will be known as the Monumental Section and to which the following apply:
  - 48.1 Subject to the provision of sub section 47.3, no person may, erect, place or leave upon or around any grave any railing, wirework, flower stand or other object of any kind without the consent of the Assistant Cemetery Manager. Frames may only be erected once the Assistant Cemetery Manager has approved the design and dimension thereof. The applicant may erect a frame with the understanding that he will be responsible for maintenance inside the frame. Such frame or material may be removed by the municipality and sold without giving notice if the structure and grave is not maintained to a satisfactory condition or if the frame or material is beyond reasonable standard, dangerous or unsightly in the Assistant Cemetery Manager's opinion.
  - 48.2 Subject to the provisions of sub section 47.3, no person may without the consent of the Assistant Cemetery Manager, place or leave on a grave any object in the nature of an ornament or embellishment.
  - 48.3 Flowers, whether natural or artificial, and whether loose or in vases or wreathes, may be place or left on a grave at any time.
  - 48.4 No curbstone may be laid in such a manner that it will be more than 230 mm above the surface of the ground or more than 205 mm deep.
  - 48.5 All curbstone must be properly dowelled and must be fixed in such a manner as to permit their easy removal, without danger of damaging the headstones or other memorial work on the grave.

**Section 49: Berm Section**



49. A section which has not been set aside in terms of section 48 will be known as the Berm Section and any memorial stone erected in this section, must not exceed 1038 mm in height and no kerbing or frames will be allowed. The headstones will be mounted next to the concrete berm followed by lawn planted over the length of the grave. No kerbing, mounds or gardens are allowed on graves in the Berm Section.

#### **Section 50: Landscaped Section**

50. This Section makes provision for graves in a landscaped environment where graves are leveled and name plaques are embedded in the ground surface. There are therefore no tombstones, mounds or kerbing. This Section is typically laid out with gardens, trees, pathways and landscape ornaments with graves placed within the design. The specifications for the landscaped Section will be as follows:

- 50.1 The plaques, which are placed at the head of the grave, will be no more than 600 mm (W) x 1000 mm (L) in size.
- 50.2 Plaques may be constructed out of granite, marble, bronze, stainless steel or other hardwearing materials or a combination thereof as approved by the Assistant Cemetery Manager.
- 50.3 Plaques will be mounted on top of a 10 cm concrete foundation and concrete base.
- 50.4 No gardens may be made on top of graves except what is provided for by the Municipality.

#### **Section 51: Burials on farms**

51. No further burials will be permitted on farms where the municipality has established rural cemeteries for such purpose. Existing farm cemeteries will be deemed as closed as from 1 January 2006 and all burial needs emanating from such farmlands will be directed to the public cemeteries that will be allocated by the Municipality.

#### **Section 52: Registration of undertakers**

- 52.1 In order to encourage cooperation between the Municipality and undertakers, all undertakers that operate within Mogale City will be required to register with the Municipality. The undertaker has a role and responsibility to ensure that information supplied on applications is true and verified. The undertaker registration must be renewed annually during June.
- 52.2 A registration fee is payable and valid for a twelve-month cycle, and amended annually with cemetery fees. The registration fee will be payable for each branch and franchisee of an undertaker organization wishing to operate within any municipal cemetery.
- 52.3 The municipality will issue a permit subject to the following conditions:
  - 52.3.1 A valid Certificate of Competence from the regulation 6 of the regulations relating to funeral undertakers premises published in Government Notice R237 dated 6 February 1985 (Government Gazette 9582)
  - 52.3.2 A clearance is received from the Municipality's Health Section stating that all health regulations are adhered to.
  - 52.3.3 The undertaker signs a memorandum of understanding with the municipality.

52.3.4 The registration fee is paid in full.

52.4 The Director of Integrated Environmental Management and the Deputy Director of Parks Management will have the delegated powers to authorize such permit.

52.5 As part of the memorandum of understanding, the undertaker will agree to adhere to all cemetery by-laws, policies and fee structures and to ensure that all information supplied is accurate and true. If any breach of this agreement is encountered on the side of the undertaker, such undertaker may be deregistered and suspended from any further burials in Mogale City and may also be fined in terms of section 53.

#### **Section 53: Penalties**

53 Any person contravening or failing to comply with any provisions of these by-laws and any person failing to comply with the conditions of any notice served on him by the Municipality in terms of these by-laws, is guilty of an offence and liable, on conviction, to a maximum fine of R 10 000.00 or a maximum of six months imprisonment or as otherwise determine by a Court of Law.

#### **Section 54: Repealing of previous By-Laws**

54 This By-Law replaces all previous By-Laws, Notices and Resolutions related to cemeteries under the Mogale City Local Municipality jurisdiction. The Cemetery By-Laws implemented under the dissolved Krugersdorp Transitional Local Council and adopted by Council on 4 July 1995 is therefore repealed.

**Recommended**

It is recommended to the Municipal Council:

- 1.1 That the By Law related to Cemeteries be approved.
- 1.2 That the Directorate of Corporate Services facilitates the publication of the By-Law in the Government Gazette by April 2006
- 1.3 That the Directorate of Public Safety legalize the fine determination for contraventions of the By Law through the local Magistrate by May 2006
- 1.4 That the Directorate of Integrated Environmental Management implements the By-Law from June 2006.

.....  
**MUNICIPAL MANAGER**  
**MS. I. MOKATE**  
 Recommended/ not recommended

.....  
**DATE**

.....  
**PORTFOLIO HEAD:**  
**INTEGRATED ENVIRONMENTAL MANAGEMENT**  
**CLLR: B. MANELI**

.....  
**DATE**

Recommendation approved/ not approved due to the following reasons:

.....  
 .....  
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**THE EXECUTIVE MAYOR:**  
**ADV. L. MOKGATLE**  
**APPROVED/ NOT APPROVED**

.....  
**DATE**

**LOCAL AUTHORITY NOTICE 64****MOGALE CITY LOCAL MUNICIPALITY:  
BY LAWS RELATING TO CREMATORIA AND CREMATIONS**

The Municipal Council hereby, in terms of Section 13 of the Local Government: Municipal Systems Act 32 of 2000 and Section 84(1)(p) of Local Government: Municipal Structures Act, 117 of 1998 publishes the By-Laws set forth hereinafter, which have been approved by the Council in terms of Sections 11 and 12 of the said Act.

These By-Laws are divided into sections relating to the following matters respectively:

- SECTION 1 DEFINITIONS
- SECTION 2 ESTABLISHMENT OF A CREMATORIUM
- SECTION 3 ADVERTISEMENT OF INTENTION TO ESTABLISH A  
CREMATORIUM
- SECTION 4 POWER OF COUNCIL IN RELATION TO APPLICATION IN  
TERMS OF SECTION 2
- SECTION 5 REGISTRATION OF A CREMATORIUM
- SECTION 6 REGISTRATION OF AN EXISTING CREMATORIUM
- SECTION 7 ADVERTISEMENT OF INTENTION TO CONTINUE WITH  
CREMATIONS
- SECTION 8 POWER OF ADMINISTRATOR IN RELATION TO APPLICATION  
IN TERMS OF SECTION 6
- SECTION 9 APPOINTMENT OF MEDICAL REFEREE
- SECTION 10 APPLICATION FOR AUTHORITY TO CREMATE
- SECTION 11 ADDITIONAL DOCUMENTS REQUIRED
- SECTION 12 CONFIRMATORY MEDICAL CERTIFICATE
- SECTION 13 WRITTEN AUTHORITY TO CREMATE
- SECTION 14 PROVISIONS RELATING TO COFFIN, ADMISSION TO  
FURNACE CHAMBER AND PERFORMANCE OF A CREMATION
- SECTION 15 WHEN CREMATIONS MUST NOT BE AUTHORISED
- SECTION 16 PERSONS DYING OUTSIDE THE JURISDICTIONAL AREA OF  
THE COUNCIL
- SECTION 17 CREMATION MORE THAN ONE YEAR AFTER BURIAL
- SECTION 18 STILLBORN CHILD
- SECTION 19 BODY DELIVERED TO SCHOOL OF ANATOMY

SECTION 20 DISPOSAL OF ASHES

SECTION 21 APPOINTMENT OF REGISTRAR AND KEEPING OF REGISTER

SECTION 22 PRESERVATION OF DOCUMENT

SECTION 23 MAINTANANCE OF CREMATORIUM AND STAFF

SECTION 24 POWERS AND DUTIES OF AN INSPECTOR

SECTION 25 DUTY OF PROPRIETOR REGARDING INSPECTION

SECTION 26 OFFENCES AND PENALTIES

## **SECTION 1 DEFINITIONS**

1. In these by-laws, unless the context otherwise indicates:

- (i) "Council" means the Mogale City Local Municipality which is a Municipal Council as defined in the Local Government Municipal Structures Act, 2000 (Act No. 32 of 2000).
- (ii) "medical officer of health" means a person appointed as such under Section 22 or 25 of the Health Act, 1977 (Act No. 63 of 1977) and includes a person appointed under Section 22(4)(b) of the said Act, to act as medical officer of health
- (iii) "medical practitioner" means a person registered as such under the medical, Dental and Supplementary Health Service Professions Act, 1974, (Act No.56 of 1974)
- (iv) "medical referee" means a medical referee or deputy medical referee appointed in terms of section 9.
- (v) "ordinance" means the Crematorium Ordinance, 1965 (Ordinance No. 18 of 1965);

and any other word or expression to which a meaning has been assigned in the Ordinance must, when used in these by-laws, bear that meaning.

**SECTION 2 ESTABLISHMENT OF A CREMATORIUM**

2. Application for authority to establish and maintain a crematorium and to regulate and control the use thereof in terms of Section 2(1) of the Ordinance, and for approval of the site, plans and specifications of such crematorium in terms of Section 3(1) of the Ordinance, must be made simultaneously by the applicant, in writing, addressed to the Council and must be accompanied:
- (a) by the full name and address of the proprietor of the proposed crematorium;
  - (b) by a plan of the locality drawn to a scale of not less than 1:200, showing the exact position of the site of the proposed crematorium in relation to the boundaries of the land upon which it is proposed to establish it and indicating all public roads, streets, thorough fares and public places and all privately owned land situated within a distance of 500m of the aforesaid site;
  - (c) by detailed plans and specifications of the proposed crematorium, together with complete information as to the equipment and appliances to be used in connection with such crematorium and the methods to be employed in the performance of cremations
  - (d) by the consent, in writing, to the establishment of such crematorium, given by every owner and occupier of land situated within a distance of 180m of the site of the proposed crematorium, unless:
    - (i) the proposed crematorium is to be established in a public cemetery under the management and control of the proprietor of such crematorium; or

- (ii) authority is obtained from the Council to dispense with the consent of one or more or all of such owners and occupiers; and
- (e) by proof of the nature of the title under which the land, upon which the proposed crematorium is to be established, is held and whether such land is subject to any mortgage or other encumbrance.

### **SECTION 3 ADVERTISEMENT OF INTENTION TO ESTABLISH A CREMATORIUM**

- 3. (1) Upon receipt of the application in terms of section 2, the Council may, if it deems it expedient to do so, require the applicant to advertise in a newspaper, at his own cost, in such form as may be approved by the Council and at such times as the Council may determine, his intention to establish a crematorium on the site concerned
- (2) Such advertisement must state that any objection or representations on the part of a person having a direct interest in the establishment of a crematorium upon the site concerned must be submitted, in writing, to the Council within a period of 30 days from the date on which the advertisement appeared for the first time.

### **SECTION 4 POWER OF COUNCIL IN RELATION TO APPLICATION IN TERMS OF SECTION 2**

- 4. If after consideration of the application in terms of section 2, and any objection which may have been lodged, the Council is satisfied that the establishment and use of the proposed crematorium will not be likely to interfere with any public amenity or give rise to any nuisance or endanger the public health, it may grant the authority mentioned in Section 2(1) of the Ordinance and it may approve the site plans and specifications in terms of Section 3(1) of the Ordinance,



whereafter the establishment of the crematorium may be proceeded with in accordance with such plans and specifications.

#### **SECTION 5 REGISTRATION OF A CREMATORIUM**

5. After completion of a crematorium, the proprietor thereof must make application, in writing, addressed to the Council for a certificate of registration in respect of the crematorium as required in terms of Section 3(2) of the Ordinance.

#### **SECTION 6 REGISTRATION OF AN EXISTING CREMATORIUM**

- 6 Application for a certificate of registration in respect of an existing crematorium, as required in terms of Section 5(1) of the Ordinance, must be made by the proprietor thereof, in writing, addressed to the Council and must be accompanied:
- (a) by the full name and address of the proprietor of the crematorium concerned;
  - (b) by a plan of the locality drawn to a scale of not less than 1:200, showing the exact position of the crematorium in relation to the boundaries of the land upon which it is situated and indicating all public roads, streets, thorough fares and public places and all privately owned land situated within a distance of 180 m of such crematorium;
  - (c) by detailed plans and specifications of the crematorium, together with complete information as to the equipment and appliances used in connection with the crematorium and the methods employed in the performance of cremations; and
  - (d) by proof of the nature of the title under which the land, upon which the crematorium is situated, is held and whether such land is subject to any mortgage or other encumbrance.

## **SECTION 7 ADVERTISEMENT OF INTENTION TO CONTINUE WITH CREMATIONS**

7. (1) Upon receipt of an application in terms of Section 6, the Council may, if it deems it expedient to do so, require the applicant to advertise in a newspaper at his own cost, in such form as may be approved by the Council and at such times as the Council may determine, his intention to continue with the performance of cremations in the crematorium concerned.
- (2) Such advertisement must state that any objection or representations on the part of a person having a direct interest in the continued performance of cremations in the crematorium must be submitted, in writing, to the Council within a period of 30 days from the date on which the advertisement appeared for the first time.

## **SECTION 8 POWER OF ADMINISTRATOR IN RELATION TO APPLICATION IN TERMS OF SECTION 6**

8. If, after consideration of the application in terms of Section 6, and any objection which may have been lodged, the Council is satisfied that the continued performance of cremations in the crematorium concerned will not be likely to interfere with any public amenity or give rise to any nuisance or endanger the public health, it may authorise the continued performance of cremations in such crematorium in accordance with the plans and specifications approved by it and it may grant a certificate of registration of such crematorium in terms of Section 5(2) of the Ordinance.

## **SECTION 9 APPOINTMENT OF MEDICAL REFEREE**

9. (1) Subject to the provisions of subsection (3), the proprietor of every crematorium must appoint a medical referee and also not more than two deputy medical referees (to act in the absence of the medical referee or in any case in which the medical referee

has been the medical attendant of the deceased), who must be medical practitioners of not less than five years standing and he may remunerate them for their services.

- (2) If qualified as required in terms of subsection (1), a medical officer of health or an assistant medical officer of health or a regional director of state health services or an assistant regional director of state health services or a government pathologist or an assistant government pathologist or a district surgeon or an assistant district surgeon may be appointed as medical referee or deputy medical referee.
- (3) No appointment of a medical referee or deputy medical referee shall be made except with the prior approval of the Council.
- (4) Application for approval as required in terms of subsection (3), must be made by the proprietor of the crematorium concerned, in writing, addressed to the Council and the said proprietor must furnish the full name, residential address and qualifications of the medical practitioner whom he intends appointing as medical referee or deputy medical referee.

#### **SECTION 10 APPLICATION FOR AUTHORITY TO CREMATE**

10. (1) Application for authority to have a deceased person cremated must be made to the proprietor of the crematorium concerned in the form prescribed in Schedule A hereto, and the particulars stated therein must be confirmed by a sworn affidavit or a solemn declaration as provided therein.
- (2) Such application must be signed and the declaration must be made by the surviving spouse or by the nearest surviving relative of the deceased person: Provided that the application may be signed and the declaration may be made by some other person if a satisfactory reason be advanced why the application

is not made by the surviving spouse or by the nearest surviving relative.

## **SECTION 11 ADDITIONAL DOCUMENTS REQUIRED**

11. Every application made in terms of Section 10, must be accompanied:
  - (a) by a burial order issued in terms of the provisions of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992);
  - (b) by a certificate in the form prescribed in Schedule B hereto, given by a medical practitioner, if any, who attended the deceased during his last illness, saw and identified his body after death and who can certify as to the cause of death; and
  - (c) if a certificate has been given in terms of paragraph (b), by a confirmatory medical certificate in the form prescribed in Schedule C hereto, given after examining the body, by another medical practitioner who must possess the qualifications prescribed in Section 12; or
  - (d) in lieu of the certificates required in terms of paragraphs (b) and (c) by a certificate in the form prescribed in Schedule D hereto, given after a post-mortem examination of the body by a medical practitioner who is a specialist in pathology, or who is associated with a department of pathology of a university, or who is associated with a state institution where he is required to undertake post-mortems, or who is a district surgeon. The proprietor of the crematorium or a magistrate must designate such medical practitioner.

**SECTION 12 CONFIRMATORY MEDICAL CERTIFICATE**

12. The confirmatory medical certificate required in terms of Section 11(c) must be given by a medical practitioner of not less than five years standing who is neither, a relative of the deceased nor a relative, partner or assistant of the medical practitioner furnishing the certificate required in terms of Section 11(b).

**SECTION 13 WRITTEN AUTHORITY TO CREMATE**

13. No cremation may be performed, unless written authority has been granted to the proprietor of the crematorium concerned by the medical referee in the form prescribed in Schedule E hereto.

**SECTION 14 PROVISIONS RELATING TO COFFIN, ADMISSION TO FURNACE CHAMBER AND PERFORMANCE OF A CREMATION**

14. (1) No person may present human remains for cremation or perform a cremation unless the remains are closed in a coffin constructed in accordance with the provisions of subsection (2), or are covered in some other decent and sufficient covering, and such remains must be so enclosed or covered as to be totally obscured.
- (2) The coffin may be polished, may have the usual fittings and must conform to the following requirements:
- (a) It must not exceed 2,1 m in length, 82,5 cm in width and 50 cm in depth;
  - (b) It must be constructed of readily combustible wood;
  - (c) It must not contain any metal nails or screws or pitch or sawdust in any form;

- (d) the handles and nameplates thereof, if any, must, unless consisting of a readily combustible material, be so attached as to be easily removed;
  - (e) there must be no cross-pieces or projections of any kind under the base or bottom thereof and all wooden pegs on this part must be countersunk; and
  - (f) if necessary a zinc lining of not more than 26 standard gauge or 0,5 mm thick may be inserted therein, but no metal other than zinc may be used for this purpose.
- (3) The proprietor of a crematorium is entitled to refuse to proceed with a cremation if the coffin containing the remains or the covering mentioned in subsection (1) does not comply with the requirements of subsection (1) or (2).
- (4) (a) Nothing in this by-laws contained, may prevent the use of an outer coffin of any material to enclose an inner coffin complying with the requirements of subsections (1) and (2), or a covering complying with the requirements of subsection (1), if the consent, in writing, of the surviving spouse or nearest surviving relative of the deceased or other person responsible for the payment of the cremation expenses, and in the case of an infectious disease of the medical officer of health or a regional director of state health services to the use of such outer coffin is furnished to the proprietor of the crematorium, which consent must also state that such person knows that such outer coffin is not to be incinerated and agrees to it being returned to the supplier thereof or other person specified in the consent.

- (b) The supplier must remove such outer coffin from the crematorium thereof or by the person who applied for such cremation immediately after such cremation has been performed.
  - (c) The action that has been taken in regard to the outer coffin must be endorsed on the application for the cremation form required in terms of Section 10, by the registrar appointed in terms of Section 21, or by a senior official of the crematorium nominated by him.
- (5) Subject to the provisions of subsection (4), and the Public Health Act, 1977 (Act No. 63 of 1977), where applicable, no human remains may be removed from any coffin or covering and no coffin or covering containing such remains may be opened at the crematorium except if so required by the proprietor of the crematorium or an authorised official of the crematorium or an inspector or any police officer duly authorised thereto.
- (6) Subject to the provisions of any other law, no person other than an inspector or a police officer performing his lawful duties or the proprietor or an official of a crematorium, may be allowed in the furnace chamber of a crematorium at any time, unless the prior written permission of the proprietor or an authorised official of the crematorium has been obtained.
- (7) The said registrar or a responsible official of a crematorium must be present at the crematorium at all times during the performance of a cremation



## **SECTION 15 WHEN CREMATIONS MUST NOT BE AUTHORISED**

15. (1) The medical referee must not authorise the performance of any cremation:
  - (a) if the deceased left a written document indicating that his remains were not to be cremated; or
  - (b) if the remains in respect of which application for cremation is made, have not been identified; or
  - (c) if the burial order required in terms of Section 11(a), is not produced; or
  - (d) unless he has ascertained, after examination, that the application form for cremation and the certificates relating thereto conform to the requirements of Sections 10 and 11 respectively and that the enquiries made by the persons giving the certificate have been adequate, for which purpose he may himself make such enquiries with regard to the application and certificates as he may deem necessary; or
  - (e) unless he is satisfied that the application for cremation is made by the surviving spouse or the nearest surviving relative of the deceased or, if made by any other person, that a satisfactory reason is advanced why the application is not made by such spouse or relative and that the person making the application is a proper person to do so; or
  - (f) unless he is satisfied that the fact and cause of death have been definitely ascertained; or
  - (g) if he has reason to believe that the death of the deceased is due to violence or the result of or arising from some

other physical or chemical factor, with or without complications, or where an act of commission or omission on the part of the deceased or some other person has played a role or where the death comes within the scope of section 56 of the Health Professions Act, 1974 (Act No. 56 of 1974) unless the requirements of section 2 of the Inquests Act, 1959 (Act No. 58 of 1959), have been complied with and a certificate in terms of section 17 of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992) has been issued in respect of the particular case.

- (2) If the medical referee refuses to grant authority for a cremation, he may not unreasonably refuse to state his reasons for such refusal.

#### **SECTION 16 PERSONS DYING OUTSIDE THE JURISDICTIONAL AREA OF THE COUNCIL**

16. In the case of an application for authority to cremate a person who has died in any place outside the Municipal borders of the Council, the medical referee may accept a sworn affidavit or a solemn declaration containing the particulars in the form of application set out in Schedule A hereto, if it is made before any person having authority in that place to administer an oath or take such declaration, and he may accept certificates in the forms set out in Schedule B, C and D hereto if such certificates be signed by medical practitioner who are shown to his satisfaction to possess qualifications substantially equivalent to those prescribed for medical practitioner issuing such certificates in terms of Section 11.

## **SECTION 17 CREMATION MORE THAN ONE YEAR AFTER BURIAL**

17. Sections 10, 11, 12, 13, 15 and 16 may not apply to the cremation of a person who has already been buried for not less than one year and such cremation must only be performed with the prior approval of the Administrator and subject to such conditions as he may impose.

## **SECTION 18 STILLBORN CHILD**

18. Notwithstanding the provisions of Sections 11, 12, 15 and 16, the medical referee may authorise the cremation of a still-born child if it be certified to be still-born by a medical practitioner after examination of the enquiries as he may deem necessary, is satisfied that it was still-born and that there is no reason for further examination.

## **SECTION 19 BODY DELIVERED TO SCHOOL OF ANATOMY**

19. (1) Notwithstanding the provisions and regulations 10, 11, 12, 15 and 16, whenever it is desired to cremate a body delivered to an authorised school of anatomy, in terms of the Human Tissue Act, 1983 (Act No. 65 of 1983) application for cremation must be made in writing, by an inspector of anatomy, appointed in terms of the said Act, to the proprietor of the crematorium concerned.
- (2) Such application must be accompanied:
  - (a) by a burial order issued in terms of the provisions of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992);
  - (b) by a certificate issued by the inspector of anatomy authorising the cremation; and

- (c) by a statement by the inspector of anatomy containing the particulars mentioned in Section 7(2) of the Human Tissue Act, 1983 (Act No. 65 of 1983)
- (3) If the medical referee is satisfied that the requirements of subsections (1) and (2) have been complied with, he may authorise the performance of the cremation.

## **SECTION 20 DISPOSAL OF ASHES**

20. (1) After a cremation the ashes must be given into the charge of the person who applied for the cremation, if he so desires, and if not the ashes must be retained by the proprietor of the crematorium and, in the absence of any specific arrangement for burial or preservation thereof, it must be decently buried in a burial ground designated by the Council for such purposes.
- (2) If ashes left temporarily in the charge of the proprietor or an official of a crematorium at such crematorium, are not removed within a reasonable time, fourteen days' notice must be given to the person who applied for the cremation before such ashes are buried.

## **SECTION 21 APPOINTMENT OF REGISTRAR AND KEEPING OF REGISTER**

21. (1) The proprietor of every crematorium must appoint a registrar, who must keep a register containing the particulars prescribed in Schedule F hereto, of all cremations performed in the crematorium.
- (2) The registrar must make entries relating to each cremation immediately after the cremation has been performed, except the last three entries, which he must make as soon as the ashes have been disposed of.

- (3) The registrar must when so required by the district registrar appointed in terms of the Births and Deaths Registration Act, 1992, submit such register for inspection.

## **SECTION 22 PRESERVATION OF DOCUMENT**

22. (1) Every application, certificate, declaration and other document relating to any cremation must be marked with a number corresponding to the number allotted to the cremation concerned in the register required in terms of Section 21, must be filed in numerical order and must be preserved by the proprietor of the crematorium for a period not less than 100 years after which it will be lodged with the National Archives.
- (2) Every such register, certificate, declaration and other document must be open to inspection, at any time reasonable for the purpose, by a police official as defined by Section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977)

## **SECTION 23 MAINTANANCE OF CREMATORIUM AND STAFF**

23. (1) Every crematorium and all equipment, appliances and fittings used in connection therewith, must at all times be maintained in good and proper working order and be constantly kept in a clean and orderly condition.
- (2) The proprietor of every crematorium must provide and maintain an adequate staff for the crematorium to ensure that every cremation is performed in a seemly and becoming manner

**SECTION 24 POWERS AND DUTIES OF AN INSPECTOR**

24. (1) The Council, when appointing an inspector, must designate the area of jurisdiction in which such inspector must exercise the powers and perform the duties conferred or imposed upon him by the Ordinance and these by-laws.
- (2) Every inspector shall be conversant with the provisions of the Births and Deaths Registration Act, 1992, relating to or bearing upon matters referred to in the Ordinance and these regulations.
- (3) Every inspector must keep a record of every crematorium situated within his area of jurisdiction, with the name and address of the proprietor thereof, particulars of the certificate of registration granted in respect of every such crematorium and any condition imposed on the granting of such certificate.
- (4) Every inspector must periodically visit every crematorium situated within his area of jurisdiction and he must upon visiting a crematorium, inspect the certificate of registration and the structure and equipment and appliances used in connection therewith as well as every register and document required to be kept in terms of these by-laws.
- (5) Whenever as a result of an inspection by him of any crematorium, an inspector is of the opinion that the circumstances connected with any requirement in terms of these by-laws relating to cremations or crematoria or the proprietor or officials of any crematorium are such that such circumstances ought to be brought to the notice of the Council, or if he has knowledge that any condition imposed on the issue of a certificate of registration of a crematorium is not being observed or complied with, he must report to the Council accordingly.

## **SECTION 25 DUTY OF PROPRIETOR REGARDING INSPECTION**

25. Every crematorium must be open to inspection by an inspector at all times reasonable for the purpose and the proprietor of such crematorium must afford such inspector every facility to enable him to carry out a proper inspection.

## **SECTION 26 OFFENCES AND PENALTIES**

26. Any person who contravenes or fails to comply with any provisions of these by-laws will be guilty of an offence and liable on conviction to a fine not exceeding R10,000-00, in default of payment, to imprisonment for a period not exceeding six months, or in the case of a continuous offence, to a fine not exceeding R500 or, in default of payment, to imprisonment for a period not exceeding 1 month for every period of 24hours during which such offence continues.



**27. Recommended**

It is recommended to the Municipal Council:

- 1.1 That the By Law related to Crematoria be approved.
- 1.2 That the Directorate of Corporate Services facilitates the publication of the By-Law in the Government Gazette by April 2006
- 1.3 That the Directorate of Public Safety legalize the fine determination for contraventions of the By Law through the local Magistrate by May 2006
- 1.4 That the Directorate of Integrated Environmental Management implements the By-Law from June 2006.

.....  
**MUNICIPAL MANAGER**

.....  
**DATE**

**MS. I. MOKATE**

Recommended/ not recommended

.....  
**PORTFOLIO HEAD:**

.....  
**DATE**

**INTEGRATED ENVIRONMENTAL MANAGEMENT**

**CLLR: B. MANELI**

Recommendation approved/ not approved due to the following reasons:

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

.....  
**THE EXECUTIVE MAYOR:**

.....  
**DATE**

**ADV. L. MOKGATLE**

**APPROVED/ NOT APPROVED**

# **SCHEDULE A**

## **APPLICATION FOR CREMATION**

I (name of applicant) \_\_\_\_\_

Address \_\_\_\_\_

Occupation \_\_\_\_\_

apply to the proprietor of (name of crematorium) \_\_\_\_\_

to undertake the cremation of (name of deceased) \_\_\_\_\_

\_\_\_\_\_ Identity No. \_\_\_\_\_

Address \_\_\_\_\_

Occupation \_\_\_\_\_ age \_\_\_\_\_ sex \_\_\_\_\_

(whether married, widow, widower or single) \_\_\_\_\_

Delete whichever is inapplicable when furnishing the following information: -

1. (a) I am the nearest surviving relative of the deceased.  
  
(b) I am not the nearest surviving relative of the deceased, but my relationship to the deceased is \_\_\_\_\_ and the reason why the application is made by me and not by the nearest surviving relative is that \_\_\_\_\_
2. (a) The deceased left a written document as to the mode of disposal of his/her remains, namely \_\_\_\_\_  
  
(d) The deceased did not leave a written document as to the mode of disposal of his/her remains.
3. The race of the deceased was \_\_\_\_\_
4. The deceased was a resident of \_\_\_\_\_  
(name of town) by virtue (a) of actual residence there at the time of his/her death; (b) of having been the owner of immovable property there for at least six months prior to his/her death, the stand number of the property being \_\_\_\_\_, situated at (full address) \_\_\_\_\_
5. (a) The surviving spouse or nearest surviving relative of the deceased

has/has not been informed of the proposed cremation

- (b) The reason why the surviving spouse or nearest surviving relative has not been informed, is \_\_\_\_\_
6. (a) No near relative of the deceased has expressed any objection to the proposed cremation.
- (b) A near relative of the deceased has expressed objection to the proposed cremation on the ground that \_\_\_\_\_
7. Date and hour of the death of deceased is \_\_\_\_\_
8. The deceased died at \_\_\_\_\_ (furnish address of place of death here and say whether own residence, lodging, hotel, hospital or nursing home).
9. I know/do not know and I have reason/have no reason to suspect that the death of deceased was due to other than natural causes.
10. I have reason/have no reason whatever for deeming an examination of the remains of the deceased to be desirable.
11. The name and address of the usual medical attendant of the deceased is \_\_\_\_\_
12. The names and addresses of the medical practitioners who attended deceased during his/her last illness are \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I swear/do hereby solemnly and sincerely declare in the conscientious belief of the same being true that all the particulars stated above are true, and that to the best of my knowledge and belief no material particular has been omitted.

\_\_\_\_\_  
Signature of deponent

\*Sworn to/Declared before me at \_\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ by the  
Deponent who acknowledges that he/she knows and understands the contents  
hereof.

\_\_\_\_\_  
Justice of the Peace  
Commissioner of Oaths

\*This declaration must be made before a Justice of the Peace or a Commissioner of  
Oaths

**SCHEDULE B**  
**CERTIFICATE OF MEDICAL ATTENDANT**

I am informed that application is about to be made for the cremation of (name of deceased)\_\_\_\_\_

Identity No.\_\_\_\_\_

Address\_\_\_\_\_

Occupation\_\_\_\_\_

Having attended the deceased before death, and seen and identified the body after death, I furnish the following information. (Delete whichever is inapplicable):-

1. The deceased died at\_\_\_\_\_ (hour) and  
on\_\_\_\_\_ (date)
2. The deceased died at\_\_\_\_\_  
(furnish address here and say whether own residence, lodging, hotel,  
hospital or nursing home).
3. (a) I am a relative of the deceased, the relationship being  
\_\_\_\_\_  
(b) I am not a relative of the deceased.
4. (a) So far as I am aware, I have no pecuniary interest in the death  
of the deceased.  
(b) I have pecuniary interest in the death of the deceased.
5. (a) I was the ordinary medical attendant of the deceased for  
\_\_\_\_\_(state period).  
(b) I was not the ordinary medical attendant of the deceased.
6. I attended the deceased during his/her last illness for a period of  
\_\_\_\_\_(state period).
7. I last saw the deceased alive\_\_\_\_\_ hours/days  
before his death.

8. I saw the body \_\_\_\_\_ hours after death, and made the following examination \_\_\_\_\_
9. The cause of death was \_\_\_\_\_ (specify disease, injury, etc. and if possible, distinguish the primary from the secondary causes as in the death certificate).
10. The duration of the cause was \_\_\_\_\_ (years/months/days)
11. There was another cause, which contributed to or accelerated death, viz \_\_\_\_\_ (state it, and if more than one other cause, state them all).
12. The mode of death was \_\_\_\_\_ (say whether syncope, coma, exhaustion, convulsions, etc.) and its duration was \_\_\_\_\_ days/hours/minutes. (State how far statements Nos 11 and 12 are the result of your own observations, or are based on statements made by others. If a statement made by another, say by whom.)
13. The deceased did/did not undergo an operation during the final illness or within a year before death. (State nature of operation and name of person who performed it.) \_\_\_\_\_
14. During his/her last illness the deceased was nursed by \_\_\_\_\_ (State name and say whether professional nurse, relative, etc. If the illness was long one, reference should be made to the period of four weeks before the death)
15. At the time of death the following person/s was/were present \_\_\_\_\_
16. In view of my knowledge of the deceased's habits and constitution, I have doubt/have no doubt whatsoever as to the nature of the disease and of the cause of death.
17. I know/do not know and I have reason/have no reason to suspect that the death of the deceased was due to other than natural causes.
18. I have/have not given the certificate required for registration of death.

19. I identified the body to \_\_\_\_\_  
(delete if not applicable).

I hereby certify that the statements made above are to the best of my knowledge and belief true and accurate, that there is no circumstance known to me which can give rise to any suspicion that the death was due wholly or in part to any other cause than disease/accident and that there is no circumstance of any sort known to me which makes it undesirable that the body should be cremated.

Signature \_\_\_\_\_

Address \_\_\_\_\_

Registered qualifications \_\_\_\_\_

Date \_\_\_\_\_

**\*NOTE:** This certificate must be handed or sent in a closed envelope by the medical practitioner who signs it to the medical practitioner who is to give the confirmatory medical certificate.



**SCHEDULE C**

**CONFIRMATORY MEDICAL CERTIFICATE**

After the body of the deceased was identified to me by \_\_\_\_\_  
 \_\_\_\_\_ of \_\_\_\_\_ as that  
 of \_\_\_\_\_

and the relevant medical certificate checked by me, I have also made personal  
 enquiry as revealed in the undermentioned statements (delete whichever is  
 inapplicable):

1. I examined the body of the deceased \_\_\_\_\_
2. I have/have not made a post-mortem examination.
3. I have/have not had discourse with and have/have not questioned the  
 medical practitioner who gave the above certificate.
4. I have/have not had discourse with and have/have not questioned another  
 medical practitioner who attended the deceased.
5. I have/have not had discourse with and have/have not questioned any  
 person(s) who nursed the deceased during his/her last illness or who  
 was/were present at the death.
6. I have/have not had discourse with and have/have not questioned the  
 relatives of the deceased.
7. I have/have not had discourse with and have/have not questioned another  
 person.
8. I have identified the body to \_\_\_\_\_

Regarding statements 5, 6, 7 and 8 give hereunder names and addresses of persons  
 with whom you have had discourse and say whether you spoke to them  
 individually \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_

I am satisfied that the cause of death was \_\_\_\_\_

And I certify that I know of no circumstance, which can give rise to any suspicion that death was due wholly or in part to any other cause than disease/accident and that there is no circumstance of any sort known to me which makes it undesirable that the body should be cremated.

Signature \_\_\_\_\_

Address \_\_\_\_\_

Registered qualifications \_\_\_\_\_

Office \_\_\_\_\_

Date \_\_\_\_\_

**\*NOTE:** This certificate and the medical certificate received in connection therewith must be handed or sent in a closed envelope to the medical referee by one or other of the medical practitioners by whom the certificates are given.

**SCHEDULE D**

**CERTIFICATE AFTER POST-MORTEM EXAMINATION**

Name \_\_\_\_\_

Identity No. \_\_\_\_\_

Address \_\_\_\_\_

Occupation \_\_\_\_\_

(complete Part A or Part B)

**PART A**

I hereby certify that I have conducted a post-mortem examination on the body of the above-mentioned person. The body has been identified to me by \_\_\_\_\_

The result of the examination was as follows: -

\_\_\_\_\_  
\_\_\_\_\_

I am convinced that death was due entirely to natural causes, viz.

\_\_\_\_\_

and that no reason exists to notify this case in terms of Section 2 of the Inquests Act, 1959.

I have identified the body to \_\_\_\_\_

of \_\_\_\_\_

(delete if not applicable).

Signature \_\_\_\_\_

Address \_\_\_\_\_

Registered qualifications \_\_\_\_\_

Date \_\_\_\_\_

**PART B**

I hereby certify that I have, at the request of the magistrate of \_\_\_\_\_ conducted a post-mortem examination on the body of the above-mentioned person. The body was identified to me by \_\_\_\_\_ of \_\_\_\_\_

(i) I am convinced that death was due entirely to natural causes, viz. \_\_\_\_\_

(ii) No death certificate can be issued in this case, as death was not due to natural causes.

Signature \_\_\_\_\_

Address \_\_\_\_\_

Registered qualifications \_\_\_\_\_

Date \_\_\_\_\_

**CERTIFICATE BY FUNERAL UNDERTAKER**

I, \_\_\_\_\_ of the firm  
 \_\_\_\_\_ hereby certify that the body of  
 \_\_\_\_\_ to whom the attached Schedules  
 relate, has been identified to me by \_\_\_\_\_ and  
 that I will hand over this body or allow it to be handed over, together with completed  
 Schedule E, to the person responsible for cremation.

Date \_\_\_\_\_ Siganture \_\_\_\_\_

**SCHEDULE E****AUTHORITY TO CREMATE**

Whereas application has been made for the cremation of the remains of:

Name \_\_\_\_\_

Identity No. \_\_\_\_\_

Address \_\_\_\_\_

Occupation \_\_\_\_\_

And whereas I have satisfied myself that all the requirements of the Crematorium Ordinance 1965, and of the regulations made in pursuance of that Ordinance have been complied with, \*that the cause of death has been definitely ascertained, and that there exists no reason for any further enquiry or examination;

Now, therefore, I hereby authorise the proprietor of the \_\_\_\_\_  
\_\_\_\_\_ crematorium at \_\_\_\_\_  
to cremate the said remains.

Signature \_\_\_\_\_

Medical referee to the \_\_\_\_\_

Date \_\_\_\_\_

**NOTE:** This authority must be signed in duplicate, one copy to be retained with certificates and the other sent by the medical referee to the proprietor of the crematorium.

**\*In the case of a still-born child, in place of the name, address, etc. insert a description sufficient to identify the body, and in place of the words "that the cause of death has been definitely ascertain" insert the words "that the child was still-born".**

**SCHEDULE F**

**REGISTER OF CREMATIONS REQUIRED IN TERMS OF SECTION 21**

The register must contain the following particulars:

1. Number of cremation \_\_\_\_\_
2. Name and full christian names of deceased \_\_\_\_\_  
\_\_\_\_\_
3. Identity No. \_\_\_\_\_
4. Sex \_\_\_\_\_
5. Age \_\_\_\_\_
6. Last known address \_\_\_\_\_
7. Date of death \_\_\_\_\_
8. Cause of death \_\_\_\_\_
9. Place of death \_\_\_\_\_
10. Whether a body from an anatomy school or not \_\_\_\_\_  
\_\_\_\_\_
11. Date of written authority from the medical referee or of the approval of the  
*Administrator* \_\_\_\_\_
12. Date of cremation \_\_\_\_\_
13. Method of disposal of ashes \_\_\_\_\_
14. Date of disposal of ashes \_\_\_\_\_
15. If ashes given to representative of deceased, name of person to whom  
given \_\_\_\_\_
16. Date and place of issue of burial order \_\_\_\_\_  
\_\_\_\_\_



**LOCAL AUTHORITY NOTICE 65****MOGALE CITY LOCAL MUNICIPALITY:  
BY-LAWS RELATING TO PARKS AND OPEN SPACES,  
MANAGEMENT OF TREES AND FACILITIES AT DAMS**

The Municipal Council hereby, in terms of Section 13 of the Local Government: Municipal Systems Act 32 of 2000 and Section 84(1)(p) of Local Government : Municipal Structures Act, 117 of 1998 publishes the By-Laws set forth hereinafter, which have been approved by the Council in terms of Sections 11 and 12 of the said Act.

These By-Laws are divided into chapters relating to the following matters respectively:

CHAPTER 1 - INTERPRETATION AND FUNDAMENTAL PRINCIPLES

CHAPTER 2 - MANAGEMENT AND ADMINISTRATION OF PUBLIC OPEN SPACES

CHAPTER 3 - MANAGEMENT OF TREES

CHAPTER 4 - FACILITIES AT DAMS

CHAPTER 5 - GENERAL PROVISIONS IN TERMS OF PUBLIC OPEN SPACES

2. CHAPTER 1 – INTERPRETATION AND FUNDAMENTAL PRINCIPLES

In these By-Laws, unless the context otherwise indicates –

“adult” means any person of the age of 18 (eighteen) years or older;

“agricultural land” will mean land forming part of open spaces defined herein and utilized for agricultural purposes whether by the Municipality or other lawful occupiers thereof;

“animal” means any vertebrate;

“boat” means any vessel, punt, raft, canoe, windsurfer, moved or propelled by oars, poles, motors or sails or any combination thereof or any other floating object, irrespective of its propulsion mechanism and used to carry persons on water;

“conservation areas” will mean tracts of land demarcated by the Municipality of conservation purposes;

“dam” will mean the dams situated in the municipal area of the Municipality which are generally known as the Monument Dam, Pretoriuspark; the Noordheuwel Dam, Noordheuwel and Centenary Dam, Coronation Park and includes the walls of riparian land and surrounding areas, which are located on open spaces as herein defined;

“director” will mean the directorate of the Municipality which is in control of open spaces;

“fee” will mean a fee determined by the Municipality in terms of its Tariff By-Law in respect of any matter dealt with in this By-Law;

“garden” will mean any area of open spaces as herein defined demarcated by the Municipality as a garden;

“group” means for purposes of Chapter 2 of these By-Laws a body of persons whether incorporated or unincorporated;

“Municipality” will mean the Municipal Council of the Mogale City Local municipality, which is a municipal council as defined in the Local Government Municipal Systems Act 32 of 2000 and Local Government: Municipal Structures Act 117 of 1998.

“notice” will mean a clear visible notice in one or more official languages exhibited by or under the authority of the directorate;

“official” will mean any authorized official in the employment of the municipality who has been delegated with the powers to act upon any provision of this By-Law;

“park areas” will mean any area of public [or private] open space as herein defined which have been demarcated as such whether or not they are developed or undeveloped;

“Problematic Animals” includes any mammal, reptile, insect, bird or fish that has been introduced to any open space, dam, or river and is subsequently threatening the well being of the environment and/or causes any disturbance whether noise or odorous, health hazard or danger to any person adjacent to or visiting the open space

“Problematic tree” includes all trees declared as invaders under the Conservation of Agricultural Resources Act 43 of 1983 and other trees that have been declared by the Municipality as problematic due to specific characteristics that makes it unsuitable

“open spaces” will include, without derogating from the generality of the term:

- (a) developed park areas;
- (b) undeveloped park areas, duly zoned as such;
- (c) agricultural land whether owned by the Municipality or the State;
- (d) tracts of land whether owned by the Municipality or the State;
- (e) sidewalks and road islands;
- (f) public parking areas;
- (g) a dam and its environs;
- (h) any other tract of land with no determined use.
- (i) private open spaces

“vehicle” will mean any self propelled vehicle and includes

- (a) a trailer;
- (b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed and adapted to be propelled by means of such pedals, engine or motor or both such pedals and engine or motor, but does not include:
  - (i) any vehicle propelled by electrical power derived from storage batteries and which is pedestrian controlled; or

- (ii) any vehicle of a mass of not more than 230 kg and specially designed and constructed and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person;

(c) a cycle which includes any two, three or four wheeled motorbikes.

The male gender will include the female gender and vice versa and singular will include the plural and vice versa.

## 1.2 Application of By-Laws

- 1.2.1 These By-laws apply to every public open space, which falls under the jurisdiction of the Municipality, but do not apply to cemeteries.
- 1.2.2 These By-laws are binding on the State.

## 1.3 Purpose of By-laws

The purpose of these By-laws is to provide, in conjunction with other applicable legislation, an effective legal and administrative framework-

- (a) to ensure that the way in which the Municipality controls, manages and develops public open spaces is environmentally sustainable, and is in the long-term interests of the whole community of Mogale City, including future generations; and
- (b) which clearly defines the rights and obligations of the public in relation to public open spaces.

# 2. CHAPTER 2 – MANAGEMENT AND ADMINISTRATION OF PUBLIC OPEN SPACES

## 2.1 Principles of By-laws

2.1.1 Public open spaces must be managed, and where appropriate developed, in the interests of the whole community, and in determining the interests of the whole community –

- (a) the long-term collective interests of the people of Mogale City, and of South Africa, must be prioritised over the interests of any specific interest group or sector of society;
- (b) a long-term perspective, which takes account the interests of future generations, must be adopted; and
- (c) the interests of other living organisms which depend on public open spaces must be taken into account.

2.1.2 Public open spaces must be managed in an environmentally sustainable manner.

2.1.3 Subject to the provisions of subsection 5.8, people must be given access to public open spaces on a non-discriminatory and equitable basis.

2.1.4 If necessary, special measures must be taken to facilitate access to public open spaces by historically disadvantaged persons and by disabled persons.

2.1.5 Access to a public open space may be restricted in a manner, which does not unjustifiably discriminate against any person or class of persons– if the restriction is,

- (a) authorised by these By-laws or by any other law; or
- (b) in order to achieve the purposes of these By-laws.

2.1.6 The recreational, educational, social and other opportunities which public open spaces offer must be protected and enhanced to enable local communities, particularly historically disadvantaged communities, and the public to improve and enrich their quality of life.

2.1.7 Local communities must be encouraged to use and care for public open spaces in their areas.

2.1.8 The natural environment and heritage resources within public open spaces must be identified, preserved, protected and promoted, for the benefit of the local community, the public and future generations.

## 2.2 Application of principles:

2.2.1 The public open space management principles set out in section 2.1, and the national environmental management principles set out in section 2 of the National Environmental Management Act, 1998 (Act 107 of 1998) and Protected Area Act, 57 of 2003, must be considered and applied by any person –

- a) exercising a power or function or performing a duty under these By-laws;
- b) formulating or implementing any policy which is likely to have a significant effect on, or which concerns the use of public open spaces within the Municipality's jurisdiction; or
- c) exercising a public power or function or performing a public duty which is likely to have a significant effect on, or which concerns the use of, public open spaces.

## 2.3 General powers of Municipality

2.3.1 The Municipality may in relation to any public open space –

- a) designate any area within a public open space as an area within which one or more activities otherwise prohibited in terms of these By-laws may be undertaken, and display a prominent notice to this effect at every entrance to the designated area;
- b) develop any public open space in accordance with the principles set out in section 4;
- c) erect, construct, establish or demolish municipal property; and
- d) exercise any other power reasonably necessary for the discharge of the Municipality's obligations in terms of these By-laws relating to the management of public open spaces.

## 2.4 Fees

2.4.1 Any member of the public must pay –

- a) a prescribed fee to use recreational or other facilities which the Municipality provides within any public open space;

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

## 2.5 Restricting access

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

- a) to protect any aspect of the environment within a public open space;
- b) to reduce vandalism and the destruction of property;
- c) to improve the administration of a public open space;
- d) to develop a public open space;
- e) to enable a special event or to undertake any activity which the Municipality reasonably considers necessary or appropriate to achieve the purposes of these By-laws.

## 2.6 Powers of authorised officials

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

- a) to the extent authorised by the Municipality administer, implement and enforce the provisions of these By-laws;
- b) issue a notice in terms of any provision of these By-Laws;
- c) instruct any person to leave a public open space if the authorized official reasonably believes that the person is contravening any provision of these By-laws, and fails to immediately terminate such contravention upon the instruction of that official; and
- d) if such official is a peace officer, exercise any power which may be exercised by a peace officer under the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

## 2.7 Obligations in relation to public open spaces

2.7.1 The Municipality must within a public open space display any notice required under these By-laws.

2.7.2 In relation to recreational public open spaces, the Municipality must –

- a) ensure that they are open to the public between sunrise and sunset, unless specified otherwise in terms of a notice; and

b) prominently display a notice at every entrance indicating:

- (i) the opening and closing times of that recreational public open space; and
- (ii) any rules made by the Municipality in relation to that recreational public open space.

### 3. CHAPTER 3 – MANAGEMENT OF TREES

3.1 The obligations of the Municipality in terms of public trees will include:

- 3.1.1 Protection and preservation of park and street trees;
- 3.1.2 Protecting and preserving indigenous vegetation by maintaining its natural state and promoting its sustainability;
- 3.1.3 Promoting the planting of suitable (especially indigenous trees) on public and private property;
- 3.1.4 Informing and educating the community about the value of trees and discourage vandalism of trees;
- 3.1.5 Ensuring that Mogale City will develop into a green city, with a wealth of trees and natural vegetation;
- 3.1.6 Identifying, removing and controlling problematic plants;
- 3.1.7 Protecting water catchment areas from invader trees;
- 3.1.8 Replacing all trees that are removed with suitable alternatives.

3.2 The Municipality will not remove any tree unless:

- 3.2.1 the person requiring its removal has addressed a written application to the Deputy Director of Parks, identifying the tree to be removed and stating the reason for the request; and
- 3.2.2 a horticulturist appointed by the Municipality to be responsible for the removal of trees has investigated the application; and
- 3.2.3 the applicant has been advised in writing of the Municipality's decision; and
- 3.2.4 the applicant has paid the fee for the removal of the tree where applicable.

3.3 The requirement of 3.2 will also apply to the various departments of the Municipality and individual members of the Council and other state departments.

3.4 A tree located on a public open space or sidewalk will be removed free of charge by the Municipality, acting through its directorate, if:

- 3.4.1 The tree is dead or in the process of dying due to natural causes and for this reason proves to be dangerous to its surroundings
- 3.4.2 If the tree was hit by lightning and proves to be dangerous to its surroundings
- 3.4.3 If the tree has any structural defects in the main stem due to fire, bacteria or fungal disease or due to any accident and for this reason proves to be dangerous to its surroundings
- 3.4.4 If the tree is declared as a problematic tree
- 3.4.5 If the tree is hazardous to traffic and which cannot be corrected by pruning



- 3.4.6 If the Municipality has decided via a Mayoral Committee resolution that any tree is to be removed
- 3.4.7 If the tree is obstructing municipal development such as roads, storm water or power lines, provided that all cost effective and practical alternatives have been evaluated which could preserve the tree
- 3.4.8 If the tree is causing extensive damage to roads, buildings, dams or walls and if the damage is more than the tree's replacement and removal costs
- 3.4.9 If the tree is threatening to fall over

3.5 A fee for removal of a tree will be charged:

- 3.5.1 If the tree needs to be removed because of a proposed entrance to a property, new or additional parking, changes to the tree's environment, pedestrian walkway or any sort of building or development in the position of the existing tree.
- 3.5.2 If the tree needs to be removed because of underground developments such as power lines, sewer lines, water lines or communication lines;
- 3.5.3 If the tree needs to be removed because of damage caused by:
  - 3.5.3.1 negligent or intentional poisoning of a tree in addition to a fine not exceeding R5000-00 per tree and the value of the tree based on the standard tree valuation method used by the Municipality, if proven guilty.
  - 3.5.3.2 vehicle collision;
  - 3.5.3.3 vehicles and/or equipment moving or working in the vicinity of the tree.

3.6 A tree will only be removed after the fee for its removal, where applicable, has been paid to the Municipality.

3.7 Landmark tree preservation

- 3.7.1 The Municipality, acting through its directorate, will identify trees that will be protected and receive status of monuments and such trees will be placed on a Landmark Tree Data List
- 3.7.2 The monument status of a tree will be determined by the following factors:
  - 3.7.2.1 If the tree was planted by a celebrity, whether a political or non-political figure;
  - 3.7.2.2 If the tree is a rare and unique specimen as identified by the Municipality;
  - 3.7.2.3 If the tree has historical significance;
  - 3.7.2.4 If the tree is uniquely large and old in the landscape;
  - 3.7.2.5 If the tree is a protected indigenous species;
  - 3.7.2.6 If the tree is an internationally protected species;
  - 3.7.2.7 If it is part of an avenue of trees that is very old and unique.



### 3.8 Unaccepted reasons given for tree removal applications:

Trees will not be removed for the following reasons, although a combination of these factors might be considered, but in such a case it is likely that the tree that causes the problem is already a declared problematic tree. Therefore, if a tree is not a problematic tree, these reasons should be considered as unreasonable.

- 3.8.1 Trees that are shedding their leaves
- 3.8.2 Trees that are dropping fruits and flowers
- 3.8.3 Trees that are old
- 3.8.4 Trees that are over shading an area or buildings
- 3.8.5 Trees that are dripping/excreting glue, pollen or any natural substance. In the case where a person is suffering from an allergy, presumed that it is caused by any part or excretion of the tree, such person will be required to prove (by means of an allergy test) that he/she shows a positive allergenic reaction to the tree or product thereof. The Municipality will be entitled to request such laboratory results. To act on such a complaint is entirely left to the discretion of the Municipality.
- 3.8.6 Trees that are diseased.
- 3.8.7 Trees that are naturally growing skew (excluding trees that are in the process of falling over and/or threatens to do so
- 3.8.8 Trees that are poisoned and damaged. Trees will only be removed when the tree is completely dead unless it proves to be dangerous to its surroundings

In all of these cases the request for tree removal will be investigated thoroughly by the municipality and with due respect.

### 3.9 Pruning of trees on open spaces and sidewalks

- 3.9.1 Trees will be pruned at the request of any person, whether such request is made personally, telephonically or in writing.
- 3.9.2 The Municipality will do pruning according to arboricultural standards and will not entertain requests that deviates from these standards.

### 3.10 Street trees

- 3.10.1 A person may apply personally, telephonically or in writing for the planting of a tree on the pavement adjoining such person's property.
- 3.10.2 The Municipality will investigate the area for tree planting to determine the most appropriate tree species, the quantity and position of planting and advise the applicant in writing of the outcome of its investigation.
- 3.10.3 The Municipality will mark the planting position of the trees in a conspicuous manner.
- 3.10.4 The applicant will be responsible to dig the holes and plant the trees in a prescribed manner.
- 3.10.5 The Municipality will deliver the trees upon completion of the holes.
- 3.10.6 The Municipality will only supply trees that are in stock and does not undertake to comply with special requests.
- 3.10.7 Trees supplied by the Municipality remain the property of the Municipality and may not be removed or pruned without the permission of the Municipality.

### 3.11 Privately planted trees on sidewalks

- 3.11.1 Where any person plants a tree on a pavement or on an open space belonging to the Municipality with or without obtaining permission from the Municipality to do so, such tree will become the property of the Municipality when it has taken root.
- 3.11.2 Should the Municipality in its sole discretion deem the tree so planted as unsuitable for any reason, it may request the planter thereof to remove such tree and if the planter fails to do so, the Municipality will remove the tree.

### 3.12 Problematic trees

All trees declared as invaders by the Conservation of Agricultural resources Act, Act 43 of 1983 and its amendments, receive no protection from the Municipality. These trees must be removed over time and be replaced by indigenous trees.

The Municipality may add certain tree species to the list of problematic trees if the nature of the tree warrants such action. This must be preceded by a report from the Sub-Directorate of Parks Management in which such a declaration is recommended and subsequently approved by the Mayoral Committee.

## 4. CHAPTER 4 – FACILITIES AT DAMS AND RIVERS

- 4.1 A person may not place or use or cause or permit to be placed or used on a dam a boat unless a permit has been obtained therefore from the Directorate of Integrated Environmental Management and the fee has been paid.
- 4.2 Such permit will clearly specify the number of persons that may at any one time be transported on a boat and the person taking out such permit will retain it and present it to an authorized official of the Municipality when requested to do so.
- 4.3 The Municipality may at any time suspend a permit issued in accordance with these By-Laws and the Municipality will not be obliged to refund the fee paid.
- 4.4 The issuing of a permit will be at the sole discretion of the Municipality.
- 4.5 The Municipality has the right to refuse the issuing of such permit in respect of any boat if the Municipality or his duly authorized official is of the opinion that such boat is not in a proper and safe condition or if the dam or river is considered as unsafe for whatever reason. The Municipality may through its duly authorized official both before and after the issuing of any permit, enter into any boat and take any other steps, which such official may consider necessary for the purpose of inspecting any boat.
- 4.6 The Municipality reserves the right to prescribe and limit the number and type of boats that will at any stage be allowed on a dam.
- 4.7 No person being the owner of a boat, or having the use or control or being in possession or charge of any boat will at any one time permit the use of a boat by a number of persons in excess of the number stipulated on the permit.

- 4.8 No person will without the written permission of the Municipality transport any person for a fee on a boat. The Municipality may, when granting such permission:
  - 4.8.1 impose any condition that it deems fit;
  - 4.8.2 determine the fee payable by such person
- 4.9 No person under the influence of intoxicating liquor or a narcotic drug may enter, remain in or occupy any boat on a dam, nor will any person in control of a boat allow any person under the influence of intoxication liquor or a narcotic drug to enter, remain in or occupy any boat
- 4.10 No sports or games will take place in or about a dam without the written consent of the Municipality acting through its directorate nor will any person take part in or assist at any sports or games on a dam which has not been approved by the Municipality acting through its directorate.
- 4.11 A person may not dive from a boat or swim in any dam or river.
- 4.12 A person may not board a boat if the owner or person in control of such boat does not supply him with a life jacket and any person in control of a boat, allowing another person without a life jacket on board a boat will be guilty of an offence.
- 4.13 A child under the age of 18 (eighteen) years will not embark upon a boat unless he remains under the constant supervision of an adult.
- 4.14 Indemnity  
Any person who enters the environs of a dam or embarks on a dam does so at his own risk and the Municipality will not be held responsible or liable for any personal injury sustained by death of such person or loss of or damage to his property, save for instances where the Municipality has acted negligently in performing its duty to care for such person.
- 4.15 Angling
  - 4.15.1 Angling will be permitted only from a specified shore of a dam and only at times and places determined by these By-Laws and displayed on notices affixed or erected on the shores of a dam.
  - 4.15.2 Persons who are not in possession of a Provincial Angling License will not be permitted to angle at a dam.
  - 4.16.3 The Municipality may at any time implement Angling permits over and above the Provincial Angling License for all the dams and rivers under its jurisdiction. The Municipality in terms of its Tarrif By-Law will determine the fees thereof. Angling clubs will also be required to pay the relevant fees for its members over to the municipality at a reduced rate as determined by the Municipality from time to time. The fees generated in this manner will be used to stock dams on an annual basis with suitable fish species. Persons who do not have the Local Angling Permit will not be permitted to angle at any dam or river.

## 5. CHAPTER 5 – GENERAL PROVISIONS IN TERMS OF PUBLIC OPEN SPACES

### 5.1 Animals

A person may not:

- 5.1.1 take into or have an animal in any public open space where a notice prohibiting the admission of animals is exhibited; or
- 5.1.2 bring or allow any animal in his charge to enter onto a public open space unless such animal is kept under proper control and effectually restrained from causing a noise or danger to any person; or
- 5.1.3 bathe or wash any animal or allow any animal under his charge or control to be washed in any pond, stream, fountain, ornamental water structure or dam;
- 5.1.4 leave any faeces deposited by an animal under his control in a public open space but will remove such faeces provided that this provision will not apply to a blind person being led by a guide dog or to grazing animals where a permit was issued for such purpose.

Grazing Animals:

- 5.1.5 Farmers, whether commercial or subsistence, may apply for a permit to use designated open spaces for animal grazing.
- 5.1.6 Applications for such permits will be submitted in writing to the Municipality.
- 5.1.7 The applicant will place a visible notice on the proposed site for a period of 30 calendar days, whereby comments or objections are invited. The relevant Directorate of the Municipality will then review comments and objections and resolve them where possible
- 5.1.8 A permit will then be issued under the following conditions:
  - 5.1.8.1 That the land in question is suitable for grazing in terms of vegetation, soil stability and gradient.
  - 5.1.8.2 That the numbers of animals not exceed the grazing potential benchmark of the land.
  - 5.1.8.3 That the permit be subject to an annual renewal.
  - 5.1.8.4 That the municipality has the right to withdraw such permit at any time without stating its reasons for this.
  - 5.1.8.5 That the applicant will be responsible for any damage to the land caused by the grazing animals.
  - 5.1.8.6 That the applicant will erect the necessary fences or provide supervision over the animals to ensure that they remain within the designated area to prevent them from becoming a nuisance.

### 5.2 Vehicles

A person may not:

- 5.2.1 drive, draw or propel any cycle, or vehicle other than a wheeled chair, or a perambulator drawn or propelled by hand and used solely for the conveyance of a child or children or invalid, on any public open space, except in the places and at the times which will be defined by these By-Laws or by notices affixed or set up at or near the entrance to any such public open space;
- 5.2.2 drive any vehicle on any open space that may have been set aside by notice at a specified date;
- 5.2.3 draw, propel, stand or place any vehicle upon or over any part of a flowerbed or lawn;

- 5.2.4 use any part of any public open space for the cleaning of a vehicle;
- 5.2.5 carry out repairs or maintenance to a vehicle in a public open space;
- 5.2.6 park a vehicle in a public open space at any other place than at the parking area specially set aside for vehicles;
- 5.2.7 drive a vehicle in a public open space while he is under the influence of alcohol or any narcotic drug.
- 5.2.8 use recreational vehicles such as "All Terrain Vehicles" (ATV or quad bikes), 4x4's on any open space, road reserve or sidewalk, where no specific amenity provision is made for such a vehicle in the area in question. These vehicles are therefore prohibited to be used on any open space, road reserve or sidewalk unless the Municipality has clearly indicated with signage that such vehicles is permitted to these sites. The Municipality may in consultation with interested and affected parties set aside portions of land for use by ATV's and 4x4 vehicles, but is not compelled to provide such facilities.

### 5.3 Play equipment

- 5.3.1 Where play equipment is provided in a developed park area for the entertainment of children such equipment will not be used by a person older than 16 (sixteen) years.
- 5.3.2 No child under the age of 16 (sixteen) years will use the play equipment except under the direct supervision of an adult.
- 5.3.3 The Municipality will not be held responsible or liable for any personal injury sustained by, or the death of any person using the play equipment, or loss or damage to his property arising out of the use of the play equipment unless the Municipality has acted negligently in performing its duty of care to such person.
- 5.3.4 The Municipality, acting through its directorate, will where possible erect appropriate notices to warn of dangers associated with the use of the play equipment, in the immediate vicinity of the play equipment and advise the maximum age of children permitted to use the equipment.
- 5.3.5 The Municipality will maintain the play equipment in a proper state of repair at all times.

### 5.4 Trading

- 5.4.1 No refreshments will be hawked or offered for sale on a public open space without written permission of the Municipality acting through its directorate;
- 5.4.2 No peddler or street vendor will be allowed to trade on a public open space without the written consent of the Municipality acting through its directorate;
- 5.4.3 No person may gamble, participate or present gambling or games of chance in a public open space without the written consent of the Municipality acting through its directorate.



## 5.5 General prohibitions

A person may not:

- 5.5.1 enter or leave a public open space which is enclosed except by one of the gates or openings provided for such purpose; or
- 5.5.2 enter or attempt to enter any public open space which is enclosed or any temporary enclosure on a public open space where entry is prohibited by notices affixed or set up at or near the entrance of such enclosed area or temporary enclosure or climb through or over any gate or fence; or
- 5.5.3 kindle a fire, except at braai facilities and provided that such fire may only be kindled with firewood or charcoal and no other combustible material may be used; or
- 5.5.4 leave unattended any fire which he has kindled before such fire is thoroughly extinguished; or
- 5.5.5 allow any fire which he has kindled to spread or cause injury; or
- 5.5.6 pursue, capture, hunt or kill game or birds of any kind by means of nets, hunting dogs, springs, guns, catapults, traps or snares, or in any other manner or set any nets, hunting dogs, springs, traps or snares or throw any missile with intent to injure or catch any bird or animal; or
- 5.5.7 rob or attempt to rob any bird's nest or disturb or remove any bird's nest; or
- 5.5.8 dig or excavate any trench, hole, pit or shaft; or
- 5.5.9 dig, excavate, take or remove any soil, sand, gravel, clay, sod, turf, mould, stones, minerals, water or their substances; or
- 5.5.10 remove, damage or climb up or upon any fountain, statue, monument, post, chain, railing, fence, seat, barrier, gate, lamp, lamp post, notice board or plate, house, building, shed, urinal, closet, flagmark, beacon, boundary mark or other article or thing or deface or disfigure the same by pasting or affixing in any way any bills, papers, placards or notices or by cutting, writing, stamping, printing, drawing, or marking thereon, or in any other manner whatsoever; or
- 5.5.11 cut, gather, take, remove, dig up, fell, burn, pluck, break, destroy, climb up or upon, or do damage or injury to any tree, fence, gate, fencing post, pole or plant; or
- 5.5.12 walk, stand, sit or lie on any flowerbed or damage any flowerbed; or
- 5.5.13 construct any dam in any existing stream on a public open space or interfere with or divert any water course or canal on a public open space; or
- 5.5.14 catch, angle for, injure or in any way interfere with any fish in any stream, pond, fountain or ornamental water feature located on a public open space; or
- 5.5.15 wash clothes or other things in any pond, stream, fountain or ornamental water feature on a public open space, or otherwise pollute the same or any water therein in any manner except where no potable water is available in the area for residents; or
- 5.5.16 dry clothes or other articles on a public open space; or
- 5.5.17 bathe himself or any other person or any animal, or allow any animal under his charge or control to be in any pond, stream, fountain or ornamental water feature located on a public open space; or

- 5.5.18 deposit, dump or leave any refuse, rubbish, paper, deceased animal or other matter or thing in a public open space; or
- 5.5.19 defecate or urinate in any place except in such places as are provided by the Municipality for that purpose; or
- 5.5.20 engage in or make preparation for playing cricket, football, hockey or any other game in an organized competition except on the grounds set apart for such game; or
- 5.5.21 pick or harvest plants or willfully or negligently damage or injure any plant or lawn in any manner whatsoever; or
- 5.5.22 occupy, reside on, break up, harrow, plough, work, sow, cultivate or cause to be occupied, resided on, broken up, harrowed, ploughed, worked, sown or cultivate any part of a public open space without the written consent of the Municipality acting through its directorate; or
- 5.5.23 erect any post, fence, tent, booth, screen, stand, swing, or other building, erection or obstruction of any kind whatsoever without the written consent of the Municipality acting through its directorate; or
- 5.5.24 discharge any firearm, air-gun, firework, catapult or sling, or throw any stone, stick or other missile or use any squirt, syringe or other instrument or do anything which may endanger or be deemed a nuisance, obstruction or annoyance to the public; or
- 5.5.25 obstruct, disturb, interrupt or annoy any person in the proper use of any part of a public open space; or
- 5.5.26 use or intrude upon any water closet, urinal or other place of convenience provided for the opposite sex; or
- 5.5.27 address, hold or take part in any public meeting or assembly or musical performance, which has not been authorized in writing by the Municipality acting through its directorate; or
- 5.5.28 assault, resist, aid or incite any person to assault or resist any employee of the Municipality or any other person in the execution of his duty or the lawful exercise of any authority under these By-Laws or otherwise; or
- 5.5.29 remain in any enclosed public open space after the time of closing the gates, or refuse to leave such place at any time when requested to do so by any employee of the Municipality; or
- 5.5.30 in any public open space, brawl, fight, use profane, indecent or improper language, play loud music in any way whatsoever, behave in an indecent or offensive manner, or commit any nuisance or be under the influence of intoxicating liquor or narcotic drugs.
- 5.5.31 Beg in a public open space;
- 5.5.32 Introduce or release into a dam any kind of fish or bird species without the prior approval of the Municipality acting through its directorate;
- 5.5.33 Bring into or ride in a public open space on a horse, mule, donkey, camel or any other beast of burden, except with the written consent of the Municipality, acting through its directorate.
- 5.5.34 Distribute any circular handbill or other advertisement in park areas
- 5.5.35 Reside on any public open space without the prior approval of the Municipality acting through its directorate;
- 5.5.36 Partake in any form of sexual intercourse or sexual activity on any public open space, exposing themselves in any nude or indecent manner, display or bring onto any public open spaces any pornographic material of whatever nature or sun bathe topless.



### 5.6 Penalties

Any person who contravenes any of the provisions of these By-Laws will be guilty of an offence and on conviction liable to a fine not exceeding R 10 000.00 (TEN THOUSAND RAND) or in default of payment, to imprisonment for a period not exceeding 6 (six) months or to such other sentence as a Court may deem appropriate.

### 5.7 Tariff of fees

The Municipality will determine from time to time, the fees charged in terms of these By-Laws in a tariff By-Law.

### 5.8 Rights of Municipality

- 5.8.1 The Municipality reserves the right to close a public open space or part thereof or to limit the use thereof to a particular group or organization for any special event but not exceeding a continuous period of 5 (Five) days;
- 5.8.2 The Municipality may by notices posted at or near entrance gates to enclosed public open spaces indicate the hours during which such public open space is closed to the public and may, for any special purpose close any public open space, or any part thereof, or any building therein, to the public for such time as it may from time to time consider necessary or expedient but not for an indefinite period;
- 5.8.3 The Municipality will be entitled to limit the number of visitors to a park area or other public open space.
- 5.8.4 The Municipality may convert a public open space into a private open space and charge entrance fees subject to the following of a public participation process.

### 5.9 Repeal of existing By-Laws

The following By-Laws are hereby repealed:

- 5.9.1 Townlands, Parks and Public Recreation Grounds By-Laws published under Administrator's Notice 100 dated the 18<sup>th</sup> February 1953.
- 5.9.2 By-Laws relating to Open Areas, recreation Areas and Facilities at Certain Dams published under Section 101 of the Local Government Ordinance 1939 (Ordinance 17 of 1939) on the 4<sup>th</sup> January 1989.

## 6. Recommended

It is recommended to the Municipal Council:

- 1.1 That the By Law related to Parks and Open Spaces, Management of Trees and Facilities at Dams be approved.
- 1.2 That the Directorate of Corporate Services facilitates the publication of the By-Law in the Government Gazette by April 2006
- 1.3 That the Directorate of Public Safety legalize the fine determination for contraventions of the By Law through the local Magistrate by May 2006
- 1.4 That the Directorate of Integrated Environmental Management implements the By-Law from June 2006.

.....  
MUNICIPAL MANAGER

MS. I. MOKATE

Recommended/ not recommended

.....  
DATE

.....  
PORTFOLIO HEAD:

INTEGRATED ENVIRONMENTAL MANAGEMENT

CLLR: B. MANELI

.....  
DATE

Recommendation approved/ not approved due to the following reasons:

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THE EXECUTIVE MAYOR:

ADV. L. MOKGATLE

APPROVED/ NOT APPROVED

.....  
DATE