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**KWAZULU-NATAL PROVINSIE**  
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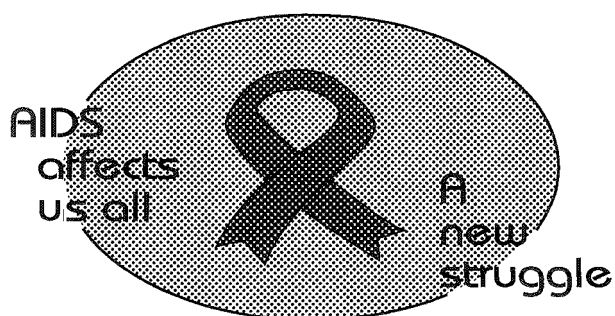
**Vol. 2**

**PIETERMARITZBURG,**

29 FEBRUARY 2008  
29 FEBRUARIE 2008  
29 kuNHLOLANJA 2008

**No. 79**

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



**Prevention is the cure**

**AIDS  
HELPLINE**

**0800 012 322**

DEPARTMENT OF HEALTH



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**MUNICIPAL NOTICES**

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**No. 1****29 February 2008**

The Council of Okhahlamba Local Municipality has in terms of section 156 of the Constitution, 1996 (Act No. 108 of 1996), read in conjunction with section 11 of the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000), read together with section 6A (1) of the Business Act, 1991 (Act No. 71 of 1991), made the following By-laws which By-laws shall come into operation on the date of publication of this notice.

**OKHAHLAMBA LOCAL MUNICIPALITY  
STREET TRADING BY-LAWS****1. DEFINITIONS**

- (1) In these By-laws, except as otherwise expressly provided or unless the context otherwise requires-

**"approval"** means approval by the authorised official and "approve" has a corresponding meaning;

**"association"** means persons who are self-employed and have organised themselves into a street trader association with a constitution and a code of conduct;

**"authorised official"** means an official of the Council to whom it has delegated a duty, function or power under these By-laws, in relation to the exercise or performance of that duty, function or power and includes any employee acting under the control and direction of such official;

**"Council"** means the Council of the Okhahlamba Local Council and includes, in relation to a duty, function or power under these By-laws, a committee or official of the Council to whom it has delegated that duty, function or power;

**"local authority service"** means any system conducted by or on behalf of a local authority for the collection, conveyance, treatment or disposal of refuse, sewage or stormwater or for the generation, impounding, storage, purification or supply of water, gas or electricity;

**"local authority service works"** means all property or works of whatsoever nature necessary or desirable for or incidental to any local authority service;

**"nuisance"** bears the meaning given to it by the Ordinance, or any amendment thereof;

**"Ordinance"** means the Local Authorities Ordinance, 25 of 1974, or any amendment thereof;

**"prescribed"** means prescribed by the Council by resolution;

**"property"** in relation to a street trader, means any goods, receptacle, vehicle or movable structure used or intended to be used in connection with the carrying on of his business as such;

**"public place"** means a public place as defined in section 1 of the Ordinance, or any amendment thereof;

**"prescribed"** means prescribed by the Council by resolution;

**"public road"** means a public road as defined in section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996);

**"roadway"** means a roadway as defined in section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996);

**"sell"** includes -

- (a) barter, exchange or hire;
  - (b) display, expose, offer or prepare for sale;
  - (c) store with a view to sell; or
  - (d) provide a service for reward
- and "sale" has a corresponding meaning;

**"sidewalk"** means a sidewalk as defined in section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996);

**"street trader"** means a person who carries on the business of street trading;

**"street trading"** means the selling of any goods or the supplying or offering to supply any service for reward, as a street vendor, peddler or hawker in a public road or public place but does not include the sale of newspapers only;

**"the Act"** means the Business Act, 1991 (Act No. 71 of 1991), and includes the regulations made thereunder;

**"vehicle"** includes -

- (a) a self-propelled vehicle;
- (b) a trailer;
- (c) a hand-drawn or propelled vehicle; and

**"verge"** means a verge as defined in section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996).

- (2) In these By-laws, unless the context otherwise indicates, any word or expression defined in the Act shall bear the meaning so given to it.
- (3) For the purpose of these By-laws a single act of offering for sale or of selling goods or services in or from a public road or public place constitutes the carrying on of the business of a street trader.
- (4) For the purpose of these By-laws a reference to a person carrying on the business of street trader shall include any employee of any such person.

- (5) Words applying to any individual shall include persons, companies and corporations, and the masculine gender shall include females as well as males, and the singular number shall include the plural and *vice versa*.

## 2. APPLICATION

No person shall carry on the business of a street trader unless he or she –

- (1) has obtained the written approval of the Council to do so; and
- (2) is a member of a street trader association recognised by the Council.

## 3. PROHIBITIONS

No person shall carry on the business of a street trader –

- (1) at a place or in an area declared under section 6A(2)(a) of the Act as a place or area in which the carrying on of street trading is prohibited;
- (2) on a verge, contiguous to
  - (a) a building belonging to, or occupied solely by the State or the Council;
  - (b) a church or other place of worship; or
  - (c) a building declared to be a national monument under the National Monument Act, 1969 (Act No. 28 of 1969), or any amendment thereof except to the extent that the carrying on of such business is permitted by a notice or sign erected or displayed by the Council and in compliance therewith;
- (3) on a verge contiguous to a building in which business is being carried on by any person who solely or mainly sells goods of the same or similar nature as goods being sold by the street trader concerned, without the consent of that person;
- (4) on that half of a public road contiguous to a building used for residential purposes, if the owner or person in control or any occupier of the building objects thereto;
- (5) at a place where it substantially obstructs pedestrians in the use of a sidewalk or take up a position or deposit his property on a sidewalk so as to do so;
- (6) at a place where it causes an obstruction to vehicular traffic;
- (7) at a place where it causes an obstruction in front of -
  - (a) an entrance to or exit from a building;
  - (b) a fire hydrant;
- (8) on a stand or in any area contemplated in section 6A(3)(b) of the Act if he is not in possession of proof that he has hired such stand or area from the Council or that it has otherwise been allocated to him;
- (9) in contravention of the terms and conditions of the lease or allocation to him of a stand or area contemplated in sections 6A(3)(b) and (c) of the Act.

## 4. RESTRICTIONS

- (1) No person carrying on the business of a street trader shall –
  - (a) if such business is carried on any public road or public place
    - (i) sleep overnight at the place of such business; or
    - (ii) erect any permanent structure at the business site for the purpose of providing shelter without prior written approval of the Council;
  - (b) carry on such business in such a manner as to -
    - (i) create a nuisance;
    - (ii) damage or deface the surface of any public place or any public or private property; or
    - (iii) create a traffic hazard;
  - (c) other than in a refuse receptacle approved or provided by the Council, accumulate, dump, store or deposit or cause or permit to be accumulated, dumped, stored or deposited any litter on any land or premises or on any public road or public place;
  - (d) obstruct access to a service or to service works of the Council or of the State or any statutory body;
  - (e) interfere with the ability of persons using a sidewalk to view the goods displayed behind a shop display window or obscure such goods from view;
  - (f) obstruct access to a pedestrian arcade or mall;
  - (g) carry on business or take up a position or place his property on a portion of a sidewalk or public place in contravention of a notice or sign erected or displayed by the Council for the purpose of these By-laws;

- (h) carry on such business in a place or area in contravention of any restriction imposed by Council resolution in terms of section 6A(2)(a) of the Act;
  - (i) obstruct access to pedestrian crossings, parking or loading bays or other facilities for vehicular or pedestrian traffic;
  - (j) obstruct access to or the use of street furniture such as bus passenger benches or shelters and queuing lines, refuse disposal bins, and other facilities designed for the use of the general public; or
  - (k) obscure any road traffic sign displayed in terms of the Road Traffic Act, 1996 (Act No. 93 of 1996), and regulations made thereunder or any marking, notice or sign displayed or made in terms of these By-laws.
- (2) The Council shall reserve the right to restrict the number of street traders and street trader associations.
- (3) Words applying to any individual shall include persons, companies and corporations, and the masculine gender shall include females as well as males, and the singular number shall include the plural and *vice versa*.

#### 5. CLEANLINESS OF PLACE OF BUSINESS AND PROTECTION OF PUBLIC HEALTH

Every street trader shall –

- (1) unless prior written approval exempting him from the provisions of this paragraph has been given by the Council, daily remove from any public road or public place at the end of each trading day or at the conclusion of trading all goods, moveable structures, waste, packaging material, stock and equipment of whatsoever nature which are utilized in connection with such trading;
- (2) carry on this business in such a manner as not to be a danger or threat to public health or public safety;
- (3) at the request of an officer or an employee of the Council move or remove anything so that the place of business may be cleaned;
- (4) keep the area or stand occupied by him for the purpose of his business as well as his property in a clean and sanitary condition and free of litter; or
- (5) if his activities involve the cooking or other preparation of food, take steps to ensure that no fat, oil or substance drops or overflows onto the surface of a sidewalk or splashes against a building or other structure.

#### 6. DESIGNATED STREET TRADING AREAS

- (1) No street trader shall carry on business in a garden or park to which the public has the right of access except with the prior written approval of the Council's Municipal Manager or other authorised official and in compliance with any conditions imposed by him when granting such consent.
- (2) No street trader shall carry on business outside a designated street trading area as determined by the Council, per resolution, from time to time.

#### 7. OBJECTS USED FOR DISPLAY OF GOODS

A street trader shall ensure that any structure, container, surface or other object used by him for the preparation, display, storage, or transportation of goods –

- (1) is maintained in a good state of repair and in a clean and sanitary condition; and
- (2) is not so placed or stacked so as to constitute a danger to any person or so as to be likely to injure any person.

#### 8. REMOVAL AND IMPOUNDMENT

- (1) For the purpose of this By-law "goods" includes any receptacle, vehicle or movable structure.
- (2) An officer may remove and impound goods –
  - (a) which he reasonably suspects are being used or are intended to be used or have been used in or in connection with the carrying on of any business of a street trade, and
  - (b) which he finds at a place where the carrying on of such business is restricted in terms of section 4(h) or section 5 or prohibited in terms of sections 3(1) to (9) and which in his opinion constitutes an infringement of such provision, whether or not such goods are in the possession or under the control of any person at the time of such removal or impoundment.
- (3) Any officer acting in terms of subsection (2) shall –
  - (a) except in the case of goods which have been left or abandoned, issue to the person carrying on the business of street trader a receipt of any goods so removed and impounded; and
  - (b) forthwith deliver any such goods to the authorised official.
- (4) Neither the Council nor a councillor, official, officer or employee of the Council shall be liable for any loss of or damage to any goods removed and impounded in terms of this section.

#### 9. DISPOSAL OF IMPOUNDED GOODS

- (1) Any perishable goods removed and impounded in terms of section 8(2) may at any time after the impoundment thereof be sold or destroyed by the Council and in the case of a sale of such goods the proceeds thereof, less any expenses incurred by the Council in connection with the removal, impoundment and sale of such goods, shall, upon presentation of the relevant receipt issued in terms of section 8(3)(a), be paid to the person who was the owner of such goods when such goods were impounded. If such owner fails to claim the said proceeds within three months of the date on which such goods were sold, such proceeds shall be forfeited to the Council.
- (2) The owner of any goods (other than perishable goods), dealt with by the Council in terms of subsection (1), impounded in terms of section 8(2) who wishes to claim the return of such goods shall, within a period of one month of the date of the impoundment of such goods, apply to the Council and shall present the relevant receipt issued in terms of section 8(3)(a), failing which such goods may be sold by the Council and in the event of sale of such goods the provisions of subsection (1) relating to the proceeds of a sale shall apply.
- (3) If the owner of any goods impounded in terms of section 8(2) claims the return of such goods from the Council and such owner is unable or refuses to refund any expenses incurred by the Council in connection with the removal and impoundment of such goods, such goods may be sold by the Council and proceeds of any sale of such goods less any such expenses and the cost of such sale shall be paid to such owner.
- (4) In the event of the proceeds of any sale of goods contemplated by this section not being sufficient to defray any expenses incurred by the Council in connection with the removal, impoundment and sale of such goods, the owner of such goods shall remain liable for so much of such expenses as is not defrayed by the proceeds of the sale of such goods.

#### 10. GENERAL OFFENCES AND PENALTIES

- (1) Any person who –
  - (a) contravenes or fails to comply with any provision of these By-laws;
  - (b) ignores, disregards or disobeys any notice, sign or marking displayed or erected for the purpose of these By-laws;
  - (c) contravenes or fails to comply with any approval or condition granted or imposed in terms of these By-laws;
  - (d) for the purpose of these By-laws make a false statement knowing it to be false in a material respect or deliberately furnishes false or misleading information to an authorised official or officer; or
  - (e) threatens, resists, interferes with or obstructs an authorised official, officer or employee of the Council in the performance of his powers, duties or functions under these By-laws, shall be guilty of an offence and on conviction be liable to a fine of R500.00 (Five Hundred Rand) or imprisonment for a period not exceeding 3 (three) months.
- (2) When an employee of a street trader performs any act or is guilty of any omission which constitutes an offence under these By-laws the employer shall be deemed to have performed the act or to be guilty of the omission himself and he shall be liable on conviction to the penalties mentioned in subsection (1) unless he can prove that –
  - (a) in performing the act or being guilty of the omission the employee was acting without his knowledge or permission;
  - (b) all reasonable steps were taken by him to prevent the act or omission; and
  - (c) it was not within the scope of the authority or the course of the employment of the employee to perform an act of the kind in question.
- (3) The fact that an employer issued instructions forbidding any act or omission referred to in subsection (2) shall not of itself be accepted as sufficient proof that he took all steps referred to in paragraph (b) of that subsection.
- (4) When an employer is by virtue of the provisions of subsection (2) liable for anything done or omitted by his employee, then that employee shall also be liable to prosecution for the offence.

#### 11. PRESUMPTIONS

In any prosecution of a street trader for a contravention of these By-laws, the accused shall be deemed to know the provisions of these By-laws and to know that the offence with which he is charged is a contravention thereof.

#### 12. REPEAL OF EXISTING STREET TRADING BY-LAWS

The By-laws relating to Street Trading for the Okhahlamba Local Municipality, are hereby repealed and replaced by these By-laws, which are to become effective on promulgation hereof.

## No. 2

29 February 2008

The Council of the Okhahlamba Local Municipality has in terms of section 156 of the Constitution, 1996 (Act No. 108 of 1996), read in conjunction with sections 11 and 98 of the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000), made the following By-laws which By-laws shall come into operation on the date of publication of this notice.

**OKHAHLAMBA LOCAL MUNICIPALITY  
DUMPING AND LITTERING BY-LAWS**

**1. DEFINITIONS**

- (1) In these By-laws, unless the context otherwise indicates -

“**Council**” means a municipal council referred to in section 157(1) of the Constitution, 1996 (Act No. 108 of 1996);

“**dump**” means to dispose of waste in any manner other than a manner permitted by law and includes, without derogating from the generality of the foregoing, to deposit, discharge, spill or release waste, whether or not the waste is in a container or receptacle, in or at any place whatsoever, whether publicly or privately owned, including but not limited to vacant land, rivers, waterways, catchments and sewage and storm-water systems. The act of “littering”, which retains its ordinary meaning, is excluded from the definition of “dump”;

“**person**” includes a natural person, company, closed corporation, trust, association and partnership;

“**waste**” means any matter, whether liquid or solid or a combination thereof, which is a by-product, emission, residue or remainder of any product, process or activity and which has been discarded, but excludes any radioactive matter.

- (2) Words applying to any individual shall include persons, companies and corporations, and the masculine gender shall include females as well as males, and the singular number shall include the plural and *vice versa*.

**2. DUMPING AND LITTERING**

- (1) No person may –

- (a) litter or cause to permit littering of waste;
- (b) dump or cause to permit the dumping of waste.

- (2) If the provisions of subsection (1) are contravened, Council may direct, by way of a written notice in terms of subsection (5), any or all of the following persons –

- (a) any person who committed, or who directly or indirectly caused or permitted, the contravention;
- (b) the generator of the waste, whether or not the generator is responsible for the contravention;
- (c) the owner of the land or premises where the contravention took place, if the owner failed to take the steps set out in subsection (3);
- (d) the person in control of, or any person who has or had, at the time of the contravention, a right to use, the land or premises where the contravention took place, if that person failed to take the steps set out in subsection (3);
- (e) any person who negligently failed to prevent the contravention from taking place, to cease the contravention in a specified time, or to prevent a further contravention or the continuation of the contravention, and to take whatever steps Council considers necessary to clean up or remove the waste, to rehabilitate the affected facets of the environment and to ensure that the waste and any contaminated material which cannot be cleaned or rehabilitated, are disposed of lawfully.

- (3) A person who owns land or premises, or who is in control of or has a right to use land or premises, may not use or permit the use of the land or premises for unlawful dumping of waste and must take reasonable steps to prevent the use of the land or premises for the purpose.

- (4) Council may issue notices -

- (a) for the purpose of giving directions in terms of subsection (2);
- (b) for compelling persons to comply with their obligations under subsection (3); and
- (c) for any other purpose under this By-law, and may, in the notice, specify a reasonable time within which the directions given in the notice must be complied with.

- (5) In addition, or as an alternative to the steps set out in subsection (2), or if a person fails to comply with directions given in a notice issued under subsection (4), Council may itself take whatever steps it considers necessary to clean up or remove the waste, to rehabilitate the premises or place and affected facets of the environment at which the waste has been dumped and to ensure that the waste and any contaminated material which cannot be cleaned or rehabilitated are disposed of lawfully. Council may then recover the costs of taking these steps from any of the persons listed in subsection (2), who shall be jointly and severally liable therefore.

- (6) The costs claimed under subsection (5) must be reasonable and may include, but are not limited to, labour, administrative, overhead, investigation and prosecution costs.

### 3. OFFENCES

Any person who -

- (1) contravenes section 2(1)(a);
- (2) contravenes section 2(1)(b);
- (3) contravenes section 2(3);
- (4) fails to comply with the terms of any notice issued under section 2(4);
- (5) obstructs Council when Council is taking steps under section 2(5), is guilty of an offence.

### 4. PENALTIES AND CONVICTIONS

- (1) Any person guilty of an offence under section 3(1) is liable to a fine or imprisonment for a period not exceeding sixty (60) days, or to both a fine and such imprisonment.
- (2) Any person guilty of an offence under sections 3(2), 3(3), 3(4) and 3(5) is liable to a fine or imprisonment for a period not exceeding one (1) year or to both a fine and such imprisonment.
- (3) A court shall, on a second and on subsequent convictions of a person guilty of an offence under section 3(2) of this By-law, impose a sentence or a fine or imprisonment for a period not less than one (1) year, or both a fine and such imprisonment: Provided that if the court is satisfied that substantial and compelling circumstances exist which justify the imposition of a lesser sentence, the court shall enter those circumstances on the record of the proceedings and may impose such a lesser sentence.
- (4) A court convicting a person of a first offence under this By-law may impose a sentence of community service in place or a fine or imprisonment.
- (5) A court may, when considering sentence, take into account as aggravating circumstances that, *inter alia* –
  - (a) a convicted person has delayed in complying with the terms of any notice or directions given to the person under this By-law;
  - (b) a financial advantage was or would have been gained by a convicted person in consequence of the commission of the offence;
  - (c) the dumped waste posed a potential or actual threat to public health, public safety or the environment.
- (6) If a person is convicted of an offence under this By-law which has caused damage to or loss of property or which has had an adverse impact on the environment then, in addition to any other sentence it imposes, the court may –
  - (a) if the property belongs to another person, and on the application of the injured person or the prosecutor acting on the instructions of the injured person, order the convicted person to pay the injured person compensation for the damage or loss in accordance with section 300 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
  - (b) order the convicted person to, at his or her cost, and to the satisfaction of the Council, repair the damage and/or make good the loss and/or rehabilitate the environment.
- (7) If a person is convicted of an offence under this By-law, the court may, in addition to any other punishment which it imposes, issue an order compelling the person to comply, within a period determined by the court, with the relevant provisions of this By-law or, where applicable, with the relevant provisions of any notice issued under this By-law.
- (8) If-
  - (a) a manager, agent or employee does or omits to do an act, it was his or her task to do or refrain from doing and which, under this By-law, is an offence for the employer to do or refrain from doing; and
  - (b) the act or the omission of the manager, agent or employee took place because the employer failed to take all reasonable steps to prevent the act or omission;

then, the employer is guilty of the offence and proof of the act or omission by the manager, agent or employee is *prima facie* evidence that the employer is guilty under this subsection: Provided that no penalty other than a fine shall be imposed if a conviction is based on this subsection.

### 5. APPLICABILITY

The Council may by notice determine that the provision of these By-laws do not apply in certain areas within its area of jurisdiction from a date specified in the notice.



**No. 3****29 February 2008**

The Council of the Okhahlamba Local Municipality has in terms of section 156 of the Constitution, 1996 (Act No. 108 of 1996), read in conjunction with sections 11 and 98 of the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000), made the following By-laws:

**OKHAHLAMBA LOCAL MUNICIPALITY  
BY-LAWS RELATING TO THE CONTROL OF PARKING ATTENDANTS/CAR GUARDS**

**1. DEFINITIONS**

- (1) Unless the context otherwise indicates -

“**approved administrator**” means any person or entity approved by the Council as an administrator and co-ordinator of parking attendants and/or car guard activities in relation to any demarcated area;

“**authorised officer**” means an inspector of licences, a traffic officer, a peace officer in terms of section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), or a police officer in terms of the South African Police Services Act, 1995 (Act No. 58 of 1995), and includes any other person whom the Minister of Local Government may, from time to time by regulation, declare to be an authorised officer;

“**Council**” means a municipal council referred to in section 157(1) of the Constitution, 1996 (Act No. 108 of 1996);

“**demarcated area**” means an area designated or reserved in terms of the town planning scheme and used as public parking areas or in such other areas as may be specifically approved by the Council for the use of parking attendants or car guards;

“**nuisance**” means any condition, thing, act or omission which is offensive or injurious or which tends to prejudice the safety, good order, peace of the area or part thereof or the rights of reasonable comfort, convenience, peace or quiet of any neighbourhood within the area and includes any act, exhibition or publication contrary to public decency or morals;

“**parking attendant/car guard**” means a person who, whether for fixed or agreed remuneration or benefit, or otherwise, offers a service of guarding or protecting one or more vehicles in a demarcated area, or guiding or assisting persons desirous of parking or removing their vehicles from such demarcated area in entering or leaving any parking space or place;

“**public road**” means a public road as defined in section 1 of the Road Traffic Act, 1989 (Act No. 29 of 1989); and

“**town planning scheme**” means the town planning scheme(s), in course of preparation, applicable to the Okhahlamba municipal area, as constituted from time to time, and includes any development control document or regulations substituted therefore.

- (2) Words applying to any individual shall include persons, companies and corporations, and the masculine gender shall include females as well as males, and the singular number shall include the plural and *vice versa*.

**2. CO-ORDINATION OF ACTIVITIES**

The Council may appoint one or more approved administrators to oversee and co-ordinate the activities of parking attendants and car guards in demarcated areas on such terms and conditions as the Council may agree with such approved administrators.

**3. AREAS WHERE PARKING ATTENDANTS/CAR GUARDS MAY RENDER SERVICES**

- (1) The provision of the services of parking attendants/car guards is only permitted in demarcated areas.
- (2) Except in those areas referred to in section 3 (1), no person may offer or render service as a parking attendant/car guard, whether for agreed remuneration or in expectation of a reward or benefit, in or on;
- (a) any public road under the jurisdiction or in the ownership of Council; or
- (b) any off-street parking area normally used by the public or to which the public has the right of access.
- (3) For the purposes of section 3(1), the Council may extend the application of these By-laws to an area in private ownership used for parking purposes by members of the public, but only on the application of the owner of such property or an application made by the lessee or other occupier thereof with the written consent of the owner.

**4. REGISTRATION AS APPROVED ADMINISTRATOR**

- (1) Any person intending to operate as an approved administrator shall make an application to the Council in the prescribed format, and is only allowed to operate as such once the Council has approved the application, and on the conditions prescribed by the Council.
- (2) Nothing in these By-laws shall be deemed to prevent any person operating as a parking attendant/car guard to become an approved administrator, subject thereto that such parking attendant would be required to register as an approved administrator in terms of these By-laws or any national legislation applicable from time to time.
- (3) The Council has the right to restrict the number of approved administrators to a number which can reasonably represent the number of parking attendants/car guards operating in an area.

**5. REGISTRATION AS PARKING ATTENDANT/CAR GUARD**

- (1) No person shall operate as a parking attendant/car guard unless he or she —
  - (a) has applied to an approved administrator for registration as a parking attendant/car guard in the area and has been approved as a parking attendant by such approved administrator;
  - (b) at all times, carries a clear identification card in a format to be prescribed by the Council from time to time; and
  - (c) wears a uniform/bib approved by the Council, which clearly distinguishes between parking attendants/car guards and authorised officers.
- (2) The Council may —
  - (a) restrict the number of registered parking attendants/car guards operating within its area of jurisdiction;
  - (b) refuse or withdraw the registration of any parking attendant/car guard if —
    - (i) such person has been convicted in a court of law of any criminal offence;
    - (ii) such person causes wilful damage to person or property; or
    - (iii) such person is found at any stage while rendering services to be under the influence of intoxicating liquors or illegal substances; and
  - (c) enter into an agreement, or impose conditions upon the administrator for the effective control of parking attendants/car guards.

#### 6. DUTIES OF THE APPROVED ADMINISTRATOR

- (1) The approved administrator shall ensure that no person rendering service as a parking attendant/car guard shall —
  - (a) take up a position or place himself or herself on a sidewalk or in a manner so that pedestrian traffic is obstructed;
  - (b) in any way, obstruct free access to any —
    - (i) entrance or exit from a building;
    - (ii) fire hydrant;
    - (iii) Council service or service works;
  - (c) sleep overnight at a public place if services are rendered at or on such public place or part thereof,
  - (d) in the course of rendering services as a parking attendant/car guard —
    - (i) create a public nuisance by his/her behaviour;
    - (ii) create a traffic hazard to motor vehicles;
    - (iii) hinder or prevent proper traffic control in a public area;
  - (e) engage in any other activities that may have a negative impact on his/her service as attendant/guard; or
  - (f) engage in any activity that is in contradiction with any other legislation; and
  - (g) contravene any condition imposed by the Council.

#### 7. OFFENCES AND PENALTIES

- (1) Any person who —
  - (a) contravenes any provision of these By-laws or fails to comply with any condition imposed in terms thereof; or
  - (b) threatens, resists, interferes with or obstructs, any Council employee in the performance of his or her duties or functions in terms of these By-laws or any other law; or
  - (c) deliberately or negligently furnishes false or misleading information to any authorised officer or any Council employee,shall be guilty of an offence, and liable upon conviction, to a fine or imprisonment for a period not exceeding six months, or both the fine and the imprisonment.

#### 8. CANCELLATION/WITHDRAWAL OF APPROVAL

Notwithstanding section 7, the Council may withdraw/cancel the registration of any approved administrator who contravenes any provision of these By-laws or any conditions imposed by the Council.

#### 9. REPEAL OF BY-LAWS

The By-laws relating to the Control of Parking Attendants/Car Guards for the Okhahlamba Local Municipality, are hereby repealed and replaced by these By-laws, which are to become effective on promulgation hereof.

**No. 4****29 February 2008**

The Council of the Okhahlamba Local Municipality has in terms of section 156 of the Constitution, 1996 (Act No. 108 of 1996), read in conjunction with sections 11 and 98 of the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000), made the following By-laws which By-laws shall come into operation on the date of publication of this notice:

**OKHAHLAMBA LOCAL MUNICIPALITY  
BY-LAWS RELATING TO PUBLIC AMENITIES**

**1. DEFINITIONS**

- (1) In these By-laws, unless the context otherwise indicates -

“**Council**” means the Okhahlamba Municipality and its successors in law, and includes the Council of that municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Executive Committee has delegated any powers and duties with regards to these By-laws;

“**notice**” means a clear and legible official notice drawn up by the Council and displayed at every entrance to or at a conspicuous place at or on a public amenity; and

“**public amenity**” means -

- (a) any land, square, camping site, swimming-bath, public resort, nature reserve, zoological, botanical or other garden, park, hiking trail, or natural water source including any portion thereof and any facility or apparatus therein or thereon, but excluding any public road or street;
- (b) any building, structure, hall, room or office including any part thereof and any facility or apparatus therein, which is the property of, or is possessed, controlled or leased by the Council and to which the general public has access, whether on payment of admission fees or not, and includes any public amenity contemplated in paragraphs (a) and (b) which is situated within the area of jurisdiction of the Council, if it is lawfully controlled and managed in terms of an agreement by a person other than the Council.
- (2) Words applying to any individual shall include persons, companies and corporations, and the masculine gender shall include females as well as males, and the singular number shall include the plural and *vice versa*.

**2. MAXIMUM NUMBER OF VISITORS**

- (1) The Council may determine the maximum number of visitors who may be present at a specific time in or at a public amenity: Provided that different numbers may so be determined for different public amenities.
- (2) The numbers contemplated in subsection (1) are made known by the Council by means of a notice.

**3. ADMISSION TO AND SOJOURN IN A PUBLIC AMENITY**

- (1) A public amenity is, subject to the provisions of these By-laws, open to the public during the times determined by the Council: Provided that different times may be determined in respect of different public amenities.
- (2) No visitors shall enter or leave a public amenity at a place other than that indicated for that purpose.
- (3) The Council may temporarily close any public amenity to visitors in case of an emergency or for the purpose of repair to or maintenance of such public amenity.
- (4) The times and places contemplated in subsections (1) and (2) shall be made known by the Council by means of a notice.

**4. ENTRANCE FEES**

- (1) A visitor to a public amenity shall pay entrance fees approved and promulgated by the Council, and such entrance fees shall be made known by means of a notice.
- (2) Different entrance fees may so be determined in respect of visitors of different ages.

**5. NUISANCES**

No person shall perform or permit any of the following acts to be performed in or at a public amenity:

- (1) The use of language or the performance of any other act with the purpose of disturbing good order.
- (2) The firing of firearms or fireworks.
- (3) The burning of rubble or refuse.
- (4) The causing of unpleasant or offensive smells.
- (5) The production of smoke nuisance.
- (6) The causing of disturbances by fighting, shouting, or arguing.
- (7) Any other act which is in contravention of any legislation or which is, in the opinion of the person in control as contemplated in section 14, creating a nuisance.

**6. HEALTH MATTERS**

No person shall, in or at a public amenity -

- (1) dump, drop or place any refuse, rubble, material or any object or thing or permit it to be done, except in a container provided for

that purpose in or at the amenity;

- (2) pollute or contaminate in any way the water in any public swimming-bath, dam, spruit, river, natural water source or watercourse;
- (3) enter any public swimming-bath while suffering from an infectious or contagious disease or having an open wound on his body; or
- (4) perform any act that may affect the health of any visitors to a public amenity.

#### 7. STRUCTURES

No person shall, without the written consent of the Council having first been obtained, erect or establish in or on a public amenity any structure, shelter, except a caravan or tent erected for camping purposes on a site specifically set aside therefor by notice: Provided that application for such consent shall be made to the Council on a form provided for that purpose, at least 21 (twenty-one) days before such erection.

#### 8. GATHERINGS AND PROCESSIONS

- (1) No person shall, without the consent of the Council or contrary to any condition which the Council may impose when granting such consent, in or at a public place -
  - (a) arrange or present any public entertainment or public gathering or procession, exhibition or performance;
  - (b) collect money or any other goods for charity or any other purpose from the general public; or
  - (c) conduct any trade, occupation or business.
- (2) Consent contemplated in subsection (1), shall be refused only if the Council is of the opinion that -
  - (a) it would give rise to -
    - (i) public rioting;
    - (ii) the disturbance of public peace; or
    - (iii) the committing of an offence;
  - (b) it would be detrimental to the public or the users of or visitors to the public amenity; or
  - (c) it would be detrimental to the public amenity concerned.
- (3) Any person who requires the Council's written consent for any action contemplated in subsection (1), shall apply in writing to the Council at least 21 (twenty-one) days before such action on the form provided for this purpose.

#### 9. SAFETY AND ORDER

- (1) No person shall, subject to subsection (2), in or at a public amenity -
  - (a) damage or disfigure anything within such amenity;
  - (b) use or try to use anything within such an amenity for any purpose other than that for which it is designated or determined by notice;
  - (c) light a fire, except at a place indicated for that purpose by notice or within a safe area;
  - (d) throw away any burning or smouldering object;
  - (e) throw or roll down any rock, stone or object from any mountain, koppie, slope or cliff;
  - (f) pull out, pick or damage any tree, plant, shrub, vegetation or flower;
  - (g) behave himself in an improper, indecent, unruly, violent or unbecoming manner;
  - (h) cause a disturbance;
  - (i) walk, stand, sit or lie in a flower bed; or
  - (j) kill, hurt, disturb, ill-treat or catch any animal, or displace, disturb, destroy or remove any nest or eggs.
- (2) The Council may, by way of notice and subject to such conditions as the Council deems necessary and mentioned in the notice, authorize any of the actions contemplated in subsection (1).

#### 10. WATER

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

#### 11. LAUNDRY

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

#### 12. VEHICLES

- (1) No person may bring into a public amenity any motor vehicle, motor cycle, quad or any other vehicle, craft, or aeroplane whether driven by mechanical, or other means, except in accordance with the directions of the Council: Provided that different directions may be determined for different public amenities and for such different vehicles, craft or aeroplanes.
- (2) The Council may determine the speed limit applicable to a public amenity: Provided that different speed limits may be determined for different vehicles, or craft.
- (3) The directions contemplated in subsection (1) and the speed limit contemplated in subsection (2) shall be made known by the Council by way of notice.

#### 13. IMPROPER OR INDECENT BEHAVIOUR

No person may, in or at a public amenity -

- (1) perform an indecent act or conduct himself improperly by exposure of his person or otherwise, or make improper gestures or incite or urge someone to perform a disorderly act;
- (2) use foul, lewd, dirty or indecent language;
- (3) write, paint, draw or in any way, make a filthy or immoral figure, writing, drawing or representation;
- (4) defecate, urinate or undress, except in such building or on premises intended or indicated by notice for such purpose;
- (5) enter or use a toilet facility intended or indicated as such by notice for members of the opposite sex; or
- (6) be clothed in an indecent manner.

#### **14. POWERS OF A PERSON IN CONTROL**

A person appointed by the Council to control a public amenity may -

- (1) in a public amenity, at any time, enter upon any place, land, premises or building and conduct an investigation thereat in order to determine whether the provisions of these By-laws are complied with;
- (2) for the better exercising of any power or the performance of any function or duty assigned or granted to him, take along an interpreter who, while acting under the lawful order of such a person, shall have the same powers, functions and duties as such person;
- (3) remove any person or cause him/her to be removed from a public amenity if such a person contravenes or fails to comply with a provision of these By-laws or a direction adopted by the Council under these By-laws or a condition imposed under these By-laws.

#### **15. PENALTIES**

Any person who -

- (1) contravenes or fails to comply with a provision of these By-laws or direction adopted by the Council under these By-laws and which has been made known by notice, or of a condition imposed under such By-laws, irrespective of whether such contravention or failure has been declared as an offence elsewhere in these By-laws, or not;
- (2) deliberately obstructs, hampers or handicaps any person in the execution of any power or the performance of any duty or function in terms of any provision of these By-laws; or
- (3) furnishes false, incorrect or misleading information when applying for permission from the Council in terms of a provision of these By-laws, shall be guilty of an offence and liable, upon conviction, to a fine not exceeding R500.00 (Five Hundred Rand) or imprisonment for a period not exceeding 6 (six) months, or both the fine and the imprisonment.

#### **16. APPLICATION**

The Council may by notice determine that the provision of these By-laws do not apply in certain areas within its area of jurisdiction from a date specified in the notice.

#### **17. REPEAL**

The By-laws relating to Public Amenities for the Okhahlamba Local Municipality, are hereby repealed and replaced by these By-laws, which are to become effective on promulgation hereof.

**No. 5****29 February 2008**

The Council of the Okhahlamba Local Municipality has in terms of section 156 of the Constitution, 1996 (Act No. 108 of 1996), read in conjunction with sections 11 and 98 of the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000), made the following By-laws which By-laws shall come into operation on the date of publication of this notice:

**OKHAHLAMBA LOCAL MUNICIPALITY  
BY-LAWS RELATING TO PUBLIC MEETINGS AND GATHERINGS, PROCESSIONS AND THE LIKE**

**1. DEFINITIONS**

- (1) In these By-laws, unless the context otherwise indicates -
- "Council"** means the Okhahlamba Local Municipality and its successors in law, and includes the Council or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Executive Committee has delegated any powers and duties with regards to these By-laws.
- (2) Words applying to any individual shall include persons, companies and corporations, and the masculine gender shall include females as well as males, and the singular number shall include the plural and *vice versa*.

**2. PERMISSION REQUIRED**

No person shall hold, convene or organise or cause to be held convened or organised any public meeting, public gathering, procession, exhibition, performance or public address in any public street or public place or deliver or cause to be delivered any public address in any public street or public place unless -

- (1) the Council has under the hand of the Municipal Manager granted its permission in writing for the holding or delivery thereof; and
- (2) it is held or delivered in compliance with any condition, requirements or restriction imposed by the Council; and
- (3) it complies with all the laws in force in the Republic of South Africa.

**3. APPLICATION FOR PERMISSION**

- (1) Any person wishing to obtain the Council's permission as in subsection (2) required shall deliver to the Council, not less than 7 days or such lesser period as the Council may, in its discretion, permit before the day on which the public meeting, public gathering, procession, exhibition, performance or public address concerned is to be held or delivered, a written application specifying -
- (a) the nature thereof;
  - (b) the full names, addresses and telephone numbers of every holder, convenor and organiser thereof and of every person intending to deliver an address;
  - (c) the date on which, time at which, and place at, or route along which it is to be held or delivered;
  - (d) the expected maximum duration thereof;
  - (e) in the case of a procession, the number of persons expected to take part; and
  - (f) particulars regarding any band, musical instruments, device for the application of sound, vehicle or temporary structure to be used in conjunction therewith.
- (2) The Council may require such person to supply any additional information which it may consider necessary for the purposes of dealing with such application.

**4. GRANT OR REFUSAL OF PERMISSION**

- (1) The Council may grant its permission if all information required has been supplied in full and if it is satisfied at the holding or delivery of the public meeting, public gathering, procession, exhibition, performance or public address concerned is not likely to -
- (a) endanger, obstruct or interfere with -
    - (i) pedestrian or vehicular traffic;
    - (ii) any public market, auction or fair; and
    - (iii) any other public meeting, gathering, procession, exhibition, performance or public address; or
    - (iv) lawful use by the public of any street or public place; or
  - (b) endanger or be injurious to public health.
- (2) The Council may, when granting its permission for the holding of any public meeting, public gathering, procession, exhibition or performance, or the delivery of any public address under this chapter, impose such conditions, requirements and restrictions as it may deem necessary in the public interests and may, without derogating from the generality of the foregoing in particular, limit the holding or delivery thereof to specified times or periods and to specify places or routes and prohibit or restrict the use of any band, musical instrument, device for the application of sound, vehicle or temporary structure in conjunction therewith.

**5. EXEMPTION**

The provisions of this chapter shall not apply to any funeral, wedding, military or police procession.

**6. OFFENCES AND PENALTIES**

Any person who:

- (1) contravenes or fails to comply with any provisions of these By-laws or of any term, condition, restriction, requirement, notice or order imposed or issued in terms thereof;
- (2) resists, hinders, obstructs, molests or interferes with any officer or employee of the Council in the performance of his duties or the execution of his powers under these By-laws; or
- (3) causes or permits any other person to commit any of the aforesaid -

shall be guilty of an offence and shall be liable upon conviction, to a fine not exceeding five hundred rand, or in default of payment of any fine, impose, imprisonment for a period not exceeding six months.

**7. DAMAGES**

- (1) Notwithstanding the stipulations continued in subsection (6) above, the Council shall hold responsible any person or organiser of a public meeting and gathering or participant in such gathering or procession for any damage to any property of the Council and shall claim the cost to repair such damage from such a person or organiser.

**8. APPLICATION**

The Council may by notice determine that the provision of these By-laws do not apply in certain areas within its area of jurisdiction from a date specified in the notice.

**9. REPEAL**

The By-laws relating to Public Meetings and Gatherings, Processions and the Like for the Okhahlamba Local Municipality, are hereby repealed and replaced by these By-laws, which are to become effective on promulgation hereof.

**No. 6****29 February 2008**

The Council of the Okhahlamba Local Municipality has in terms of section 156 of the Constitution, 1996 (Act No. 108 of 1996), read in conjunction with sections 11 and 98 of the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000), made the following By-laws:

**OKHAHLAMBA LOCAL MUNICIPALITY  
WASTE MANAGEMENT BY-LAWS**

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**CHAPTER I**  
**INTERPRETATION, PRINCIPLES AND OBJECTS**

**1. DEFINITIONS**

(1) In these By-laws, unless the context indicates otherwise –

**“affected person”** means a person who has been issued, or who is being issued, with an enforcement notice;

**“approved”** in the context of bins, bin liners, containers, receptacles and wrappers means approved by the Council or service provider for the collection and storage of waste;

**“authorised official”** means an authorised official authorised by the Council for purposes of these By-laws to perform and exercise any or all of the functions and powers specified herein;

**“Bill of Rights”** means Chapter 2 of the Constitution of the Republic of South Africa, 1996;

**“bin”** means an approved receptacle for the storage of less than 1,5 cubic metres of waste which may be supplied by the Council or service provider to premises in terms of these By-laws;

**“bin liner”** means an approved loose plastic or other suitable material liner for use in the interior of a bin;

**“building waste”** includes all waste produced during the construction, alteration, repair or demolition of any structure, and includes building rubble, earth, vegetation and rock displaced during such construction, alteration, repair or demolition;

**“bulky waste”** means business waste or domestic waste which by virtue of its mass, shape, size or quantity is inconvenient to remove in the routine door-to-door council service provided by the Council or service provider;

**“business waste”** means waste, other than hazardous waste, healthcare risk waste, building waste, industrial waste, garden waste, bulky waste and special industrial waste, generated on premises used for non-residential purposes;

**“commercial services”** means any service, excluding council services, relating or connected to accumulating, collecting, managing, recycling, sorting, storing, treating, transporting, disposing, buying or selling of waste or any other manner of handling waste;

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

**“Council”** means –

(a) the Municipal Council of Okhahlamba Local Municipality established by Provincial Notice No. 344, 2000, as amended, or its successor in title, and any committee or person to which or whom an instruction has been given or any power has been delegated or sub-delegated in terms of, or as contemplated in, section 59 of the Systems Act or, where the context so requires, means the aforesaid Okhahlamba Local Municipality; or

(b) a service provider in respect of any power, function or duty of the Council as contemplated in paragraph (a), assigned by it for the purpose of these By-laws to that service provider in terms of section 81(2) of the Systems Act;

**“council services”** means a municipal service relating to the collection of waste, including domestic waste, business waste and dailies, provided exclusively by the Council or service providers in accordance with the provisions of the Systems Act and Chapter 6 of these By-laws, and which in the case of business waste extends only to waste deposited in bin liners, bins and 240 litre wheeled bins;

**“damage to the environment”** means any pollution, degradation or harm to the environment whether visible or not;

**“dailies”** means putrescible waste generated by hotels, restaurants, food shops, hospitals, and canteens that must be collected on a more frequent basis, normally a daily basis, to prevent the waste from decomposing and presenting a nuisance, environmental or health risk;

**“domestic waste”** means waste generated on premises used solely for residential purposes and purposes of public worship, including halls or other buildings used for religious purposes, but does not include business waste, building waste, garden waste or bulky waste;

**“dump”** means placing waste anywhere other than an approved receptacle or a place designated as a waste handling facility or waste disposal facility by the Council or service provider;

**“DWAF”** means the National Department of Water Affairs and Forestry;

**“enforcement notice”** means a notice issued by an authorised official under section 39 of these By-laws;

**“environment”** means the surroundings within which humans exist made up of –

(a) the land, water and atmosphere of the earth;

(b) micro-organisms, plant and animal life;

- (c) any part or combination of (a) and (b) and the interrelationships among and between them; and
- (d) the physical, chemical aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

**“environmental emergency”** means any unexpected or sudden occurrence that may cause or has caused serious harm to human health or damage to the environment, regardless of whether the potential for harm or damage is immediate or delayed;

**“firm”** includes any juristic person or any association of persons established or operating in the Republic of South Africa;

**“garden waste”** means waste generated as a result of normal domestic gardening activities, including grass cuttings, leaves, plants, flowers and other similar small and light organic matter, but does not include tree branches with a diameter thicker than 40mm at any point of its length, bulky waste or any waste generated as a result of garden service activities;

**“garden service”** means the provision of gardening services by a licensee including the cutting of grass, pruning of trees or any other horticultural activity including landscaping, to any domestic, business, commercial or industrial premises;

**“garden waste handling facility”** means a waste handling facility that receives and temporarily stores garden waste or any other recyclable waste;

**“hazardous waste”** means waste containing or contaminated by poison, a corrosive agent, a flammable substance having an open flash-point of less than 90°C, an explosive, radioactive material, a chemical or any other waste that has the potential even in low concentrations to have a significant adverse affect on public health or the environment because of its inherent toxicological, chemical and physical characteristics;

**“health care risk waste”** means all hazardous waste generated at health care facilities such as hospitals, clinics, laboratories, medical research institutions, dental and medical practitioners and veterinarians;

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

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

**“level of service”** means the frequency of the council service and the type of service point;

**“licensee”** means any person who has obtained a licence in terms of Chapter 7 of these By-laws;

**“litter”** means any object or matter which is discarded by a person in any place except in an approved receptacle provided for that purpose or at a waste handling facility or waste disposal facility;

**“local community”** in relation to the Council means that body of persons comprising–

- (a) the residents of the Council;
- (b) the ratepayers of the Council;
- (c) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the Council; and
- (d) visitors and other people residing outside of the Council who, because of their presence in the Council, make use of services or facilities provided by the Council;

**“nuisance”** means any injury, harm, damage, inconvenience or annoyance to any person which is caused in any way whatsoever by the improper handling or management of waste, including but not limited to, the storage, placement, collection, transport or disposal of waste or by littering;

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

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

**“person”** means natural person or firm and includes licensees;

**“pollution”** means any change in the environment caused by –

- (a) substances; or
- (b) noise, odours, dust or heat, emitted from any activity, including the storage or treatment of waste or substances, construction and the provision of services, whether engaged in by any person or an organ of state,

where that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of natural or managed ecosystems, or on materials useful to people, or will have such an effect in the future;

**“premises”** means an erf or any other portion of land, including any building thereon or any other structure utilised for business, industrial or residential purposes;

**“prescribed fee”** means a fee determined by the Council by resolution in terms of applicable legislation;

**“public place”** includes any public building, public road, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden park, enclosed space vested in a Council, and any road, place or thoroughfare however created which is in the undisturbed use of the public or which the public has the right to use or the right to access;

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

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

**“radioactive material”** means any substance consisting of, or containing, any radioactive nuclide, whether natural or artificial;

**“radioactive waste”** means any radioactive material which is or is intended to be disposed of as waste;

**“recyclable waste”** means waste which has been separated from the waste stream, and set aside for purposes of re-use, reclamation or recycling;

**“resident”** means in relation to a Council a person who is ordinarily resident in the Council;

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

**“service delivery agreement”** means an agreement between the Council and a service provider in terms of which the service provider is required to provide council services;

**“service provider”** means any person who has entered into a service delivery agreement with the Council in terms of the Systems Act;

**“special industrial waste”** means waste consisting of a liquid, sludge or solid substance, resulting from a manufacturing process, industrial treatment or the pre-treatment for disposal purposes of any industrial or mining liquid waste, which in terms of the Council's drainage or sanitation By-laws may not be discharged into a drain or a sewer;

**“Structures Act”** means the Local Government : Municipal Structures Act, 1998 (Act No. 117 of 1998);

**“sustainable development”** means the integration of social, economic and environmental factors into planning, implementation and decision-making so as to procure that development serves present and future generations;

**“Systems Act”** means the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000);

**“target”** means any desired air, water quality or waste standards contained in any legislation;

**“tariff”** means the user charge for the provision of council services, determined and promulgated by the Council or adjusted by a service provider in terms of Tariff Policy By-laws adopted under section 75 of the Systems Act;

**“waste”** means any undesirable or superfluous matter, material, by-product or residue of any process or activity that has been discarded, accumulated or stored for the purpose of discarding, re-use, reclamation or recycling. Waste products may be liquid or solid and may include products that contain a gaseous component and may originate from domestic, commercial or industrial activities, but does not include –

- (a) matter processed as part of sanitation services under the Water Services Act (Act No. 107 of 1997);
- (b) any gas or gaseous product which may be regulated by national or provincial legislation; or
- (c) any radioactive material save where these By-laws specifically permit it to be handled;

**“waste disposal facility”** means any facility or site which receives waste for disposal thereof, and which is operated in terms of a permit obtained from DWAF or any other competent authority or where such a facility is an incinerator, registration or such permission as is required by law, and includes garden waste handling facilities;

**“waste generator”** means any person or firm that generates or produces waste;

**“waste handling facility”** means any facility that accepts, accumulates, handles, recycles, sorts, stores or treats waste prior to its transfer for incineration or final disposal;

“**workplace**” means any place within the Council on or in which or in connection with which, a person undertakes council services or commercial services; and

“**wrapper**” means a plastic or other suitable or approved material covering that totally encloses bales or slugs of compacted waste.

- (2) Words applying to any individual shall include persons, companies and corporations, and the masculine gender shall include females as well as males, and the singular number shall include the plural and *vice versa*.

## 2. PRINCIPLES

- (1) The Council has the responsibility to ensure that all waste generated within the Council is –
- (a) collected disposed of or recycled in accordance with these By-laws; and
  - (b) that such collection disposal or recycling takes account of the waste management hierarchy set out in subsection (2) below.
- (2) The underlying principle of these By-laws is to establish a waste management hierarchy in the following order of priority:
- (a) avoidance, waste minimisation and waste reduction;
  - (b) re-use;
  - (c) recycling, reprocessing and treatment; and
  - (d) disposal.
- (3) Any official involved in the application of these By-laws must, as far as reasonably possible, take into account the hierarchy referred to in subsection (2).

## 3. MAIN OBJECTS

- (1) The main objects of these By-laws are –
- (a) the regulation of the collection, disposal and recycling of waste;
  - (b) the regulation of the provision of council services by service providers and commercial services by licensees; and
  - (c) enhancing sustainable development.
- (2) In pursuing the main objects of these By-laws, and in particular the object set out in subsection (1), the Council must –
- (a) endeavour to ensure that local communities are involved in the development of local waste plans;
  - (b) endeavour to minimise the consumption of natural resources;
  - (c) promote the recycling and re-use of waste;
  - (d) encourage waste separation to facilitate re-use and recycling;
  - (e) promote the effective resourcing, planning and delivery of council services and commercial services;
  - (f) endeavour to achieve integrated waste planning and services on a local basis;
  - (g) promote and ensure environmentally responsible council services and commercial services; and
  - (h) endeavour to ensure compliance with the provisions of these By-laws.

## 4. DUTY OF CARE

- (1) Every person has a duty to manage any waste generated by his activities or the activities of those persons working under his direction in such a manner that the waste does not cause harm to human health or damage to the environment. In particular –
- (a) no person may engage in council services or commercial services in a manner that results in, or creates a risk of harm to human health or damage to the environment, except insofar as such risk of harm or damage is an unavoidable aspect of the council services or waste management service and has been authorised by the Council; and
  - (b) every person who generates waste or engages in council services or commercial services must take all reasonable measures to prevent any other person from contravening subsection (1) above in relation to that waste.
- (2) Without limiting its generality, subsection (1) applies to an owner of land, premises or equipment, a person in control of land, premises or equipment or a person who has a right to use the land, premises or equipment on which or in which –
- (a) any activity or process is or was performed or undertaken; or
  - (b) any other situation exists, which causes, or is likely to cause, harm to human health or damage to the environment.
- (3) Any person subject to the duty imposed in subsection (1) may be required by the Council or an authorised official to take measures to ensure compliance with the duty.
- (4) The measures referred to in subsection (1) that a person may be required to undertake include –
- (a) investigation, assessment and evaluation of the impact that their activities, the process or a situation have on the

- environment;
- (b) informing and educating employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing damage to the environment;
  - (c) ceasing, modifying or controlling any act, process, situation or activity which causes damage to the environment;
  - (d) containing or preventing the movement of pollutants or other causes of damage to the environment;
  - (e) eliminating or mitigating any source of damage to the environment; or
  - (f) rehabilitating the effects of the damage to the environment.

**CHAPTER 2**  
**WASTE MANAGEMENT PLANNING, POLICY AND STRATEGY**

**PART 1 : LOCAL WASTE PLANS**

**5. DEVELOPMENT OF LOCAL WASTE PLANS**

- (1) The Council must prepare a Local Waste Plan for the Council within one year of commencement of these By-laws, which plan must be implemented within four years of the commencement of these By-laws. The objectives of the Local Waste Plan include –
  - (a) establishing a means of ensuring that waste is collected, re-used, recycled or disposed of without causing harm to human health or damage to the environment and, in particular, without –
    - (i) risk to water, air, soil, plants or animals;
    - (ii) causing nuisance through noise or odours; or
    - (iii) adversely affecting rural or urban areas or areas of special interest;
  - (b) establishing an integrated network of waste handling and waste disposal facilities to ensure that –
    - (i) comprehensive and adequate council services and commercial services are established within the Council;
    - (ii) the disposal of waste occurs at accessible waste disposal facilities; and
    - (iii) the most appropriate methods and technologies are used in order to ensure a high level of protection for and prevention of damage to the environment and harm to human health;
    - (iv) encouraging the minimisation or reduction of waste;
    - (v) promoting the recovery of waste by means of recycling or re-use through proven alternative technology; and
    - (vi) any other object which would enhance sustainable development.

**6. SCOPE, PREPARATION AND AMENDMENT OF THE LOCAL WASTE PLAN**

- (1) The Local Waste Plan includes but is not be limited to the following matters -
  - (a) population and development profiles within the Council;
  - (b) an assessment of all significant sources and generators of waste within the Council;
  - (c) an assessment of the quantities and classes of waste currently generated and projected to be generated within the Council;
  - (d) an assessment of the existing markets, council services, commercial services and waste handling and waste disposal facilities for each waste category;
  - (e) an assessment of the existing options for waste reduction, management and disposal within the Council;
  - (f) an assessment of the number of persons within the Council who are not receiving council services and proposed strategies and targets for providing these services to such persons;
  - (g) proposed strategies and targets for managing and reducing waste in the Council and for the efficient disposal of waste that cannot be re-used or recycled;
  - (h) strategies for waste education and initiatives for separating waste at its source;
  - (i) strategies for raising awareness of waste management issues;

- (j) strategies for establishing the information system as required in section 7;
  - (k) an implementation programme that identifies the required time-frames, resources and responsibilities for achieving these strategies and targets;
  - (l) a mechanism for monitoring performance in light of these targets and strategies;
  - (m) current and anticipated waste collection, transportation, transfer and disposal costs;
  - (n) a consideration of how the Local Waste Plan relates to other relevant plans of the Council; and
  - (o) such other matters as may be required by any other legislation, regulation or guidelines.
- (2) In preparing the Local Waste Plan, the Council must –
- (a) take into consideration any Integrated Development Plan or Land Development Objectives of the Council, and the requirements of any national or provincial legislation or policy;
  - (a) consult with the local community, as required by the Systems Act;
  - (b) take reasonable steps to bring its Draft Local Waste Plan to the notice of the local community by inviting comment thereon from members of the local community. Not less than two months must be allowed for submitting such comments, and the finalisation of the Local Waste Plan must be after considering any comment received from the local community;
  - (c) send copies of the Draft Local Waste Plan to the Minister of Environmental Affairs and the Minister of Water Affairs and Forestry, and neighbouring Municipalities for their information; and
  - (d) send a copy of the Draft Local Waste Plan to the KwaZulu-Natal Province for comment and finalise the local waste plan after considering such comment.
- (2) The Council may amend the Local Waste Plan from time to time and must review the plan at least every five (5) years. Such amendments or reviews must be conducted in consultation with the local community.
- (3) The Council must publish a report once a year on the implementation of the plan. The report must include–
- (a) a description of activities and measures taken to achieve the objects of the plan;
  - (b) an indication of whether the objects of the plan are being achieved, and if not, and explanation of problems which have undermined the achievement of the objects;
  - (c) details of convictions under these By-laws; and
  - (d) a description of significant incidents of dumping.

## PART II : INFORMATION SYSTEM

### 7. ESTABLISHMENT OF AN INFORMATION SYSTEM

- (1) The Council must establish and maintain an Information System which records how waste is managed within the Council.
- (2) The Information System may include any information relating to or connected to the management of waste within the Council.
- (3) Details regarding the implementation of the Information System will be set out in the Local Waste Plan referred to in section 6.
- (4) The local community is entitled to reasonable access to the information contained in the Information System, subject to any limitations imposed by law. In giving effect to this right, the Council must –
  - (a) at the request of a member of the local community, provide information contained in the Information System;
  - (b) take steps to ensure that the information provided is in a format appropriate for lay readers; and
  - (c) may impose a fee for providing such information in order to cover the cost of providing the information requested.

### 8. PURPOSE OF THE INFORMATION SYSTEM

- (1) The purpose of the information system is for the Council to –
  - (a) record data relating to the implementation of the Local Waste Plan and the management of waste in the Council;
  - (b) record information held by the Council in relation to any of the matters referred to in subsection (1)(a) – (e);
  - (c) furnish information upon request or as required by law to provincial and national government;
  - (d) gather information regarding potential and actual waste generators, service providers and licensees;
  - (e) provide information to waste generators, service providers, licensees and the local community in order to –
    - (i) facilitate monitoring of the performance of the Council, service providers and licensees, and, where

applicable, waste generators;

- (ii) stimulate research; and
- (iii) assist the Council to achieve the main objects of these By-laws.

#### 9. PROVISION OF INFORMATION

- (1) The Council may, subject to the provisions of any other law including the common law require any waste generator, licensee, service provider or person involved in or associated with the provision of council services or commercial services within the Council to furnish information to the Council that may reasonably be required for the Information System. Such information 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 and waste disposal facilities;
  - (e) population and development profiles;
  - (f) reports on progress in achieving any waste management targets;
  - (g) the management of radioactive waste;
  - (h) any information which has been compiled in accordance with subsection (1);
  - (i) markets for waste by class of waste or category; and
  - (j) any other information required by legislation, regulation or guidelines.
- (2) The Council may, at its discretion, determine when and how often information must be furnished.

#### 10. MANNER OF ENGAGING IN WASTE MINIMISATION INITIATIVES

Notwithstanding the need to promote waste minimisation recycling and re-use of waste, no person may undertake minimisation initiatives in such a manner that is likely to cause or to increase the risk of harm to human health or damage to the environment.

### CHAPTER 3 COUNCIL SERVICES

#### PART I : PROVIDING ACCESS TO COUNCIL SERVICES

#### 11. DUTY TO PROVIDE ACCESS TO COUNCIL SERVICES

- (1) The Council has an obligation to the local community to progressively ensure efficient, affordable, economical and sustainable access to council services.
- (2) This duty is subject to –
  - (a) the obligation of the local community to pay the prescribed fee, for the provision of council services, which must be priced in accordance with any nationally prescribed norms and standards for rates and tariffs; and
  - (b) the right of the Council to differentiate between categories of users and geographical areas when setting service standards and levels of service for the provision of council services. In exercising the right in this subsection, the Council must comply with national legislation and have regard to the factors set out in subsection (1).
- (3) The Council must take the following factors into account in ensuring access to council services :
  - (a) the waste management hierarchy set out in section 2;
  - (b) the need to use resources efficiently;
  - (c) the need for affordability;
  - (d) the requirements of operational efficiency;
  - (e) the requirements of equity; and
  - (f) the need to protect human health and the environment.

#### 12. THE PROVISION OF COUNCIL SERVICES

- (1) The Council must as far as reasonably possible and subject to the provisions of these By-laws –
  - (a) provide for the collection of domestic waste, business waste and dairies on a regular basis, which in the case of dairies requires collection on a daily basis; and
  - (b) provide recycling facilities,

at a cost to end users determined in accordance with the prescribed fee promulgated by the Council.

- (2) In relation to council services, the Council may determine –
  - (a) the quantities of waste that will be collected;
  - (b) which residential or commercial premises require council services more frequently than the regular collection service for reasons of health, safety and environmental protection;
  - (c) the maximum amount of waste that may be placed for collection without the provision of an additional service or the imposition of an additional tariff; and
  - (d) specify requirements for the provision of waste storage areas and access to such areas in respect of new premises which are constructed after the commencement of these By-laws.
- (3) The Council may provide, or require the generator of the waste to provide, and approved receptacle for the storage of domestic waste, business waste and dailies pending collection. Where such receptacle is provided by the Council, it remains the property of the Council.
- (4) In providing council services, the Council or service provider may determine or designate –
  - (a) collection schedules;
  - (b) locations for placing approved receptacles for collection;
  - (c) which types of waste generated by the occupier of any premises are recyclable waste and determine the conditions for their storage or collection; and
  - (d) which waste items are unsuitable for collection.
- (5) The Council or service provider may require a generator of dailies and business waste to compact that portion of the waste that is compactable. Such a requirement may be imposed where the quantity of dailies or business waste generated on premises requires daily removal of more than the equivalent of eight 240-litre bins and where, in the opinion of the Council or service provider, the major portion of such waste is compactable. The occupier of premises may elect to compact any volume of such waste and place it into an approved receptacle or wrapper approved by the Council or service provider: Provided that-
  - (a) the capacity of the wrapper must not exceed 85 litres and the mass of the wrapper and contents must not exceed 35 kilograms;
  - (b) after the waste has been compacted and put into the wrapper, it must be placed in the approved receptacle and must be stored so as to prevent damage to the wrapper or any nuisance arising until collected.
- (6) Any approved receptacle used in terms of subsection (3) may be collected, emptied and returned to the premises of the Council or service provider at such intervals as it may deem necessary.
- (7) The Council or service provider may review any decisions taken in terms of subsection (6) at any time.
- (8) The Council or service provider must notify all generators of domestic waste, business waste and dailies of any decisions taken in terms of subsections (6) or (7) in writing.

## **PART II : USING COUNCIL SERVICES**

### **13. OBLIGATIONS OF GENERATORS OF DOMESTIC WASTE, BUSINESS WASTE AND DAILIES**

- (1) Any person generating domestic waste, business waste and dailies (other than waste which has been designated by the Council as recyclable) must place domestic waste, business waste and dailies in an approved receptacle.
- (2) No person may allow an animal in his control to interfere with, overturn or damage a receptacle, which has been placed for collection.
- (3) The occupier of premises must ensure that –
  - (a) no hot ash, unwrapped glass or other domestic waste, business waste and dailies which may cause damage to approved receptacles or which may cause injury to the Council or service provider's employees while carrying out their duties in terms of these By-laws, is placed in approved receptacles before suitable steps have been taken to avoid such damage or injury;
  - (b) no material, including any liquid, which by reason of its mass or other characteristics is likely to render such approved receptacles unreasonably difficult for employees of the Council or service provider to handle or carry, is placed in such receptacles;
  - (c) every approved receptacle on the premises is kept closed save when waste is being deposited in it or discharged from it, and every approved receptacle is kept in a clean and hygienic condition;
  - (d) the approved receptacle delivered by the Council is not used for any purpose other than the storage of domestic



waste, business waste and dailies and, in particular, that no fire may be lit in a bin or container;

- (e) the approved receptacle is placed outside the entrance to the premises before a time and on a day of the week specified by the Council or service provider by notice to the owner or occupier of the premises, except where, on written application to the Council, the Council has indicated in writing that it is satisfied that a person is physically infirm or otherwise incapable of complying with the notice; and
  - (f) the approved receptacle, placed in accordance with subsection (3) must be undamaged and properly closed so as to prevent the dispersal of its contents.
- (4) The owner or occupier of premises must provide space and any other facilities deemed necessary by the Council or service provider on the premises for the storage of approved receptacles.
- (5) The space provided in terms of subsection (4) must –
- (a) be in such a position on the premises as will allow the storage of approved receptacles without their being visible from a street or public place;
  - (b) where dailies are generated on the premises –
    - (i) be in such a position as will allow the collection and removal of such waste by the Council or service provider's employees without hindrance; and
    - (ii) be not more than 20m from the entrance to the premises used for the collection of waste by the Council or service provider;
  - (c) be so located as to permit convenient access to and egress from such space for the Council or service provider's waste collection vehicles;
  - (d) comply with any further reasonable requirements imposed by the Council or service provider by notice to the owner or occupier of the premises; and
  - (e) be constructed in accordance with the requirements of any applicable building regulations.
- (6) The occupier of premises must place or cause the approved receptacles to be placed in the space provided in terms of subsection (4) and must at all times keep them there, save that –
- (a) in the case of buildings erected, or buildings, the building plans of which have been approved, prior to the coming into operation of these By-laws, or
  - (b) in the event of the Council or service provider being unable to collect and remove waste from the space provided in terms of subsection (4),

the Council or service provider may, having regard to the avoidance of nuisance and the convenience of collection of waste, indicate a position within or outside the premises where the approved receptacles must be placed for the collection and removal of such waste and such receptacles must then be placed in such position at such times and for such period as the Council or service provider may require.

#### 14. THE PRESCRIBED FEE FOR COUNCIL SERVICES

The Council may either levy rates on property or determine tariffs (or both) for the provision of council services.

#### 15. LIABILITY TO PAY FOR COUNCIL SERVICES

- (1) The owner of premises is liable to the Council to pay the prescribed fee for the provision of council services, and is not entitled to exemption from the liability to pay the prescribed fee by reason of his not making use, or of making a partial or limited use, of council services regardless of whether the Council provides such services directly or through a service provider.
- (2) The prescribed fee becomes due and payable on the same date as the general assessment rate levied.

### CHAPTER 4 COMMERCIAL SERVICES

#### PART I : PROVISION OF COMMERCIAL SERVICES BY LICENSEES AND FLOW CONTROL

#### 16. PROVISION OF COMMERCIAL SERVICES BY LICENSEES

- (1) Save in the case of garden waste, only a licensee may provide commercial services.
- (2) Any person requiring commercial services must satisfy himself that the contractor is licensed to collect and dispose of the category of waste that has been generated and must take reasonable steps to ensure that the relevant waste is collected and disposed of in terms of these By-laws.

#### 17. PROVISION FOR COUNCIL CO-ORDINATION OF WASTE DISPOSAL

The Council may direct, by a notice published in the *Provincial Gazette*, that a category of waste be disposed of at a particular depot or

disposal site. No person may dispose of such waste other than as specified in the notice gazetted under this section or as specified by the Council under other empowering legislation prior to the coming into operation of these By-laws.

18. STORAGE OF BUSINESS, INDUSTRIAL AND RECYCLABLE WASTE

- (1) The owner or occupier of premises on which business, industrial or recyclable waste is generated must ensure that until such time as such waste is collected by a licensee from the premises on which it was generated –
  - (a) the waste is stored within a bulk container or other approved receptacle; and
  - (b) no nuisance, including but not limited to dust, is caused by the waste in the course of generation, storage, or collection.

19. COLLECTION AND DISPOSAL OF INDUSTRIAL, BUSINESS AND RECYCLABLE WASTE

- (1) The owner or occupier of premises generating business, industrial and recyclable waste must ensure that –
  - (a) the container in which the waste is stored may not be kept in a public place except as required for collection;
  - (b) the waste is collected by a licensee within a reasonable time after the generation thereof; and
  - (c) that the service rendered by the licensee must only be in respect of that portion of the business, industrial or recyclable waste authorised in its licence.
- (2) A licensee must dispose of business, industrial or recyclable waste at a waste handling facility or waste disposal facility designated by the Council as a waste disposal facility for that purpose in terms of section 17 above and in accordance with the provisions of section 18.

**PART III : GARDEN WASTE AND BULKY WASTE**

20. STORAGE, COLLECTION AND DISPOSAL OF GARDEN WASTE AND BULKY WASTE

- (1) The owner or occupier of the premises on which garden waste is generated may compost garden waste on the property, provided that such composting does not cause a nuisance.
- (2) The occupier of the premises on which garden waste is generated and not composted or on which bulky waste is generated must ensure that such waste is collected and disposed within a reasonable time after the generation thereof.
- (3) Any person or licensee may remove garden waste and bulky waste: Provided that once such waste has been collected from the premises on which it was generated, it is deposited at a garden waste handling facility in accordance with the provisions of section 20.
- (4) At the written request of the occupier of premises the Council or service provider may, in its sole discretion, deliver an approved receptacle for the purpose of storing garden waste in addition to any approved receptacle delivered to the premises for the storage of domestic waste. The provisions contained in section 20, read with the necessary changes, must apply, to an approved receptacle delivered in terms of this section but which is to be used for the storage of garden waste.
- (5) Where, in the course of providing council services, the Council or the service provider providing the service, is of the opinion that it would cause inconvenience to members of the public not, at the same time, to remove garden and bulky waste, the Council or service provider may remove such waste if such waste has been placed in an approved receptacle referred to in section 20 in the space designated for domestic waste, in which event the tariff for domestic waste, read with the necessary changes, must apply.

**PART IV : BUILDING WASTE**

21. GENERATION OF BUILDING WASTE

- (1) The owner or occupier of premises on which building waste is to be generated must notify the Council, in writing, of the intention to generate building waste and of the proposed manner for its removal at least fourteen (14) days prior to the intended generation of such waste.
- (2) The owner or occupier of such premises must ensure that –
  - (a) until disposal, all building waste, together with the containers used for the storage, collection or disposal thereof, is kept on the premises on which the waste was generated;
  - (b) the premises on which the building waste is generated does not become unsightly or cause a nuisance as a result of accumulated building waste;
  - (c) any building waste which is blown off the premises is promptly retrieved; and
  - (d) pursuant to any instructions from the Council, any structure necessary to contain the building waste is constructed.

22. STORAGE OF BUILDING WASTE

- (1) The owner or occupier of premises may apply to the Council for written consent to place an approved receptacle for the storage and collection of building waste in the road reserve for the period of such consent.
- (2) Any consent given in terms of subsection (1) may be subject to such conditions as the Council may consider necessary.
- (3) Every approved receptacle, authorised in terms of subsection (1) and used for the removal of building waste, must –
  - (a) have clearly marked on it the name, address and telephone number of the person in control of such approved receptacle;
  - (b) be fitted with reflecting chevrons or reflectors which must completely outline the front and the back thereof; and
  - (c) be covered at all times other than when actually receiving or being emptied of such waste so that no displacement of its contents can occur.

23. COLLECTION AND DISPOSAL OF BUILDING WASTE

- (1) The owner or occupier of premises on which building waste is generated must ensure that the waste is disposed of by a licensee.
- (2) All building waste must be disposed at a waste disposal facility designated for that purpose by the Council in terms of a notice under section 23, unless the Council has given written consent for the building waste to be used for the purpose of land reclamation or for recycling.

**PART V : SPECIAL INDUSTRIAL, HAZARDOUS OR HEALTH CARE RISK WASTE**

24. GENERATION OF SPECIAL INDUSTRIAL, HAZARDOUS OR HEALTH CARE RISK WASTE

- (1) No person may carry on an activity which may cause special industrial, hazardous or health care risk waste to be generated, without notifying the Council, prior to the generation of such waste, of the composition of such waste, the estimated quantity generated, the method of storage, the proposed duration of storage, the manner in which it will be collected and disposed, and the identity of the licensee removing such waste: Provided that where such waste is being generated as a result of activities which commenced prior to the commencement of these By-laws, the generator must notify the Council within six months of the commencement of these By-laws.
- (2) If so required by the Council, the notification referred to in subsection (1) may be substantiated by an analysis of the composition of such waste certified by an appropriately qualified industrial chemist.
- (3) The person referred to in subsection (1) must notify the Council in writing of any changes occurring with respect to the generation, composition, quantity and method and location of disposal of the special industrial, hazardous, or health care risk waste.

25. STORAGE OF SPECIAL INDUSTRIAL, HAZARDOUS OR HEALTH CARE RISK WASTE

- (1) Any person carrying on an activity which may cause special industrial, hazardous or health care risk waste must ensure that the special industrial, hazardous or health care risk waste generated on the premises is kept and stored thereon until it is collected from the premises.
- (2) Special industrial, hazardous or health care risk waste stored on premises must be stored in such a manner that it does not become a nuisance or cause harm to human health or damage to the environment, and in accordance with the requirements of any applicable building regulations or additional By-laws.
- (3) Special industrial, hazardous or health care risk waste must be stored in an approved receptacle for a period not exceeding any maximum period stipulated by the Council before collection.
- (4) The Council may enact additional By-laws providing guidelines for the management of health care risk waste.

26. COLLECTION AND DISPOSAL OF SPECIAL INDUSTRIAL, HAZARDOUS OR HEALTH CARE RISK WASTE

- (1) Only licensees may transport special industrial, hazardous and health care risk waste and must do so in accordance with the requirements of the Council, stipulated as licence conditions or in additional By-laws, in respect of the type of vehicle, the markings and manner of construction of such vehicle, procedures for safety and cleanliness, and documentation relating to the source, transportation and disposal of such waste, and the requirements of any other legislation.
- (2) A licensee licensed to collect and dispose of special industrial, hazardous or health care risk waste, must inform the Council at those intervals the Council may stipulate in the licence or elsewhere, about the removal of special industrial, hazardous or health care risk waste, the date of such removal, the quantity, the composition of the waste removed and the facility at which the waste has been disposed.
- (3) A licensee must dispose of special industrial, hazardous or health care risk waste at a waste disposal facility designated by the Council as a waste disposal facility for that purpose and in accordance with the provisions of section 25.

**CHAPTER 5**  
**TRANSPORTATION AND DISPOSAL OF WASTE**

**27. TRANSPORTATION OF WASTE**

- (1) Notwithstanding the provisions of any other legislation, no person may –
- (a) operate a vehicle for the conveyance of waste upon a street unless the vehicle has a body of adequate size and construction for the type of waste being transported;
  - (b) fail to maintain the vehicles used for the conveyance of waste in a clean, sanitary and roadworthy condition at all times;
  - (c) cause or permit any waste being transported in or through the Council to become detached, leak or fall from the vehicle transporting it, except at a waste disposal facility;
  - (d) knowingly dispose waste at a waste disposal facility that is not permitted to accept such waste.

**28. DISPOSAL OF WASTE**

- (1) Waste generated within the Council must be disposed of at a waste disposal facility that has been permitted to accept and dispose of such waste in terms of section 17 and in accordance with the provisions of any other law regulating the disposal of waste.
- (2) No person may burn waste either in a public or private place except at an authorised incinerator operated by a licensee, or other than at a place designated by the Council for such purpose.
- (3) Notwithstanding the provisions of subsection (1), any person may dispose of those forms of recyclable waste specified by the Council in a notice in terms of section 17 or elsewhere at designated garden waste handling facilities, but may do so only if all such waste is brought to the facility in vehicles able to carry a maximum load of one tonne or less.
- (4) The disposal of waste at any waste disposal facility may, in addition to any conditions imposed by a competent authority, be subject to such conditions as the Council may from time to time specify, including the hours of opening and closing, the nature of the waste which may be disposed of, the position in any such waste disposal facility in which the waste may be placed and any other matter which the Council considers necessary to ensure the environmentally sound management of waste.
- (5) Every person who enters a waste disposal facility must –
- (a) enter the waste disposal facility at an access point determined by the operator of the waste disposal facility;
  - (b) on request, provide the Council or the operator of the waste disposal facility with any information regarding the composition of the waste; and
  - (c) follow all instructions issued by the operator of the waste disposal facility in regard to access to the actual place where, and the manner in which, the waste should be deposited.
- (6) No person may –
- (a) bring any liquor or intoxicating or narcotic substance onto a waste disposal facility or enter such facility in an intoxicated state;
  - (b) enter a waste disposal facility for any purpose other than the disposal of waste in terms of these By-laws, unless authorised to do so by the operator of the waste disposal facility or the Council and then only at such times and on such conditions as the Council or operator may from time to time determine;
  - (c) dispose of waste at a waste disposal facility which is not permitted for such waste; or
  - (d) light any fire upon or near any disposal area without authorisation.
- (7) Any person who contravenes subsection (6) will be liable for all reasonable costs incurred by the Council in removing or otherwise dealing with waste improperly disposed of at a waste disposal facility.
- (8) The operator of the waste disposal facility may at any time require a vehicle or a container on a vehicle that has entered the waste disposal facility for the purposes of disposing waste to be weighed at a weighbridge.
- (9) The Council, the operator of the waste disposal facility, an authorised official or any other persons duly authorised by the Council may, at a waste disposal facility, inspect the content and nature of waste to be disposed of or processed and may take samples and test any waste found on any vehicle to ascertain its composition.
- (10) Any person contravening any of the provisions of this section may be refused entry or be removed from a disposal waste disposal facility.

## **CHAPTER 6 SERVICE PROVIDERS**

### **29. AGREEMENT, DELEGATION AND CUSTOMER CHARTER**

- (1) The Council may discharge any of its obligations under section 29 of these By-laws by entering into a service delivery agreement with a service provider or service providers in terms of the Systems Act.
- (2) Subject to the provisions of the Systems Act or any other legislation, the Council may assign to a service provider any power enjoyed by the Council under these By-laws: Provided that the assignment is required for the service provider to discharge an obligation under its service delivery agreement.
- (3) Any reference in these By-laws to "Council or service provider" should be read as the "Council" if the Council has not entered into a service delivery agreement, and should be read as "service provider" if the Council has entered into a service delivery agreement.
- (4) Service providers must provide services in accordance with a customer charter which must be drawn up in consultation with the Council and which must –
  - (a) accord with the provisions of these By-laws;
  - (b) be accessible to the public;
  - (c) establish the conditions of the service including collection times; and
  - (d) provide for the circumstances in which council services may be limited.

## **CHAPTER 7 LICENSEES**

### **PART I : REGISTRATION**

### **30. REGISTRATION REQUIREMENTS**

- (1) Any person who provides or intends to provide commercial services within the Council must register with the Council.
- (2) Registration must be by written notification to the Council, and must specify –
  - (a) the name and the residential and postal address of the person providing commercial services, and if a company or close corporation, its registration number, names of its directors or members and the address of its registered head office;
  - (b) the nature of the waste management service provided or intended to be provided by the person;
  - (c) the scope of the service, which must specify the number of clients served or intended to be served at the time of registration, the geographical area of operation and the actual or intended capital expenditure involved, or to be involved, in rendering the service; and
  - (d) the disposal facilities it owns or intends to utilise for the disposal of waste it collects or generates.
- (3) The Council must provide proof of registration specifying the name and the residential and postal address of the registered person and describing the nature of the commercial services provided or intended to be provided by that person.
- (4) Where a person has registered in terms of subsection (1) and the person –
  - (a) acquires a firm providing commercial services;
  - (b) merges with other persons providing commercial services;
  - (c) changes ownership;
  - (d) changes juristic nature;
  - (e) changes the nature of the commercial services it provides;
  - (f) intends to cease providing such services;
  - (g) is involved in winding-up proceedings; or
  - (h) increase its gross revenue or client base in excess of 25%,

then that person must notify the Council of that occurrence and, save in the circumstances set out in subsection (f) or (g), re-register in accordance with the provisions of subsection (4).

### **PART II : LICENCE TO PROVIDE COMMERCIAL SERVICES**

### **31. LICENCE REQUIREMENTS**

- (1) Subject to section 27, no person may provide commercial services without having first obtained a licence.
- (2) Licences issued under these By-laws –
  - (a) are personal to the licensee and incapable of cession or assignment without the prior written consent of the Council;
  - (b) are valid for the period stipulated in the licence, which period may not exceed five (5) years, and may, upon

application in terms of these By-laws, be renewed by the Council for further periods; and

- (c) may be suspended or revoked by the Council, on grounds for suspension or revocation which must be stipulated in the licence.

### 32. LICENCE APPLICATION

- (1) Applications for a licence to provide commercial services must be in writing on a form prescribed by the Council. The form must specify the information to be included in the application and the time available for making the application, which period must not be less than two (2) months in duration.
- (2) The Council must consider each application, having regard to the following:
  - (a) the financial, technical and managerial competency and experience of the applicant;
  - (b) the environmental, health and safety record of the applicant;
  - (c) the nature of the waste management service to be provided; and
  - (d) any other factors which the Council considers relevant.
- (3) After considering the application in terms of subsection (1), the Council must –
  - (a) approve the application by issuing a licence subject to terms and conditions; or
  - (b) reject the application, which rejection must be accompanied by reasons.

### 33. LICENCE TERMS AND CONDITIONS

- (1) When issuing a licence in terms of section 33, the Council may, subject to the provisions of subsection (2), impose any licence conditions it deems reasonably necessary.
- (2) Licences issued by the Council must –
  - (a) describe the geographical area of operation of the licensee;
  - (b) specify the licence period and the procedure for any licence renewal;
  - (c) specify the category or categories of waste the licensee may manage;
  - (d) contain a requirement that the licensee must comply with these By-laws, and applicable provincial and national legislation;
  - (e) require the licensee to keep monthly records in respect of –
    - (i) the quantities of waste received, the location of the sources generating the waste, the identity of the generator and, where the licensee manages different categories of waste, the quantity of each category managed;
    - (ii) emission levels where the licensee manages a licensed incinerator;
    - (iii) any activity related to the achievement of local, provincial or national targets where such targets have been determined, and must include the results of monitoring such activity;
    - (iv) any waste minimisation or recycling activities in which the licensee is involved;
    - (v) consumer supply figures; and
    - (vi) complaints received by the public;
  - (f) require the licensee to have the appropriate property and liability insurance for any waste disposal or handling facilities owned by it in accordance with an insurance programme approved by the Council under the licence, which approval may not subject the Council to any liability if the insurance programme proves inadequate;
  - (g) permit the licensee to conduct any other business activity not regulated in the licence: Provided that any such business activity does not conflict with or adversely affect the licensee's obligations under the licence, these By-laws or any other law, and provided that such activities are separately accounted for;
  - (h) stipulate procedures for amendment of the licence;
  - (i) stipulate circumstances under which the licence may be revoked or suspended by the Council and set out an appeals procedure;
  - (j) prescribe the payment of a licence fee;
  - (k) require the licensee to take reasonable steps to prevent his employees from committing any act or omission in the

course of their employment that may cause harm to humans or damage to the environment;

- (l) require the licensee to ensure compliance with these By-laws and conditions by its employees, agents and sub-contractors, and ensure that sub-contractors are licensed to store, collect, transport and dispose of any waste stream that they have been contracted to manage; and
- (m) contain any other term or condition that the Council considers relevant.

#### 34. PROHIBITED CONDUCT

- (1) Licensees may not:
  - (a) cease operations at a waste disposal facility without a closure plan approved by DWAF and the Department of Environmental Affairs and Tourism or any other competent authority;
  - (b) abandon a waste disposal facility or waste handling facility;
  - (c) operate in contravention of the terms and conditions of their licence;
  - (d) fail or refuse to give information, or give false or misleading information when required to do so in terms of these By-laws;
  - (e) fail to take all reasonable steps to prevent an act or an omission by an employee where the employee is or was acting on behalf of the licensee, when such an act or omission would constitute an offence if it were the act or omission of a licensee;
  - (f) dispose of any health care risk waste otherwise than by incineration, unless prior consent has been obtained from the DWAF; or
  - (g) dispose of hazardous or special industrial waste otherwise than by disposing of it at a waste disposal facility which has been permitted for the disposal of this category of waste.

#### 35. TRANSITIONAL PROVISIONS AND EXEMPTIONS

- (1) Any person lawfully providing commercial services within the Council at the time an application for a licence is made, may continue to provide commercial services while the licence application is being considered by the Council.
- (2) A Council may at its sole discretion, and having regard to the main object of these By-laws and its Local Waste Plan, exempt any form of commercial service from the provisions of Chapter 7 of these By-laws and must indicate the terms and scope of any exemption in a notice published in the Provincial Gazette.

### CHAPTER 8 LITTERING, DUMPING AND ABANDONED ARTICLES

#### 36. DUTY TO PROVIDE FACILITIES FOR LITTER

- (1) The Council, or owner in the case of privately owned land, must take reasonable steps to ensure that sufficient approved receptacles are provided for the discarding of litter by the public, in any place to which the public has access.
- (2) The Council, or owner of privately owned land, must ensure that all approved receptacles installed on the premises for the collection of litter are –
  - (a) maintained in good condition;
  - (b) suitably weighted and anchored so that they cannot be inadvertently overturned;
  - (c) constructed in such a manner as to ensure that they are weatherproof and animal proof;
  - (d) of suitable size to contain all litter likely to be generated on the premises and by the users thereof;
  - (e) placed in locations convenient for the use by users or occupants of the premises to discourage littering or the unhealthy accumulation of waste; and
  - (f) emptied and cleansed periodically or when full. The emptying and cleansing of approved receptacles must be sufficiently frequent as to ensure that no receptacle or its contents may become a nuisance or provide reasonable grounds for complaint.
- (3) In any public place where an approved receptacle has been placed for the depositing of litter, the Council may put up notices about littering.

#### 37. PROHIBITION OF LITTERING

- (1) No person may –
  - (a) cause litter;

- (b) sweep any waste into a gutter, onto a road reserve or onto any other public place;
  - (c) disturb anything in, or remove anything from any receptacle which has been placed for the purposes of collecting litter in such a manner as to cause the contents of the receptacle to spill or fall onto the ground around it; and
  - (d) allow any person under his control to do any of the act contemplated in paragraphs (a), (b) or (c) above.
- (2) Notwithstanding the provisions of subsection (1), the Council, or owner in the case of privately owned land to which the public has access, must within a reasonable time after any litter has been discarded, dumped or left behind, remove such litter or cause it to be removed. For the purposes of this section, a reasonable time may mean that period of time before the litter becomes a nuisance or cause for complaint.

### 38. PROHIBITION OF DUMPING AND ABANDONING ARTICLES

- (1) No person may, without authorisation, deposit or permit the depositing of any waste whether for gain or reward or otherwise, upon any land or in any building of which he is the owner or occupier except where such deposits are made in accordance with the provisions of these By-laws.
- (2) Subject to any provisions to the contrary contained in these By-laws, no person may leave any article or allow any article under his or her control to be left at a place with the intention of abandoning it.
- (3) No person may dump waste.
- (4) Any article, other than a motor vehicle deemed to have been abandoned in terms of section 114 of the Road Traffic Act, 1989 (Act No. 29 of 1989), which, in the light of such factors as the place where it is found, the period it has been lying at such place and the nature and condition of such article, is reasonably regarded by the Council as having been abandoned, may be removed and disposed of by the Council as it may deem fit.
- (5) The Council may remove and dispose of any article which is chained or fastened to any pole, parking meter or any other property belonging to the Council, without authorisation as it may deem fit.

## CHAPTER 9 ADMINISTRATIVE ENFORCEMENT PROVISIONS

### PART I : APPOINTMENT OF AUTHORISED OFFICIALS

### 39. APPOINTMENT OF AUTHORISED OFFICIALS

- (1) The Council shall appoint authorised officials who shall be vested with the power to –
  - (a) discharge the Council's right of access to premises in terms of section 101 of the Systems Act;
  - (b) issue an enforcement notice under section 44;
  - (c) impose an infringement notice in terms of section 45; and
  - (d) exercise the powers of an authorised official under the Local Government Ordinance.
- (2) An authorised official is not a peace officer within the meaning of the Criminal Procedure Act and has no powers of arrest in respect of any offence created in these By-laws.
- (3) In appointing an authorised official, the Council shall have regard to:
  - (a) a person's technical understanding and experience of matters related to waste management; and
  - (b) any other factor that may be relevant to supervision and enforcement of these By-laws, whether technical or administrative.
- (4) An authorised official may be an employee of the Council or any service provider of the Council: Provided that, in the latter case, there is no conflict of interest between the person's duty as an authorised official and as an employee of the service provider.
- (5) Upon appointment, authorised officials shall be issued with a means of identification by the Council (hereinafter called "an identification") which shall state the name and function of the authorised official, and must include a photograph of the officer. An authorised official, acting within the powers vested in him by these By-laws, is required to present identification on demand by a member of the local community.

### PART II : POWERS OF AUTHORISED OFFICIALS

### 40. POWERS TO EXECUTE WORK AND INSPECT VEHICLES AND PREMISES

- (1) In addition to the powers an authorised official has as an authorised representative of the Council under section 101 of the Systems Act or any other legislation, an authorised official, may –
  - (a) enter any land or premises to execute work or conduct an inspection in accordance with the Local Government Ordinance; and



- (b) may search any vehicle or other mode of conveyance with the consent of the owner or person in charge of the vehicle.
- (2) Where consent is not obtained in terms of subsection (1)(b), a vehicle or other mode of conveyance may be searched or stopped and searched.
- (3) A search conducted in terms of these By-laws must be conducted in a manner that conforms to the requirements of the Bill of Rights and any other law and, in particular, must be conducted with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- (4) To the extent that access to premises does not fall within the scope of section 101 of the Systems Act or any other legislation, an authorised official who has reasonable grounds to suspect that there is an environmental emergency and that any delay in obtaining a search warrant will cause serious harm to human health or damage to the environment may, without warrant, enter and search any premises associated with the emergency: Provided that the entry and search be conducted in conformity with the requirements of the Bill of Rights and any other law, and in particular, with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- (5) Where, in the opinion of an authorised official, any search of a vehicle, as contemplated in these By-laws, gives rise to the reasonable apprehension that the presence of waste in or on that vehicle is a serious and immediate danger to human health or to the environment, the authorised official may seize that vehicle in order to prevent, or where that is impossible, to mitigate harm to human health or damage to the environment.
- (6) In the event of the seizure of any vehicle under subsection 5 the Council must –
  - (a) forthwith take steps to dispose of such waste in order to prevent, and where that is impossible, to mitigate, harm to human health or damage to the environment; and
  - (b) return the said vehicle, within 48 hours after disposing of such waste, to the control of the licensee or person from whose possession or control it was taken.

#### 41. POWERS TO QUESTION

- (1) In order to monitor or enforce compliance with these By-laws, the authorised official, may, subject to the requirements of the Bill of Rights, and any other law including the common law, require a licensee or any other person to disclose information, either orally or in writing, and either alone or in the presence of witnesses, on any matter to which these By-laws relate, require that the disclosure be made on oath or affirmation.
- (2) An authorised official may be accompanied by an interpreter and any other person reasonably required to assist the authorised official in conducting the inspection.
- (3) An authorised official must, on request, provide his identification as an authorised official.

#### 42. SUPERVISION OF LICENSEES

- (1) Authorised officials must inspect the workplace of a licensee not less than twice a year and an authorised official is entitled to enter the workplace of a licensee for this purpose.
- (2) Such an inspection must be conducted in conformity with the requirements of the Bill of Rights, and any other law, and in particular, an authorised official in conducting an inspection under subsection (1) must do so with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- (3) If an authorised official is of the opinion, after such an inspection, that a licensee is complying with these By-laws, he may, subject to the provisions of subsection (4), issue the licensee with a certificate confirming compliance, which must state –
  - (a) the name and residential and postal address of the licensee;
  - (b) the time, date and scope of the inspection; and
  - (c) any remarks which in the opinion of the authorised official may be relevant.
- (4) If a licensee fails to obtain a certificate confirming compliance at three inspections over a period of two (2) years, the authorised official may recommend that the Council review the licence, and should there be reasonable grounds, the Council may revoke the licence in terms of subsection (4): Provided that the consecutive inspections occur at not less than four month intervals.
- (5) Authorised officials must keep a register recording each inspection that has been undertaken.

#### 43. SUPERVISION OF OWNERS AND OCCUPIERS

Owners and occupiers must keep their premises clean and free from any waste which in the opinion of an authorised official is likely to cause a nuisance, harm to human health or damage to the environment, and must take reasonable steps to prevent an employee acting in the course of their employment, from committing an act or omission that may cause a nuisance, harm to human health or damage to the environment.

### PART III : ENFORCEMENT AND INFRINGEMENT NOTICES

## 44. ENFORCEMENT NOTICES

- (1) If, in the opinion of the authorised official, a person is –
  - (a) causing a nuisance, harm to human health or damage to the environment; or
  - (b) as licensee, is failing to comply with the terms of a licence granted in terms of these By-laws; or
  - (c) as owner or occupier, failed to satisfy an obligation in terms of section 13 of these By-laws, the authorised official may issue or cause to be issued on that person an enforcement notice in terms of this section.
- (2) An enforcement notice issued under this section must state –
  - (a) the name and also the residential and postal address, if either or both of these be known, of the affected person;
  - (b) the nature of the nuisance, harm to human health or damage to the environment that the affected person is causing or is likely to cause;
  - (c) the steps required to forestall or remediate the nuisance, harm to human health or damage to the environment in sufficient detail to enable compliance with the enforcement notice;
  - (d) that the affected person must not later than twenty-one (21) calendar days from the date on which the enforcement notice is issued take steps to comply with the notice;
  - (e) that failure to comply with the requirements of the enforcement notice within the period contemplated in paragraph (d) may result in civil liability; and
  - (f) that written representations may be made to the Council in accordance with section 47, or a designated committee or internal functionary to which powers under these By-laws have been delegated, at a specified place, within twenty-one (21) calendar days of receipt of the notice.
- (3) If an affected person fails to comply with an enforcement notice, the Council or anyone authorised by the Council, may perform the steps required in the enforcement notice: Provided that Council does so in conformity with the requirements of the Bill of Rights and any other law, in particular, an authorised official must act with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- (4) Where the Council incurs any expenditure as a result of performing such steps, the Council may recover any reasonable expenditure from the person who failed to act as directed or, where criminal proceedings have not been instituted, by means of civil proceedings.
- (5) Any licensee which commits an offence in terms of subsection (1)(b) and has, within the last five (5) years, been convicted of the same offence, may be declared a serial offender under these By-laws and have its licence revoked immediately.

## 45. INFRINGEMENT NOTICES

- (1) If, in the opinion of the authorised official, a person is –
  - (a) contravening sections 13, 15, 18, 22, 24, 28, 30, 34, 37 or 38 of these By-laws; or
  - (b) allowing waste other than domestic waste or dailies to remain uncollected,

the authorised official may serve or cause to be served on that person an infringement notice in terms of this section instead of a notice contemplated in section 56 of the Criminal Procedure Act (Act No. 51 of 1977).
- (2) The infringement notice must –
  - (a) specify, at the time when the notice is issued, the name and also the residential and postal address, if either or both of these be known, of the person on whom the infringement notice is served;
  - (b) state the particulars of the infringement;
  - (c) specify the amount of the penalty payable in respect of that infringement and the place where the penalty may be paid which penalty may not exceed R5 000.00 (Five Thousand Rand); and
  - (d) inform the person on whom the infringement notice is served that, not later than twenty eight (28) calendar days after the date of service of the infringement notice, he may –
    - (i) pay the penalty; or
    - (ii) inform the Council in writing that he elects to be tried in court on a charge of having committed an offence under section 45.
- (3) Where a person makes an election under subsection (d)(ii) the procedure set out in section 47 applies.

## 46. COMPLAINTS

Any person may lodge a complaint with an authorised official, or through any other channel established by the Council, that any other

person is causing harm to human health or damage to the environment by engaging in council services or commercial services, in which event the authorised official, unless he has reasonable grounds to believe that the complaint is frivolous or an abuse of the main objects of these By-laws set out in section 3, must investigate the complaint and must, if he is satisfied that such harm is or is likely to be caused, issue an enforcement notice or infringement notice, whichever be appropriate.

#### 47. REPRESENTATIONS

- (1) Any affected person may make representations to the Council, or a designated committee or internal functionary of the Council to which the Council has delegated its powers, in the manner specified in the enforcement notice.
- (2) Representations must be made by submitting a sworn statement or affirmation to the Council, designated committee or internal functionary within twenty one (21) calendar days of the service of the notice.
- (3) Any representation not lodged within twenty one (21) calendar days must not be considered, save where the affected person has shown good cause and the Council, the designated committee or internal functionary condones the late lodging of the representation.
- (4) The Council, or designated committee or internal functionary, must duly consider the representations and any response thereto by an authorised official or any other person, if there be such a response; and may, on its own volition, conduct any further investigations to verify the facts if that, in its opinion, is necessary. If the Council, or designated committee or internal functionary, should conduct any further investigations, the results of such investigation must be made available to the affected person, who must be given an opportunity of making a further response if he so wishes, and the Council, or designated committee or internal functionary, must also consider such further response.
- (5) After the Council, or designated committee or internal functionary, is satisfied that the requirements of subsection (4) have been satisfied, the Council, or designated committee or internal functionary, must make an order in writing and give a copy of it to the affected person setting out its findings. Such an order may –
  - (a) confirm, alter or set aside in whole or in part, an enforcement notice; and
  - (b) must specify the period within which the affected person must comply with any order made by it.
  - (c) - If the enforcement notice is confirmed, in whole or in part, or is altered but not set aside, the Council, or designated committee or internal functionary, must inform the affected person that he may elect to be tried in court, or must discharge the obligations set out in the enforcement notice.
- (6) If the affected person elects to be tried in court, he must notify the Council, or designated committee or internal functionary of his election within seven (7) calendar days, and on receipt of such notification by the Council, or designated committee or internal functionary, the provisions of section 48 apply.
- (7) If the affected person does not elect to be tried in court, he must discharge his obligations under the enforcement notice within the prescribed manner and time.
- (8) If the affected person lodges a representation or elects to be tried in court, any requirement in terms of section 41 of these By-laws requiring compliance with an enforcement notice, may be suspended unless, in the opinion of the Council, the affected person has caused an environmental emergency in which event and without derogation from any right that the affected person may have, or may in the future have, at common law or under any other law, to any relief of whatever nature, the affected person must immediately comply with any such requirement on being ordered, orally or in writing, by the Council to do so.
- (9) If there is an environmental emergency and if the affected person, despite receiving a lawful order made in terms of subsection (5), fails to comply with such an order, the Council may itself cause the environmental emergency to be stopped, reversed or abated, in which event the Council may institute civil proceedings for the recovery of any reasonable and necessary expenditure which it has incurred or may incur in effecting such a stoppage, reversal or abatement.

### CHAPTER 10 JUDICIAL ENFORCEMENT PROVISIONS

#### 48. SERVICE OF DOCUMENTS AND PROCESS

For the purpose of the service of any notice, order or other document relating to non-payment for the provision of council services, the address of the owner of the premises on which domestic waste and dailies is generated is deemed to be the place for service of documents and process of such owner.

#### 49. SERVICE OF NOTICES

- (1) Where any notice or other document is required by these By-laws to be served on any person other than for the purpose of criminal proceedings -
  - (a) it must be served on him personally, failing which if it be served on any member of his household, 16 years or older, who signs for the receipt of such notice at his place of residence or business; and
  - (b) if sent by registered post to the person's address as contemplated in section 48, it constitutes service in terms of section 7 of The Interpretation Act, 1957 (Act No. 33 of 1957).

#### 50. TRIAL

If a person who elects to be tried in court in terms of sections 47(6) or 47(8), notifies the Council of his election, the authorised official must within ten (10) calendar days take all necessary steps, as envisaged in the Criminal Procedure Act, 1977 (Act No. 51 of 1977), in order to secure the attendance and prosecution of the accused, in which event the enforcement notice or infringement notice must be cancelled.

51. OFFENCES AND PENALTIES

- (1) Any person, including an affected person or licensee, who –
- (a) contravenes or fails to comply with any provisions of these By-laws;
  - (b) fails to comply with any notice issued in terms of these By-laws; or
  - (c) fails to comply with any lawful instruction given in terms of these By-laws; or
  - (d) who obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties under these By-laws, is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding six (6) months.

**CHAPTER 11  
GENERAL PROVISIONS**

52. OWNERSHIP

- (1) The person holding the permit to operate a waste disposal facility is deemed to be the owner of the waste disposed at that facility.
- (2) Such operator has a right of recourse against –
- (a) any person that causes waste to be disposed at the waste disposal facility where that person knowingly and without the knowledge of the operator disposes waste that that facility is not permitted to accept; and
  - (b) any waste generator that knowingly puts waste out for collection that is not of the category being collected.

53. CONSOLIDATION OF BY-LAWS

- (1) Any By-laws relating to the main objects of these By-laws must be maintained by the Council in consolidated form together with these By-laws, and must be made available to the public, on request.
- (2) Additional By-laws may be enacted relating to –
- (a) the steps and measures to be adopted in giving effect to the duty of care set out in section 4;
  - (b) the locations at which any activities relating to waste, including disposal, may be carried out;
  - (c) the separation of waste at any stage in any activity relating to waste;
  - (d) measures to promote waste minimisation;
  - (e) the implementation and operation of recycling, re-use, refundable deposit or take-back schemes;
  - (f) penalties to be prescribed for the violation of licence conditions, and
  - (g) information to be furnished to the Council.

54. APPLICATION

The Council may by notice determine that the provision of these By-laws do not apply in certain areas within its area of jurisdiction from a date specified in the notice.

55. REPEAL OF BY-LAWS

The By-laws relating to Waste Management for the Okhahlamba Local Municipality, are hereby repealed and replaced by these By-laws, which are to become effective on promulgation hereof.

## No. 7

29 February 2008

The Council of the Okhahlamba Local Municipality has in terms of section 156 of the Constitution, 1996 (Act No. 108 of 1996), read in conjunction with sections 11 and 98 of the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000), made the following By-laws:

**OKHAHLAMBA LOCAL MUNICIPALITY  
PARKING MANAGEMENT BY-LAWS**

**CHAPTER 1**

**DEFINITIONS**

1. In these By-laws, unless the context otherwise indicates –

“**acceptable identification**” means an appointment card issued to the parking meter attendant by the service provider indicating the name, surname, identity number and date of appointment of the individual and shall bear the logo and details of the service provider;

“**authorised official**” means an official of the Council authorised to implement the provisions of these By-laws;

“**Council**” means the Local Municipal Council of Okhahlamba and include any political office bearer or structure of that Council or any officer employed by the Council, acting by virtue of any power vested in the Council in connection with these By-laws and delegated in terms of section 59 of the Local Government : Municipal Systems Act, 2000 (Act No.32 of 2000);

“**demarcated parking place**” means a demarcated parking place as contemplated in the National Road Traffic Act, 1996, in conjunction wherewith a parking meter device exists;

“**park**” means to keep a vehicle whether occupied or not, stationary for a period of time longer than is reasonably necessary for the actual loading or unloading of persons or goods;

“**parking attendant**” means a person employed/contracted by a service provider who, for or on behalf of the Municipality or the service provider, collects parking fees under a contract with the Municipality or service provider and who possesses a valid appointment card as approved by the Council;

“**parking meter**” means a device for the registration, recording and display of the passage of the parking period, including the display thereof in a mechanical or electronic format on a display panel and/or indicator and which is operated by a parking meter attendant;

“**parking period**” means that period of time during which a vehicle is parked in a demarcated parking place and which is recorded by a parking meter device upon insertion into it of the registration number of such vehicle;

“**prescribed parking fee**” shall mean the parking fee payable in terms of the Council's tariff of charges as determined by the Council from time to time;

“**public place**” means a public road as defined in section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996);

“**public road**” means a public road as defined in section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996);

“**service provider**” means a person or legally constituted entity, who for or on behalf of the Municipality, collects parking fees under a contract with the Municipality;

“**traffic officer**” means a traffic officer appointed in terms of section 3(1)(c) of the National Road Traffic Act, 1996 and includes a member of the South African Police Service;

“**traffic warden**” means a traffic warden as described in the National Road Traffic Act, 1996 (Act No. 93 of 1996); and

“**vehicle**” means a vehicle as defined in the National Road Traffic Act, 1996.

Any other word or expression has the meaning assigned thereto in the National Road Traffic Act, 1996.

**CHAPTER II**

**ENFORCEMENT AND PENAL PROVISIONS**

**CONTROL OR PARKING WITHIN DEMARCATED PARKING PLACES**

2. It shall be unlawful to park any vehicle in any demarcated parking place for which a parking meter device exists without at the same time inserting and submitting the vehicle's registration number into the parking meter : Provided that the obligation to make payment as prescribed in section 4 shall apply only during such hours as the Council may by resolution determine.
3. Each parking meter device shall -
- (1) clearly indicate the period that a vehicle is parked in a demarcated parking place and the value to be paid in respect of parking for the said period;
  - (2) be fitted with a visible display (hereinafter referred to as an “indicator”), which shall clearly indicate the parking period from time of arrival to departure, the motor vehicle registration number and the parking bay number where the vehicle is parked;
  - (3) when the payment submitted, key (indicated as “ ”) or refused key (indicated as “ ”) is pressed by either the attendant or the motorist, indicate a corresponding message of confirmation to that specific key.

4. No person who parks any vehicle or cause any vehicle to be parked in any demarcated parking place, shall at the completion of the parking period, depart from such demarcated parking bay, unless such person pays or cause to be paid to the parking attendant allocated to such parking bay, an amount equal to the amount indicated on the parking meter device adjacent to such vehicle registration number.
- The duty to effect payment of the fees accrued to the vehicle in respect of parking, rest with the driver of such vehicle, such payment shall be made in South African currency.
5. The payment of parking as contemplated in subsection 4 shall, however, not entitle any person to contravene any road traffic sign prohibiting the parking of –
- (1) vehicles between specified hours;
  - (2) specific categories of vehicles;
  - (3) vehicles for a period in excess of a prescribed time period; and
  - (4) any vehicle, where the parking and/or stopping of such vehicle contravenes any provision as determined by the National Road Traffic Act, 1996, relating to the parking and/or stopping of a vehicle.
6. The period during which a vehicle may be parked in any demarcated parking place, and the amount payable in respect of that period to the parking attendant allocated to such place, shall be such that the Council, in terms of section 80A of the National Road Traffic Act, 1996, may from time to time prescribe by resolution.
7. It shall be unlawful –
- (1) to park or place any vehicle or other object, which is not a vehicle as defined in section 1, in a demarcated parking place;
  - (2) to refuse or fail to pay to the parking meter attendant the parking fee meant in section 4;
  - (3) to damage or deface, or attempt to damage or deface, a parking meter device and/or soil or obliterate or otherwise render less visible the face or dial of a parking meter device, or to write or draw on, or to affix any handbill, poster, placard, sticker or other article, whether or not of an advertising nature, to a parking meter device;
  - (4) to damage, deface, soil or obliterate or otherwise render less visible or interfere with any mark painted on the roadway, or any legend, sign or notice affixed to or erected for the purpose of these By-laws, or attempt to do so;
  - (5) to offer any money other than the South African currency in lieu of payment of parking fees;
  - (6) to offer to a parking meter attendant any false or counterfeit money or any foreign object, including bribes of money or bribes in any other form;
  - (7) in any way whatsoever to cause or attempt to cause a parking meter to record the passage of time incorrectly;
  - (8) to jerk, knock, shake, damage or in any way interfere with a parking meter which is not in a proper working order, in order to make it do so, or for any other purpose;
  - (9) to remove or attempt to remove the mechanism or any other part of the parking meter or to attempt to physically interfere with the working of the said parking meter, or by word or deed hinder the parking meter attendant in his duty; and
  - (10) to fail to key in the vehicles' details into the parking meter by means of the correctly displayed motor vehicle registration number and specific bay number that the vehicle occupies, directly upon arrival of the specific vehicle.
8. No driver or person in charge of a vehicle shall park such vehicle or cause it to be parked –
- (1) in a demarcated parking place across any painted line marking that confines the parking place or in such a position that the said vehicle is not entirely within the area demarcated;
  - (2) in a demarcated parking place which is already occupied or partly occupied by another vehicle;
  - (3) in an area demarcated for commercial loading purposes, unless it is lawful to do so for the purpose of commercial loading.
9. The person or driver in charge of a vehicle shall park such vehicle in a demarcated parking place–
- (1) if the demarcated parking place is parallel to the curb or sidewalk of the public road, in such a way that it shall be headed in the general direction of the movement of traffic on the side of the road on which the vehicle is parked and so that the left hand wheels of the vehicle are substantially parallel to and within 450 mm of the left hand curb : Provided that where in a one-way street such demarcated parking place is in existence on the right hand side of the road the same shall apply to the right hand wheels and the right hand curb respectively; and
  - (2) if the demarcated parking place is at an angle to the curb or sidewalk of a public road, in such a manner that it is headed substantially in the general direction of the movement of traffic on the side of the road on which such vehicle is parked.
10. Where by reason of the length of any vehicle, such vehicle cannot be parked wholly within a demarcated parking place, it shall be lawful to park such vehicle by encroaching upon a demarcated parking adjoining the first mentioned parking place, if such be the case, and any person so parking shall be liable for payment of parking fees in respect of both the said places.

11. The Chief Traffic Officer may, whenever he deems it necessary or expedient to do so in the interests of the movement or control of traffic, place or erect a road traffic sign or signs prohibiting parking at any demarcated parking place or places, and it shall be unlawful for any person to park or cause or permit to be parked a vehicle in such demarcated parking place or places while such sign is so displayed.
12. It shall be unlawful for any person to park or cause, allow or permit any vehicle of which he is the driver or which is under his control to be parked in any demarcated parking place, except as permitted by the provisions of these By-laws.
13. Notwithstanding anything contained in these By-laws, the driver or person in charge of the following vehicles may park in a demarcated parking place of which a parking meter exists, without payment of the prescribed fees-
  - (1) a vehicle used as an ambulance and being at the time used on urgent ambulance service;
  - (2) a vehicle used by the fire brigade for the attendance of fires and being at the time used by the brigade in carrying out its duties preventing or suppressing fires;
  - (3) a vehicle used by a police or traffic officer and being at the time used in connection with the execution of his/her duties;
  - (4) a vehicle used by the driver of a rescue vehicle and being at the time used in connection with the execution of his/her duties;
  - (5) a vehicle used by a person engaged in civil protection and being at the time used in connection with the execution of his/her duties;
  - (6) a vehicle used by a person engaged in essential services and being at the time used in connection with the execution of his/her duties;
  - (7) the driver of a vehicle that is the property of the Council, or a vehicle used by an official member of the Council in his official capacity : Provided that the official badge, designed and approved by the Council, is displayed in a prominent place on the vehicle.
14. The passage of time in the period as specified on the indicator as recorded by a parking meter device shall, for the purposes of these By-laws and in any proceedings arising out of the enforcement thereof, be deemed to be correct unless and until the contrary be proved, and the onus of so proving to the contrary shall be on the person alleging that the parking meter has recorded such passage of time inaccurately.
15. A duly appointed service provider shall supply to the Municipality, within seven (7) working days from the beginning of the month, a report dealing with the number of vehicles, which during the previous month -
  - (1) parked within each and every block under the jurisdiction of the service provider, each block's figures to be supplied separately from one another; and
  - (2) the number of parking meter attendants within each and every block under the jurisdiction of the service provider, each block's figures to be supplied separately from one another.
16. Whenever a vehicle is parked in contravention of any provisions of these By-laws, it shall be presumed until the contrary can be proved, that it was so parked by the person registered as its owner in terms of the National Road Traffic Act, 1996.
17. No person shall act as a parking meter attendant within Okhahlamba except under a written contract between the Council and a service provider of which such person is an employee, which contract the Council may grant or refuse subject to such conditions as the Council determines.
18. Every parking meter attendant shall upon demand by an authorised official of the Okhahlamba Town Council or a member of public who engages his services, produce such acceptable identification in terms of subsection 17 hereof.
19. A parking meter attendant may be suspended/dismissed by the Okhahlamba Local Municipality or such service provider that employed him as the case may be, if he/she -
  - (1) commits a breach of this By-law or any condition subject to which such contract was concluded with the service provider;
  - (2) while performing his duties as a parking attendant, is or becomes intoxicated;
  - (3) directs the driver of a motor vehicle into an area in which the stopping or parking of vehicles is prohibited;
  - (4) fails to observe or carry out the lawful instructions of an authorised official of the Okhahlamba Local Municipality or as set out in such contract with the service provider;
  - (5) fails to produce such acceptable identification upon request by a member of the Okhahlamba Local Municipality or such member of the public who engages his services;
  - (6) fails to comply with the dress code as set out in the contract with the service provider where such dress code shall be specified;
  - (7) accepts a bribe of money or any other form from such member of public;
  - (8) in any way whatsoever causes or attempts to cause a parking meter to record the passage of time incorrectly;

- (9) jerks, knocks, shakes, damages or in any way interferes with a parking meter which is not in a proper working order, in order to make it do so, or for any other purpose;
- (10) defaces, soils, obliterates or otherwise renders less visible or interferes with any mark painted on the roadway, or any legend, sign or notice affixed or erected for the purpose of these By-laws;
- (11) removes or attempts to remove the mechanism or any other part of the parking meter or attempts to physically interfere with the working of the said parking meter;
- (12) fails to key in the vehicles' details into the parking meter by means of the correctly displayed motor vehicle registration number and specific bay number that the vehicle occupies, directly upon arrival of the specific vehicle; and
- (13) connives with any other person who has parked within such demarcated parking place, not to enter the details of such vehicle as prescribed for whatever reason and whether or not such parking meter attendant has financially gained or not for such doing.

**OFFENCES**

- 20. Any person contravening or failing to comply with any provision of these By-laws shall be guilty of an offence and liable on conviction, to a fine as laid down by the Public Prosecutor in the case of a first conviction, or in the case of a second or subsequent conviction, for the same offence, a fine as laid down by the Public Prosecutor, or in default of payment of any fine imposed in either case, to imprisonment for a period not exceeding 6 (six) months, or to both such fine and such imprisonment.

**APPLICATION**

- 21. The Council may by notice determine that the provision of these by-laws do not apply in certain areas within its area of jurisdiction from a date specified in the notice.

**SHORT TITLE**

- 22. These By-laws are called the Parking Management By-laws of the Okhahlamba Local Municipality and takes effect on the date of promulgation of these By-laws.



## No. 8

29 February 2008

The Council of Okhahlamba Local Municipality has in terms of section 156 of the Constitution, 1996 (Act No. 108 of 1996), read in conjunction with sections 11 and 98 of the Local Government : Municipal Systems Act, 2000, (Act No. 32 of 2000), made the following By-laws:

**OKHAHLAMBA LOCAL MUNICIPALITY  
ADVERTISING SIGNS BY-LAWS**

**1. DEFINITIONS**

- (1) In the interpretation of these By-laws, the following words and expressions shall have the meanings respectively assigned to them hereunder, unless such meanings are repugnant to or inconsistent with the context in which they occur:

**"advertisement"** means any representation of a word, name, letter, figure or object or an abbreviation of a word or name, or any sign or symbol, or any light which is not intended solely for illumination or as a warning against any danger, which has its object the furthering of any industry, trade, business undertaking, event, or activity of whatever nature and which is visible from any street or public place;

**"advertising signage structure"** means any physical structure built to display advertising;

**"advertising vehicle"** means a vehicle which has been constructed or adapted for use primarily for the display of advertisements;

**"aerial advertisement"** means any advertisement displayed in the air by the use of a balloon, kite, inflatable object, aircraft or any other means;

**"affix"** includes to paint onto and **"affixed"** shall have a corresponding meaning;

**"animated advertisement"** means an electric advertisement that contains variable messages in which representation is made by the appearance of movement through an electric light source or beam;

**"applicant"** means the person/s by whom an application for permission to erect a sign or display an advertisement is made, which application shall be endorsed by the owner of the premises upon which such advertisement or sign is to be located;

**"application"** in relation to advertising sign/s may include all proposed advertising signs per business per site;

**"appropriate"** means that the dimensions, installation, materials, place and/or supports are, in the opinion of the Council, suitable for, and appropriate in, all circumstances of the case;

**"approval"** means approval by the Council or its delegated officials;

**"banner sign"** is a temporary or permanent sign painted or embossed on flexible material suspended by ropes or other means;

**"bill-sticking"** means an advertisement or poster pasted directly onto an existing surface which is not intended specifically for the display of a poster or advertisement;

**"building"** means any structure whatsoever with or without walls, having a roof or canopy and a normal means of ingress and egress thereunder, covering any area in excess of 5m<sup>2</sup> and having an internal height of more than 1,7m;

**"canopy"** means a rigid roof-like projection from the wall of a building;

**"cantilever"** means a projecting feature that is dependant for its support on the main structure of a building without independent vertical or other supports;

**"change of face"** means an alteration to the content of the advertisement displayed on an approved signage structure;

**"clear height"** in relation to a sign means the vertical distance between the lowest edge of the sign and the level of the ground, footway or roadway immediately below the sign;

**"cluster sign"** means a number of signs, all of the same size, erected symmetrically on one or more standards or pylons;

**"combustible"** means will burn or ignite at or below a temperature of 750°C when tested for combustibility in accordance with British Standard 476: 1932: Definitions of fire-resistance, incombustibility and non-inflammability of building materials and structures (including methods of test);

**"Council"** means the Okhahlamba Local Municipality and its successors in law, and includes the Council of that municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Executive Committee has delegated any powers and duties with regard to these By-laws;

**"Council property"** includes all property, whether movable or immovable, which is owned by, vests in or is under the control of the Council;

**"curtilage"** is the whole of the area of land within the boundaries of the subdivision/s forming the site of any building;

**"depth of a sign"** means the vertical distance between the uppermost and lowest edges of the sign;

**"deemed to comply"** means that if an advertising signage structure meets certain specified criteria it may be deemed to satisfy the requirements of the Council for consent purposes;

**"designated areas"** are areas of maximum, partial or minimum control that have been specifically designated in the policy for the display of various types of advertising signs;

**"display"** means the display or erection of an advertising sign or structure;

**“electronic sign”** means a sign that has an electronically controlled, illuminated display surface which allows the advertisement to be changed, animated or illuminated in various ways;

**“election advertisement”** means an advertisement used in connection with any national, provincial or municipal election, by-election or referendum;

**“environmental impact assessment”** in relation to outdoor advertising means an assessment of the impact that an advertising sign or structure may have on the environment;

**“estate agents’ board”** means an advertisement that is temporarily displayed to advertise the fact that land, premises, development or other forms of fixed property are for sale or to let;

**“flag”** means a piece of cloth (or similar material) upon which an advertisement is displayed which is attached to a single rope, pole or flagstaff projecting vertically in such a way that its contents are normally not readable in windless conditions. Flags exclude—

- (a) national flags that do not carry advertisement in addition to the design of the flag or flagstaff; and
- (b) flags carried as part of a procession;

**“flashing advertisement”** means an electric advertisement which intermittently appears and disappears;

**“flat sign”** means any wall sign, other than a projecting sign, which is directly attached to the face of an external wall of a building or on a wall external to and not part of a building;

**“gore”** means the area immediately beyond the divergence of two roadways bounded by the edges of those roadways;

**“ground sign”** is a self-supporting sign erected on the ground and which is not attached to a building or a wall;

**“illuminated advertisement”** means an advertising signage structure which has been installed with electrical or other power for the purpose of illuminating the message of such sign;

**“lawfully displayed”** means displayed within the public view in accordance with the By-laws applicable at the time of the erection of the sign;

**“main wall”** means any external wall of a building but shall not include a parapet wall, balustrade or railing of a veranda or balcony;

**“mobile sign”** means a sign mounted on a vehicle or trailer and used specifically for advertising purposes;

**“municipality”** means the area of jurisdiction of the Okhahlamba Local Municipality;

**“non-profit body”** is a body established to promote a social goal without the personal financial gain of any individual or profit-making commercial organisation involved;

**“occupier”** includes any person in actual occupation of land or premises without regard to the title under which he/she occupies;

**“on-show sign”** means a temporary sign erected to indicate that a property is on view for sale;

**“on site or directional”** in relation to any advertisement, means that such advertisement conveys only the name and the nature of the industry, trade, business, undertaking or activity which is carried on within the building or premises on which the advertisement is displayed;

**“outdoor advertising”** means any form of advertising as defined, visible from any street or public place and which takes place out of doors;

**“overall height”** in relation to a sign, means the vertical distance between the uppermost edge of the sign and the level of the ground, pathway or roadway immediately below it;

**“portable board”** is any self-supporting sign or any other collapsible structure which is not affixed to the ground and which is capable of being readily moved;

**“posters”** are placards intended to be temporarily displayed in a street or public place as an announcement of a meeting, function or event relating to an election, activity or undertaking;

**“premises”** means any building together with the land on which such building is situated;

**“projected sign”** means any sign projected by a cinematograph or other apparatus, but does not include a sign projected onto the audience's side of a drive-in cinema screen during a performance;

**“projecting sign”** means any wall sign which is affixed to a building and protrudes more than 300mm from the wall of such building;

**“public place”** means any road, street, thoroughfare, bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden, park or enclosed space vested in the Council and to which the public has access;

**“remote or third party advertising”** means that the content of such advertisement is unrelated to anything being undertaken on the premises on which such advertisement is displayed;

**“return wall”** means any external wall of a building or any other wall, which faces any boundary other than a street façade;

**“road reserve”** means the area contained within the statutory width of a road;

**“Road Traffic Act”** means the National Road Traffic Act, 1996 (Act No. 93 of 1996) and the Regulations promulgated in terms of this Act, as amended from time to time;

**“road traffic sign”** means any road traffic sign as defined in the Road Traffic Act, 1996;

**“roof sign”** means a sign painted or affixed directly onto the roof covering of a building;

**“SAMOAC”** means the South African Manual for Outdoor Advertising Council;

**“sandwich board”** is a portable, double-sided, freestanding, vertically splayed sign standing on the ground or carried by a person or vehicle;

**“sign”** means any physical structure or device intended for the display of an advertisement;

**“signalised traffic intersection”** means an intersection controlled by traffic lights;

**“sky sign”** means a sign that is placed or erected on or above the roof, parapet wall or eaves of a building;

**“specific consent”** means the written approval of the Council which is required on submission of a formal application;

**“street furniture”** means public facilities and structures which are not intended primarily for advertising and includes seating benches, planters, sidewalk litter bins, pole-mounted bins, bus shelters, sidewalk clocks and drinking fountains, but excludes road signs, traffic lights, street lights, or any other road-related structures;

**“street name signs”** means pole-mounted, double-sided, internally illuminated advertisements displayed in combination with street naming;

**“street line”** means the boundary of a public street;

**“temporary sign”** means a sign, not permanently fixed and not intended to remain fixed in one position, which is used to display an advertisement for a temporary period;

**“tri-vision”** means a display which, through the use of a triangular louvre construction, permits the advertising of three different copy messages in a predetermined sequence;

**“under-awning sign”** means a sign suspended or attached to the soffit or a canopy or veranda;

**“veranda”** is a roofed structure attached to or projecting from the façade of a building and supported along its free edge by columns or posts;

**“visual zone”** means the road reserve of a road and any area that is visible from any spot on such road reserve, but does not include an area situated at a distance of more than 250m from the road reserve boundary of a freeway in an urban area; and

**“zone”** means the use zone as defined in the Okhahlamba Town Planning Scheme in course of preparation.

- (2) For the purpose of the application of the measurements, dimensions or areas specified in these By-laws in relation to signs, the same shall be applied to the sign as a whole, inclusive of any space between letters, words, figures, symbols, pictures, drawings and the like appearing thereon, and also any space between the perimeter of the sign and the actual advertisement appearing thereon.
- (3) Words applying to any individual shall include persons, companies and corporations, and the masculine gender shall include females as well as males, and the singular number shall include the plural and *vice versa*.

## 2. APPROVAL FOR ADVERTISEMENTS AND SIGNS

- (1) Subject to the provisions of these By-laws, no person shall erect or cause or allow to be erected, altered, displayed or maintained any advertisement or sign which is visible from any street or public place or on any Council property without first having obtained the written approval of the Council or its duly delegated officials.
- (2) Temporary or portable signs being posters or bills or the like temporarily displayed solely for or in connection with the particular occasion, function or event to which they relate, including directional signs to such an event, signs relating to an election or referendum held or conducted under the authority of any law, and signs carried through the streets, shall only be displayed with the prior written consent of the Director Technical Services and subject to such conditions as he may impose. Such signs shall not exceed 0,5m<sup>2</sup> in area.

## 3. EXEMPT ADVERTISEMENT AND SIGNS

- (1) Subject to the provisions of these By-laws, advertisements or signs for which no approval is required are as follows:
  - (a) Any advertisement or sign not exceeding 2m<sup>2</sup> which is required to be displayed in terms of any national, provincial or municipal legislation; i.e. company, close corporation, co-operative, licensed premises or professional offices, or any security sign limited to one per street frontage or premises.
  - (b) Any advertisement or sign over or near the main entrance to any premises in which a business is carried on and which bears only the name of the business.
  - (c) One advertisement or sign per street frontage indicating only the name and nature of an enterprise, practice, accommodation facility and place of residence as well as the name of the proprietor, partner or practitioner with a maximum area of 1,5m<sup>2</sup> per sign; or indicating the name and nature of institutions and other community facilities with a maximum area of 3m<sup>2</sup> per sign.
  - (d) Any non-illuminated advertisement displayed inside a building or on a display- or shop front window.
  - (e) Any advertisement not exceeding 4,5m<sup>2</sup>, displayed with the curtilage of the premises relating to the accommodation being offered to let or purchase in the building, limited to one advertisement per advertising agent per street frontage and not displayed for longer than 30 (thirty) days after the date of sale or lease.
  - (f) Project boards advertising only the builders and professional consultants involved in a project, not exceeding 18m<sup>2</sup> and with a

maximum erected height of 6m, displayed within the curtilage of the premises whilst building work is in progress, limited to one per street frontage and to be removed within 30 (thirty) days of completion of the project.

- (g) A national flag of any country except when, in the Council's opinion, more than one national flag is used to promote, advertise or identify an economic activity, in which case the provisions of these By-laws shall apply.
- (h) Any change of face to any remote advertisement displayed or erected if approval has already been granted by the Council for the advertising signage structure.
- (i) Aerial advertising by means of an aircraft : Provided that the necessary approval has been obtained from Civil Aviation, including any conditions and requirements as prescribed.
- (j) Signs not exceeding 0,25m<sup>2</sup> in area affixed to the wall of a building or erected within the boundary line indicating that the property can be leased and by whom it is maintained.
- (k) Signs relating to the immediate sale of newspapers and the like within a public street.
- (l) Signs required to be displayed By-law.
- (m) Signs which, on merit, are exempted by the Municipal Manager in consultation with the Planning and Building Plan Portfolio Committee.

#### 4. APPLICATION, ASSESSMENT AND APPEAL PROCEDURE

- (1) Every person intending to display, erect, alter or maintain any advertisement or sign, for which the prior written permission of the Council is required, shall submit a written application to the Council on the prescribed form, together with the prescribed fee in accordance with the Schedule of advertising sign charges (Schedule A). The application shall be signed by the owner of the proposed advertising sign and by the registered owner of the land or building on which the advertising sign is to be erected or displayed or, on behalf of the owner of the land or building, by his/her agent authorised in writing by such owner and shall be accompanied by the following plans drawn in accordance with the following requirements:
  - (a) A locality plan drawn to scale showing the sign in relation to surrounding roads and structures within a 500m radius, where applicable.
  - (b) A site plan showing the position of the sign or advertisement on the premises, drawn to a minimum scale of 1:500 and giving all dimensions, showing the position of the sign in relation to the boundaries, other buildings, structures, services and features on the site and showing the streets and buildings on properties abutting the site.
  - (c) Detailed dimensioned drawings sufficient to enable the Council to consider the appearance of the sign or advertisement including materials, construction and illumination details.
  - (d) Detailed dimensioned drawings showing the full text and graphic details of the advertisement to a scale of minimum 1:20 where applicable.
  - (e) Detailed dimensioned elevations and sections to a scale of minimum 1:100 showing the position of the advertisement or sign in relation to the buildings, structures, features and other existing advertising signs on the site and in the surrounds.
  - (f) Coloured photographs to illustrate the position of the sign in relation to the buildings, structures, features and other existing advertising signs on the site and in the surrounds.
  - (g) Such other additional drawings, environmental impact assessments and/or photographs as are necessary, in the opinion of the Council, to explain the true nature and scope of the application.
- (2) In certain circumstances, the Council may use discretion to accept drawings that show only a portion of the plan or elevation of a building/s, or drawings to a smaller scale, or computer generated graphics drawn to scale to illustrate the proposal where certain drawings may be difficult to provide or even photographs where this is considered sufficient.
- (3) In addition, where required, the applicant shall submit additional structural and other drawings and certifications as required giving full details of the calculations, size and materials used in the supporting framework, its fixings, securing and anchorage as well as for the structure and its advertisement to ensure this sign's stability, fire and safety compliance with the provisions of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977) as well as the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993); as amended from time to time.
- (4) In addition, the applicant shall indemnify the Council against any consequences arising from the erection, display or mere presence of such advertising sign.
- (5) All signs to be erected or displayed must comply with the applicable Town Planning Scheme Regulations, as well as other relevant legislation, as amended from time to time.
- (6) In considering applications, in addition to any other relevant factors, the Council shall ensure that the design and display of all advertising signs conforms to the Council's policy and to SAMOAC's guidelines for control in terms of the general conditions and principles as set out in these documents, as amended from time to time.
- (7) The Council may refuse an application or grant its approval, subject to such conditions as it may deem expedient but not inconsistent with the provisions of these By-laws or the Council's policy on outdoor advertising.
- (8) An approval or refusal of an application by the Council shall be made in writing with reasons provided within 60 (sixty) days of a complete application having been submitted in terms of these By-laws.

- (9) On approval, a complete copy of the application as submitted shall be retained by the Council for record purposes.
- (10) Any advertisement or sign erected or displayed shall be in accordance with the approval granted and any condition or amended condition imposed by such approval; and the person who erects an approved sign shall notify the Council within 7 (seven) days of such sign or advertisement being erected.
- (11) The person/s to whom permission has been granted for the display of any advertisement or sign which extends beyond any boundaries of any street or public place shall enter into a written encroachment agreement with the Council, indemnify the Council in respect of the sign and be liable to the Council for the prescribed annual encroachment rental.
- (12) Approval of all advertising signs shall be at the pleasure of the Council and will endure for a period as may be determined by the Council either in relation to the advertising structure or to the advertising content or both, whereafter a new application for consideration must be submitted to the Council for approval in terms of these By-laws.
- (13) The applicant may appeal in writing against any refusal, lack of decision or condition imposed by the duly authorised official/s.
- (14) The appeal referred to in subsection (13) shall be lodged within 30 (thirty) days of the date of the notice and will be submitted, together with a report, to the relevant committee of the Council for consideration.

#### 5. WITHDRAWAL OR AMENDMENT OF APPROVAL

- (1) The Council may, at any time, withdraw an approval granted or amend any condition or impose a further condition in respect of such approval if, in the opinion of the Council, an advertising sign does not conform to the guidelines for the control of signage in terms of the Council's policy and/or SAMOAC, as amended from time to time, or for any other reason Council may deem fit.
- (2) The Council may, at any time, revoke its approval for the display of an encroaching sign and cancel the encroachment agreement referred to in section 4(11), giving notice in writing to the owner/applicant of such decision. The owner/applicant shall also advise the Council in writing giving details of any intent to transfer ownership of any encroaching sign.
- (3) An approved sign shall be erected within 6 (six) months from the date of approval whereafter such approval shall lapse unless written application for extension is made, which may only be granted for a maximum period of 2 (two) months.
- (4) Any application which has been referred back to the applicant for amendment shall be resubmitted within 2 (two) months of the date of the referral notice, failing which the application shall lapse.
- (5) Permission for an advertising sign is granted to the applicant only and shall lapse if he ceases to occupy the premises, provided that written approval may be granted by the Council to transfer this right to the new occupier of the premises if such approval is sought within 30 (thirty) days from the date of the new occupation.
- (6) An electronic or illuminated advertisement which, in the opinion of the Council, causes a disturbance to the occupants of any affected premises shall be altered in such a manner as prescribed by the Council in writing, or be removed by the applicant/occupier within such period as may be specified.
- (7) The permission granted in respect of an advertisement or sign shall lapse if any alteration or addition is made to such advertisement or sign, provided that Council may approve minor alterations at its discretion by means of an endorsement on the original application.

#### 6. STRUCTURAL REQUIREMENTS

- (1) Every sign shall be neatly and properly constructed, executed and finished in a workmanlike manner.
- (2) Every sign attached to or placed on a building, fence or wall, shall be rigidly and securely attached thereto so that it is safe and that movement in any direction is prevented. The method of attachment shall be such that it is capable of effectively securing, supporting and maintaining not less than twice the weight of the sign in question, with the addition of any force to which the sign may be subjected. The use of nails or staples for the purpose of anchorage and support is prohibited.
- (3) Every projecting sign or suspended sign shall, unless the Director Technical Services otherwise approves, have not less than four supports
  - (a) which shall be of metal;
  - (b) any two of which shall be capable of carrying the weight of the sign;
  - (c) the designed strength of which, acting together, shall be calculated on a weight of the sign with a horizontal wind pressure of 1,5kPa;
  - (d) which shall be neatly constructed as an integral part of the design of the sign or otherwise concealed from view.
- (4) All signs and supports thereof, which are attached to brickwork, masonry or concrete shall be securely and effectively attached thereto by means of bolts securely embedded in such brickwork, masonry or concrete or passing through the same and secured on the opposite side. The bolts shall be of such size and strength as will ensure effective compliance with paragraphs (2) and (3) hereof.
- (5) Glass

All glass used in signs (other than glass tubing used in neon or similar signs) shall be safety glass at least 3,5mm thick. Glass panels in signs shall not exceed 2m<sup>2</sup> in area, each panel being securely fixed in the body of the sign independently of all other panels.
- (6) Electrical requirements

Every illuminated sign and every sign in which electricity is used shall -

- (a) be constructed of material which is not combustible;
  - (b) be provided with an external switch in an accessible position whereby the electricity supply to such a sign may be switched off;
  - (c) be connected according to statutory regulations.
- (7) All exposed metalwork in a sign, or its supports, shall be painted or otherwise treated to prevent corrosion and all timber shall be similarly treated to prevent decay.
- (8) No sign shall be constructed in whole or in part of cloth, canvas, cardboard, paper or like material, except where the sign relates solely to current or forthcoming programmes of public entertainment displayed upon a cinema or theatre, or is a sign on a sunblind.

## 7. ELECTRICAL REQUIREMENTS

Every electronic and illuminated advertising sign including its supports and framework shall be constructed entirely of non-combustible materials and shall be installed in accordance with the provisions of the Council's Standard Tariffs and Procedures and the Code of Practice for the wiring of premises in accordance with the SABS or applicable legislation/regulations.

## 8. MAINTENANCE OF SIGNS

- (1) The person having possession, or control of any sign, while such sign is erected and constructed in contravention of the provisions of this By-law, shall be guilty of an offence.
- (2) (a) No sign, which exists or extends beyond the street line shall remain, except during the pleasure of the Council. The Council may by written notice served on the person having possession or control of any such sign, require such person to remove such sign within a period of time specified in such notice, except where in the opinion of the Council the sign constitutes a potential source of danger to the public, or will or is likely to damage or interfere with any existing or proposed works of the Council or upon the public street, the Council shall have the right to remove such sign forthwith.
- Any such person who fails to comply with such notice shall be guilty of an offence.
- (b) The person having possession or control of any sign extending or existing beyond the street line, shall at all times indemnify the Council against all actions or claims which may be brought against it by any person for loss, injury or maintenance, repair or removal of the sign, and shall also reimburse the Council in respect of all expenses incurred in defending any action or resisting any claim.
- (c) The person having possession or control of any sign extending or existing beyond the street line shall pay to the Council the fee prescribed in the schedule of tariffs and charges in respect of the sum total of the surface area containing any advertisement (inclusive of any space between lettering and the like and any space between the actual advertisement and the perimeter of the sign).
- (i) The above charges shall be payable to the municipality or its duly appointed agents upon application in advance, and thereafter annually on the anniversary of the date of application for the time the sign is in place.
  - (ii) No charge shall be payable unless the sign projects, or is more than 100mm, beyond the street line.
  - (iii) Where during the course of the period of 12 (twelve months) referred to in paragraph (i) hereof, any sign is lawfully replaced by another sign, no additional charge in respect of that period shall be made unless the sign substituted has a greater surface area than the former sign, in which event a further charge calculated as above in respect of the excess area shall become immediately due and payable to the Council.
  - (iv) Where any sign is removed voluntarily, or at the instance of the Council, no refund of any charges paid shall be made by the Council.
  - (v) The payment of any charges as herein provided shall not in any way prejudice or affect the provisions of paragraph (a) of this By-law.
- (d) The person having possession or control of any sign extending, or existing beyond the street line, shall when required in writing by the Director Technical Services, enter into a written agreement with the Council in respect of such sign, undertaking the obligations contained in paragraphs (b) and (c) of this By-law; provided that the absence of any such agreement shall in no way affect the provisions of these By-laws. Whenever any change occurs in the identity of the person having possession or control of any such sign, such change shall forthwith be notified to the Director Technical Services in writing by the person formerly having such possession or control.

## 9. OFFENCES AND REMOVAL OF SIGNS

- (1) Any person who displays or erects any advertisement or sign for which no approval has been granted by the Council in terms of section 2, or which approval has expired, or has been withdrawn, or which advertisement or sign does not conform with the approved application or any of its conditions, or does not comply with or is contrary to any provision of these By-laws or to any other applicable Act or Regulation, shall be guilty of an offence.
- (2) Any person who erects or continues to display any advertisement or sign which ceases to be relevant to the premises on which it is displayed by virtue of a change in use, ownership or occupancy of the premises to which it relates or for any other reason, shall be guilty of an offence.
- (3) Any person who displays or erects any advertisement or sign which contravenes or fails to comply with any provision, requirements or conditions as set out in any notice issued and served in terms of these By-laws or other applicable legislation, or who knowingly makes any false statement in respect of any application in terms of these By-laws, shall be guilty of an offence.

- (4) The Council may serve notice on the person/s who is displaying the advertisement or who has erected the sign or cause the advertisement or sign to be displayed or erected, or the owner or occupier of the premises upon which such advertisement or sign is being displayed or erected or upon both such persons, directing those persons to remove such advertisement or sign or to do such other work as may be set forth in the notice, within a time frame specified therein which shall not be less than 14 (fourteen) days from the date of receipt of the notice, so as to bring the advertisement or sign into conformity or compliance.
- (5) If any person/s to whom any notice has been given in terms of subsection (3) fails to comply with a direction/instruction contained in such notice within the specified period, the Council may remove or arrange for the removal of the advertisement or sign, or affect any of the alterations prescribed in the notice.
- (6) The Council may recover the expenses incurred as a result of any removal, action taken, repairs to Council property or for any other costs incurred from any person(s) to whom the notice was issued in terms of subsection (3). No compensation shall be payable by the Council to any persons in consequence of such removal, repairs or action taken.
- (7) Any person who fails to remove any poster, banner, flag or election advertisement within the prescribed period shall be guilty of an offence. The Council shall be entitled to remove any such advertisement and deduct the prescribed amount from any deposit made in respect of the advertisement(s) so removed by the Council: Provided that if the amount of money to be deducted exceeds the amount of the deposit made, the Council shall be entitled to recover such excess amount from such person(s); Provided further that when any such poster, banner or election advertisement is removed in terms of these By-laws, the Council shall be entitled to destroy any such advertisement without giving notice to anyone.
- (8) Any person/s who, having displayed or caused to be displayed any portable board in respect of which approval has been granted in terms of these By-laws, fails to remove such board within 2 (two) hours of the time as specified in section 9, shall be guilty of an offence and the Council shall be entitled to remove any such portable board and to recover from such person/s the fee prescribed: Provided that any portable board so removed by the Council may be destroyed without giving notice to anyone.
- (9) Any advertisement or sign, other than those referred to in subsections (6) and (7), which were removed or confiscated by the Council in terms of these By-laws, may be reclaimed within 60 (sixty) days from the date of removal or confiscation and on payment of the charges due, failing which the Council shall have the right to use, dispose of or sell such sign at its discretion.
- (10) If, in the opinion of the Council, the advertising sign constitutes a danger to life or property and in the event of the applicant/owner and/or occupier failing to take the necessary action with immediate effect, the Council may carry out or arrange for the removal of such sign and recover the expenses so incurred.
- (11) Any person who, in the course of erecting or removing any advertising sign, causes damage to any natural feature, electric structure or service, or any other Council installation or property, shall be guilty of an offence and punishable in terms of section 15 of these By-laws and shall be liable for damages so incurred.
- (12) The Council is entitled to summarily remove any unauthorised advertising signs on its own property without giving notice to anyone.

#### 10. PROHIBITIONS

- (1) The following advertisements and signs are prohibited:
  - (a) Any advertisement or sign, other than an exempted sign, for which neither a permit nor approval has been obtained or which does not comply with the requirements of, or which is not permitted by these By-laws or any other law.
  - (b) Any advertisement which, in the opinion of the Council, is indecent, obscene or objectionable or of a nature which may produce a pernicious or injurious effect on the public or on any particular class of person/s or on the amenity of any neighbourhood.
  - (c) Any advertisement or sign that is painted onto or attached in any manner to any tree, plant, rock or to any other natural feature.
  - (d) Any advertisement or sign which obstructs any street, fire escape, exit way, window, door or other opening used as a means of egress or for ventilation or for fire fighting purposes.
  - (e) Any illuminated sign whether laser, animated, flashing or static, which disturbs or is a nuisance to the residents and/or occupants of any building and/or to any member/s of the public affected thereby.
  - (f) Any advertisement or sign which is prohibited in terms of any Town Planning Scheme Regulation or other legislation.
  - (g) Any advertisement or sign not erected in accordance with these By-laws or not in accordance with the specifications approved by the City Council, or the terms or conditions attached by the Council to any such approval.
  - (h) Any advertisement or sign which may obstruct or interfere with any traffic sign or signal for traffic control, or which is likely to interfere with or constitute a danger to traffic, shipping or aircraft or to the public in general.
  - (i) Any advertisement or sign which may inhibit or obstruct the motorists' vision or line of sight thus endangering vehicular and pedestrian safety.
  - (j) Any form of bill-sticking by means of posters or placards to any existing structure without the approval of the Council.

#### 11. DISCRETIONARY POWERS

- (1) The Council or its delegated officer/s shall exercise discretionary powers to permit or not to permit advertising signs in terms of the provisions of these By-laws in the following cases:
  - (a) Any advertisements on a portable board displayed on a street pavement.

- (b) Any mobile advertising vehicles and their designated positions of display.
- (c) Advertisements or signs painted on or in any way affixed to the surface of any window other than a display window.
- (d) Advertisement or signs on top of a canopy or veranda.
- (e) Advertisements painted on roofs or displayed or erected as a sky sign in an area other than industrial or harbour zone.
- (f) Advertisements or signs displayed or erected in an area other than industrial or general business zone.
- (g) Advertisements or signs made of certain materials not considered by the Council to be suitable or appropriate for the intended purpose.
- (h) Banners and flags affixed to flagpole/s as a ground sign or attached to an existing building or structure.
- (i) Any remote or third party advertising signs, sponsored signs and signs for non-profit organisations and institutions.
- (j) Any advertisements or signs of dimensions not in accordance with the provisions of these By-laws.

## 12.

**SIGNS ON THE COUNCIL PROPERTY AND TEMPORARY ADVERTISEMENTS**

Temporary advertisements and signs on the Council property are subject to the Council's specific consent as set out in these By-laws. Permanent advertisements and signs on the Council property; i.e. street furniture, street name signs, dustbins, bus shelters, suburban and community advertisements and any other remote advertising signs are subject to the Council's specific authority and/or tender procedure. The Council shall be obliged to set out and agree to the specifications and required performance standards for these signs prior to calling for proposals.

**(1) Billboards**

- (a) Every person who wishes to display or cause to display a billboard advertisement shall submit to the Council a written application on the prescribed form and pay the prescribed fee. Such applications shall be accompanied by an environmental impact assessment in the case of billboards in excess of 36m<sup>2</sup> and/or for smaller billboards at the Council's discretion.
- (b) This type of sign shall be permitted only in urban areas of minimum control and in urban areas of partial control at the Council's discretion, subject to specific consent and assessment of their environmental impact as required, which shall include the visual, social and traffic safety aspects.
- (c) The name of the owner of the billboard or sign must be clearly displayed on all boards together with the identification number approved by Council.
- (d) Any billboard so displayed shall –
  - (i) comply with all legal requirements of the South African National Roads Agency Limited and Road Traffic Act where applicable;
  - (ii) comply with any other applicable National, Provincial or Local Government legislation and policy, including these By-laws and the Council's policy on outdoor advertising;
  - (iii) not be erected within an area of maximum control, unless, after an environmental impact assessment and public participation process, the Council identifies that such area, subject to such terms and conditions as it may impose, may be reclassified as an area of lesser control, which may not be relaxed further than the control type in the area adjacent to the site in question;
  - (iv) not be detrimental to the nature of the environment in which it is located by reason of abnormal size, intensity of illumination or design;
  - (v) not be, in its content, objectionable, indecent or insensitive to any sector or member of the public;
  - (vi) not unreasonably obscure partially or wholly any approved sign previously erected and legally displayed;
  - (vii) not constitute a danger to any person or property;
  - (viii) not encroach over the boundary line of the property on which it is erected; and
  - (ix) not be erected if considered by the Council to be a distraction to drivers, cyclists or pedestrians which could contribute to unsafe traffic conditions.
- (e) The positioning of billboards shall –
  - (i) be spaced at least 120m, 200m or 250m apart when in view of each other on the side of the road/s to which they are directed or aimed with up to 60 km/h, 80 km/h or 100 km/h+ speed limit respectively;
  - (ii) not be erected within 100m from the ramp gore of public roads and from overhead traffic directional signs;
  - (iii) not be permitted within a radius of 100m from the centre of an intersection on any arterial road and within a radius of 50m from the centre of an intersection on any lower order road;
  - (iv) not have an overall height in excess of 12m above the surface of the road level to which it is aimed;
  - (v) not have an overall dimension which exceeds 64m<sup>2</sup> in the case of ground signs and 54m<sup>2</sup> in the case of wall signs;



- (vi) not have as main colours, red or amber or green when located at signalised traffic intersections and shall not obscure or interfere with any road traffic light or sign;
- (vii) not constitute a road safety hazard or cause undue disturbance or permitted to be illuminated if such illumination, in the opinion of the Council, constitutes a road safety hazard or causes undue disturbance;
- (viii) ensure that the traffic flow is not impeded during their erection and servicing on public roads, unless prior permission from the Council has been obtained and the necessary precautions taken and arranged;
- (ix) in the case of wall signs, be attached only to the side and back walls of buildings which do not fulfil the function of a street or front façade of the building.

**(2) Ground signs**

- (a) Only one on-site, locality bound, freestanding ground sign per premises shall be permitted either where such a sign is necessary to facilitate the location of the entrance or access to a business premises; or where it is not reasonably possible to affix appropriate signs to the building; or where the business premises is so set back as to make proper visibility of signs on the building not feasible, or where the existence of a freestanding composite sign may prevent the proliferation of signage.
- (b) On-site, locality and non-locality bound freestanding ground signs in the form of business signs and tower structures may not exceed 7,5m in overall height and 6m<sup>2</sup> in total area. In addition, they may not exceed 4,5m<sup>2</sup> in total area in respect of any individual advertisement thereon and have a clear height of less than 2,4m. Where a more solid structure is used, the maximum area per sign may be increased to 9m<sup>2</sup> and where the sign incorporates a combination sign, the maximum area per signage structure may be increased to 12m<sup>2</sup>. Only one sign or advertising panel on a combination sign shall be allowed per enterprise per street frontage.
- (c) A remote, non-locality bound ground sign which does not have an overall height in excess of 7,5m above the ground at any point nor dimensions which exceed 6m in length and 3m in height, a total area of 18m<sup>2</sup>, shall be deemed to be of appropriate dimensions: Provided that a ground sign which has greater dimensions shall not be erected unless, in the opinion of the Council, such sign will be or is deemed to be erected or displayed in an appropriate place.
- (d) All signs erected on a monopole shall be appropriately designed so that the height of the support is proportionally not too long in relation to the size of the sign.
- (e) A maximum of 2 pylon signs per tower, bridge or pylon shall be permitted. The maximum sign area per tower may not exceed 36m<sup>2</sup>. The sign must be wholly contained within the structure and must have no projections.
- (f) Every ground sign or sign on towers, bridges and pylons shall be independently supported and properly secured to an adequate foundation and be without the aid of guys, stays, struts, brackets or other restraining devices and/or be entirely self-supporting and not dependant upon any existing structure for its support in any way.

**(3) Wall signs**

- (a) Flat signs
  - (i) Unless otherwise stipulated, flat signs shall, at no point, project more than 300mm from the surface of the wall to which they are attached. The maximum projection of any part of a flat sign shall be 100mm where the underside of such sign measures less than 2,4m from a footway or pathway immediately below it and the maximum projection shall be 300mm where the underside of such sign measures more than 2,4m above such footway or ground level.
  - (ii) On-site, locality bound flat signs shall be permitted to be attached to the front, side and back walls of buildings; remote, non-locality bound flat signs shall only be permitted to be attached to the side and back walls of buildings which do not fulfil the function of a building façade and to construction site boundary walls and fences.
  - (iii) No more than two locality bound flat signs per enterprise shall be permitted and no more than one non-locality bound flat sign per wall shall be permitted.
  - (iv) Flat signs shall not cover any windows or other external openings of a building or obstruct the view from such openings.
  - (v) Flat signs shall not exceed 54m<sup>2</sup> in total area and shall not exceed 30% of the overall area of the wall surface to which they are attached, affixed or painted, whichever is the lesser, provided that in urban landscapes of maximum control the signs may not exceed 20% of the wall surface area.
  - (vi) An environmental impact assessment shall be required for all flat signs in excess of 36m<sup>2</sup>.
- (b) Projecting signs
  - (i) The minimum clear height of a projecting sign shall be in excess of 2,4m.
  - (ii) Projecting signs shall be 300mm in maximum thickness.
  - (iii) Projecting signs shall not be allowed to extend within 600mm of the edge of a roadway.
  - (iv) The maximum projection shall be 1,5m in the case of a projecting sign which has a clear height of more than 7,5m; and 1m where the sign has a clear height of less than 7,5m.
  - (v) Projecting signs shall be installed perpendicular to the street façade or to the direction of oncoming traffic.
  - (vi) All projecting signs shall be locality bound

**(4) Roof signs**

- (a) The maximum permitted size of a roof sign shall be 18m<sup>2</sup> or 6m<sup>2</sup> per face for three-sided units: Provided that only one sign per building shall be allowed.
  - (b) Roof signs shall not project in front of a main wall of a building so as to extend beyond the roof of such building in any direction.
  - (c) Roof signs shall not obstruct the view or affect the amenity of any other building.
  - (d) Roof signs shall be placed in such a manner so as not to interfere with the run-off of rainwater from the roof of the building.
  - (e) Roof signs shall be thoroughly secured and anchored to the building on or over which they are to be erected and all structural loads shall be safely distributed to the structural members of the building without the use of guys, stays or other restraining devices.
  - (f) A roof sign, including all its supports and framework, shall be constructed entirely of non-combustible materials approved by the Council or its duly authorised official/s and if illuminated, shall not be placed on or over the roof of any buildings unless such sign, as well as the entire roof construction, is of non-combustible material.
- (5) **Veranda, balcony, canopy and under-awning signs**
- (a) Signs may be affixed flat onto or painted on a parapet wall, balustrade or railing of a veranda or balcony, and beam or fascia of a veranda or balcony. Such signs may not exceed 1m in height, project beyond any of the extremities of the surface to which it is affixed, or project more than 300mm in front of the surface to which it is affixed or extend within 600mm of the edge of a roadway.
  - (b) Signs may be affixed flat onto or painted on supporting columns, pillars and posts. Such signs may not project more than 50mm in front of the surface to which it is affixed and shall not extend beyond any of the extremities of such column, pillar or post. Sign affixed flat onto cylindrical supporting structures shall be curved to fit the form of such structure and only one sign shall be allowed per column, pillar or post.
  - (c) Subject to the provisions of subsections (a) and (b), signs shall not be allowed on or over architectural features of buildings nor shall they be allowed to cover any window or obstruct the view from any such opening.
  - (d) Under-awning signs suspended below the roof of a veranda, canopy or balcony shall have a maximum sign area of 1m<sup>2</sup> per face with a maximum of 2m<sup>2</sup> in total sign area and shall not exceed 1,8m in length or 600mm in height. The allowable thickness of such signs is between 100mm and 300mm. Every such sign shall be perpendicular to the building line and fixed at a clear height of not less than 2,4m. Only one sign per enterprise façade shall be allowed with a minimum spacing of 3m centre to centre between signs. Such signs shall not extend beyond the external edges of the canopy or veranda to which it is attached.
  - (e) Signs on the roof of a veranda, canopy or balcony, excluding the main roof of a building, shall be composed of a single line of freestanding, individual, cut out logos and/or letter without visible bracing or support. Signs shall only be placed on top of veranda roofs where such veranda does not have an appropriate wall, railing or beam to which the sign may be affixed. All such signs shall not extend beyond the extremities of the veranda roof, canopy or balcony and only one sign per enterprise façade shall be allowed with a maximum height of 1 m.
  - (f) Sunblinds and awnings shall be so made and fixed as to be incapable of being lowered to less than 2m above the footway or pavement directly beneath it. Such signs shall be parallel to the building line and placed in a manner so as not to interfere with vehicular or pedestrian traffic, traffic lights or traffic signs in any way.
  - (g) Signs on adjacent buildings shall be aligned as far as possible in order to achieve a straight line or parallel configuration.
- (6) **Posters, banners and flags**
- (a) Every person intending to display or cause or permit to be displayed any advertisement relating to an election or advertising any meeting, function or event of a sporting, civic, cultural, social, educational, religious, charitable, political or other similar character in any street or public place or on Council property shall first obtain the written permission of the Council.
  - (b) Every application for permission shall be made on the prescribed form and be accompanied by the prescribed fee and deposit as approved by Council from time to time; such deposit shall be refunded when all the advertisements have been removed to the satisfaction of the Council. The applicant shall, on application, submit a copy of all the posters to which the application relates and written details of the streets in which the posters are to be displayed.
  - (c) Any person who displays or causes a poster, banner or flag advertisement to be displayed shall comply with the following requirements to the Council's satisfaction;
    - (i) Any advertisement relating to an election, meeting, function or event shall be a maximum size of 600mm high x 450mm wide; shall have a clear height of minimum 2m; and shall be securely fixed to durable hardboard or other approved backing board.
    - (ii) In the case of banners or flags, the maximum size shall be 3m<sup>2</sup>, suspended between non-corrosive pole/s or other approved support/s; and which shall be placed and fastened in such a manner so as not to constitute a danger to any vehicular traffic, pedestrian, person/s or property in any street, public place or Council property.
    - (iii) Any person/s or, in the case of election advertising, each political party displaying or causing to display any poster advertisement relating to the same meeting, function or event shall only be permitted one poster per electricity lamppost. No posters are permitted to be displayed on bridges, traffic lights, traffic signs, natural features, freeways and/or national routes.
    - (iv) Any advertisement relating to an election, meeting, function or event shall not be placed in such a manner that the content of separate advertisements when read in succession, forms a continuous relative legend.
    - (v) Any advertisement relating to a meeting, function or event other than an election, shall not be displayed for longer than

14 (fourteen) days before the day on which it begins or longer than 3 (three) days after the day on which it ends. Election advertisements may be displayed from the beginning of the day of declaration of an election to the end of the third day after the election.

- (vi) The total number of posters displayed at any one time relating to any meeting, function or event may not exceed 100, except in special circumstances and with the consent of the Council. In the case of election advertisements, no limitation will be placed on the number of posters displayed.
- (vii) Any advertisement relating to an election shall be on the basis of a written agreement between the Independent Electoral Commission and the relevant political party.
- (viii) Banners approved in terms of this section may not be larger than 6m<sup>2</sup>.
- (ix) Auction posters approved in terms of this section may not be larger than 2m<sup>2</sup>.
- (x) Banners and flags may be applied for as directional advertising for streetscaping urban areas such as pedestrian malls and gateways or for displaying only the name, corporate symbol and nature of enterprises.
- (d) Every poster for which permission is granted shall be provided with a Council sticker or marking which shall be visibly displayed to indicate the Council's approval and the Council shall be entitled to retain one such poster for identification purposes.

**(7) Estate agents' boards and portable boards**

- (a) Every agent or person intending to display, cause or permit to be displayed any portable board, shall annually submit the prescribed, written application to the Council and pay the prescribed fee for approval of the number of portable boards specified in such application.
- (b) Any person who displays or causes any such portable board to be displayed on any Council property other than a road reserve, unless specific approval has been granted for the display on other property of the Council, shall comply with the following requirements to the Council's satisfaction:
  - (i) Portable boards are only to be used for the purpose of indicating the route to the property or premises to be sold or advertised.
  - (ii) Portable boards are to be of appropriate structure and size, not exceeding 600mm<sup>2</sup>, and collectively the number of boards displayed may not, in the opinion of the Council, detract from the amenities of the streetscape or environment.
  - (iii) Subject to the provisions of the Road Traffic Act and other applicable legislation, portable boards are not to be positioned nearer than 1,8m from the edge of the roadway, and placed at such height that the lower edge of the board does not exceed 600mm above the ground.
  - (iv) Portable boards are not to be positioned nearer than 10m from any road intersection, entrance or exit from a dual carriage way or freeway as defined in the Road Traffic Act or other applicable legislation.
  - (v) Portable boards are not to be positioned so as to obstruct the view of any road traffic sign or street name sign from any portion of roadway as defined in the Road Traffic Act or other applicable legislation.
  - (vi) Portable boards are not to be positioned so as to hinder or obstruct pedestrians' right of way on a sidewalk or to unfairly prejudice other traders.
  - (vii) The display of portable boards for show-houses will only be permitted on Saturdays, Sundays and public holidays. Other approved portable boards advertising services may only be displayed during normal trading hours, hereafter they shall be removed.
  - (viii) Only one portable board per street frontage per enterprise shall be allowed to advertise services and such signs shall be placed directly in front of the advertiser's premises.
  - (ix) Applicants will be required to indemnify the Council against any claims that may arise from the placement of such signs within the road reserve or on Council property and shall be required to procure third party insurance for this purpose.

**(8) Aerial advertisement**

- (a) Every person who wishes to display or cause to display an aerial advertisement, except by means of an aircraft, shall submit to the Council a written application on the prescribed form and pay the prescribed fee and such application shall be accompanied by -
  - (i) particulars of the content of dimensions of the aerial advertisement and of the aerial device by means of which the advertisement is to be displayed as well as the materials used and method of construction and anchorage;
  - (ii) particulars of the intended location with a description of the premises to which the aerial device will be anchored or tethered and details of electricity and telephone poles and cables and other structures within 30m of the point of anchorage;
  - (iii) the name and address of the person/s or contractor/s displaying the aerial advertisement and the name and address of the approved competent person in attendance of the aerial device and of its owner;
  - (iv) the period and times of intended display;
  - (v) where the applicant is not the owner of the premises to which the aerial device is to be anchored or tethered, the written consent of the owner for such anchoring;

- (vi) proof of the provision of an automatic deflation device;
  - (vii) adequate public liability insurance to the Council's satisfaction; and
  - (viii) approval and any conditions and requirements prescribed by the National Civil Aviation Authority.
- (b) No aerial advertisement shall be displayed or caused to be displayed on, from or over Council property, including any street or public place, unless approval has been granted by the Council who may impose such conditions as it deems fit.

**(9) Advertising vehicles**

- (a) Every person who wishes to display or cause to display any advertisement on an advertising vehicle shall annually submit to the Council a written application on the prescribed form and pay the prescribed fee, and such application shall be accompanied by -
- (i) particulars of the materials of which the advertising sign is made, its dimensions, and the manner of its construction and the method by which it is secured to the advertising vehicle;
  - (ii) the name, address and telephone number of the owner of the vehicle or, if the owner resides or has his place of business outside the boundaries of the Council, of the person having control over the vehicle at all times; and
  - (iii) a copy of the current vehicle licence issued in respect of such vehicle as well as the registration as required in terms of the Road Traffic Act.
- (b) No advertising vehicle shall be placed or caused to be placed on private property or Council property, including any demarcated parking bay, in a public road or within a road reserve -
- (i) unless the prior written approval of the Council has been obtained in terms of these By-laws and designated display site(s) have been approved in terms of these By-laws; and
  - (ii) provided that, if no approved designated site(s) exists, advertising vehicle signs shall only be permitted to be displayed if they are mobile at all times and comply with legislation and conditions imposed by the Council.
- (c) Advertising vehicles parked on private property for the purpose of storage shall be positioned in such a manner as not to be visible from a street or public place.
- (d) The advertising panel or portion of the vehicle used for transit advertising shall not exceed a cumulative total of 6m<sup>2</sup>.
- (e) Notwithstanding any provisions of these By-laws, the Council or its authorised officials may, without prior notice, remove an advertising vehicle from Council property, and in the case of an unauthorised advertising vehicle on private property, the Council may serve notice instructing the immediate removal thereof.
- (f) Unless an advertising vehicle impounded by the Council in terms of paragraph (e) has been reclaimed within a period of three (3) months from the date of notification, such vehicle shall be disposed of by the Council to defray any costs involved. Impounded advertising vehicles shall only be released by the Council after all removal costs and fines have been paid in full and a copy of the current licence registration papers have been submitted for verification.

**13.**

**PRESUMPTIONS**

- (1) If any person is charged with an offence in terms of these By-laws, it shall be presumed that—
- (a) any person/s who erects or displays or who causes to be erected or displayed any advertisement or sign, whether such person/s be the applicant, the owner or the occupier of the premises, the manufacturer of any part of the signage structure or the proprietor of the undertaking or activity to which such an advertisement relates and any of their agents, shall be deemed to have displayed, caused, allowed or consented to such advertisement or sign being displayed until the contrary is proved;
  - (b) any person/s, club, body or political party responsible for organising, sponsoring, promoting or in control of any meeting, function or event to which a sign, poster, election or aerial advertisement relates, shall be deemed to have displayed, caused, allowed or consented to such advertisement or sign being displayed until the contrary is proved;
  - (c) any person/s whose name appears on the advertisement or sign or whose product or services are advertised on such sign shall be deemed to have displayed, caused, allowed or consented to such advertisement or sign being displayed until the contrary is proved;
  - (d) an advertisement displayed upon the exterior wall or fence constituting the apparent boundary of any premises and fronting any street or public place shall be deemed to be displayed in a street or public place;
  - (e) where any notice or other document is required by these By-laws to be served on any person, it shall be deemed to have been properly served, within 5 (five) working days of dispatch, if served personally on him/her or any member of his household apparently over the age of sixteen years at his/her place of residence, or on any person employed by him at his place of business, or if sent by registered post to such person's residential or business address as it appears in the records of the Council, or if such person is a company, closed corporation or a trust, if served on any person employed by that company, closed corporation or trust at its registered office, or if sent by registered post to such office;
  - (f) any advertisement or sign lawfully in existence prior to the date of promulgation of these By-laws shall be presumed to have been lawfully displayed or erected in terms of these By-laws: Provided that it is continuously displayed or kept in position without any alteration other than a minor alteration approved in writing by the Council; and
  - (g) anything done under or in terms of any provision repealed by these By-laws shall be deemed to have been done under the corresponding provisions of these By-laws and such repeal shall not affect the validity of anything done under the By-laws so

repealed. Any application lodged and pending before the Council at the time of commencement of the policy and/or promulgation of these By-laws, shall be dealt with in terms of these By-laws.

**14. SAVINGS IN RESPECT OF EXISTING SIGNS**

The following provisions shall apply in respect of the existing signs lawfully displayed at the date of promulgation of these By-laws:

- (1) Where any such sign complies with the provisions of these By-laws such sign may be continued to be displayed, subject to the provisions of these By-laws and shall be deemed to be a sign approved by the Council in terms of these By-laws.
- (2) Where any such sign does not comply with the provisions of these By-laws such sign may be continued to be displayed, subject otherwise to the provisions of these By-laws: Provided that -

- (a) if the sign is a sign to which the provisions of section 8 of these By-laws are applicable, the Council may, without in any manner detracting from its right to require the removal of such sign, by notice in writing require the person having possession or control of such sign, to alter, modify or adjust such sign within a period of 90 (ninety) days from the date of receipt of such notice, or such longer period as the Council may specify, in order that it may be made to comply with these By-laws.

Any such person who fails to comply with such notice, shall be guilty of an offence.

- (b) No such sign shall be repainted, renovate or reconstructed, unless it is first made to comply with the provisions of these By-laws, and the approval of the Council thereto has been obtained in terms of section 2 of these By-laws. Any person who repaints, renovates or reconstructs any such sign in contravention of the provisions hereof, shall be guilty of an offence.

- (c) The Council may, at any time after the expiration of a period of 3 (three) years from the date of the promulgation of these By-laws by notice in writing, require the person having possession or control of any such sign (not being a sign to which the provisions of section 8 of these By-laws are applicable) to alter, modify or adjust such sign in order that it may be made to comply with these By-laws; or alternatively, to remove such sign, within a period of 30 (thirty) days from the date of receipt of such notice or such longer period as the Council may specify.

Any such person who fails to comply with such notice shall be guilty of an offence.

- (3) Any existing sign not lawfully displayed at the date of promulgation of these By-laws shall be removed by the owner or person having possession or control thereof.

**15. PENALTIES**

Any person who contravenes any provision of these By-laws shall be guilty of an offence and liable, upon conviction, to a fine or imprisonment for a period not exceeding six months or both the fine and the imprisonment.

**16. AREAS OF CONTROL**

\* Refer to Schedule A.

**17. REPEAL OF BY-LAWS**

The By-laws relating to the Control of Outdoor Advertising for the Okhahlamba Local Municipality, are hereby repealed and replaced by these By-laws, which are to become effective on promulgation hereof.

**SCHEDULE A :  
AREAS OF CONTROL (SECTION 16)**

<b>Maximum</b>		<b>Partial</b>		<b>Minimum</b>
Natural landscape	Rural landscape	Urban landscape	Urban landscape	Urban landscape
National parks	Municipal parks	Metropolitan	Central Business	Industrial areas
Game reserves	Horticultural areas	Open Space Systems	Districts Commercial and	Industrial zones
Nature reserves	Rural smallholdings	Urban smallholdings	office components of	Transport nodes
Forestry areas	Private open spaces	All residential zones	residential amenities	Traffic corridors
Natural environments	Public open spaces	Private open spaces	Commercial enclaves in	Transportation terminals
Marine reserves	Intensive agriculture	Public open spaces	residential areas	
Beaches and sea shores	Scenic drives	Pedestrian malls	Commercial nodes and ribbon	
Oceans	Scenic routes	Pedestrian squares	Development Entertainment	
Extensive agriculture	Scenic features	Community facilities	districts or complexes	
Scenic corridors	Peri-urban and	Scenic features	Educational institutions	
Scenic landscapes	Traditional areas	Scenic drives	Sports fields and stadia	
River corridors		Gateways	Municipal/government	
Wetlands open spaces		River corridors	Mixed use and interface areas	
		Wetlands	Visual zones along urban	
		Conservation areas	roads/freeways	
		Heritage sites		
		Historic or graded buildings and areas		

**No. 9****29 February 2008**

The Council of the Okhahlamba Local Municipality has in terms of section 156 of the Constitution, 1996 (Act No. 108 of 1996), read in conjunction with section 11(3)(m) of the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000), made the following by-laws:

**OKHAHLAMBA LOCAL MUNICIPALITY  
POUND BY-LAWS**

**ARRANGEMENT OF SECTIONS**

**Section**

1. Definitions
2. Application
3. Establishment of pound
4. Appointment of poundkeeper
5. Trespassing or straying animals may be impounded
6. Animals too vicious, intractable or wild to be impounded
7. Release of animals before removal to pound
8. Care of trespassing animals
9. Pound to which animals must be taken
10. Information to be supplied to poundkeeper
11. Acceptance at pound of animals to be impounded
12. Pound register
13. Notice to owners of animals
14. Care of impounded animals
15. Isolation of infected animals
16. Treatment of impounded animals
17. Death of or injury to impounded animals
18. Copies of by-laws
19. Fees and costs payable
20. Release of impounded animals
21. Sale of impounded animals
22. Poundkeeper may not purchase impounded animals
23. Animals unsuccessfully offered for sale
24. Proceeds
25. Action for recovery of damages
26. Procedure to be followed in application to Court
27. Indemnity
28. Offences and penalties
29. Schedules 1 and 2 form part of these by-laws
30. Repeal of by-laws
31. Short title

**DEFINITIONS**

1. In these by-laws, unless inconsistent with the context -

“**animal**” includes a horse, bovine, donkey, sheep, goat, pig, ostrich, dog, cat or the hybrid of any such animal, and “**animals**” will have a corresponding meaning;

“**Court**” means a Magistrate's Court as referred to in section 166(d) of the Constitution, 1996, having jurisdiction in the area in which the pound is situated;

“**Gazette**” means the official *Provincial Gazette* of KwaZulu-Natal;

“**municipality**” means the Okhahlamba Municipality established in terms of section 155(6) of the Constitution, 1996, and established by and under sections 11 and 12 of the Local Government : Municipal Structures Act, 1998 (Act No. 117 of 1998), read with sections 3, 4 and 5 of the KwaZulu-Natal Determination of Types of Municipality Act, 2000 (Act No. 7 of 2000);

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

- (a) animal, includes the agent of the owner or other person having the lawful custody or possession of such animal; or
- (b) land, includes the owner, lessee or lawful occupier of such land or his or her agent;

“**pound**” means a pound established as contemplated in section 3;

“**poundkeeper**” means the person appointed from time to time as contemplated in section 4 and includes any person acting for or on behalf of the appointed poundkeeper;

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

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

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

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

#### APPLICATION

2. These by-laws apply to the area of jurisdiction of the Municipality: Provided that nothing prevents any animal detained in terms of these by-laws from being impounded in a pound or any similar facility established by any other municipality, or other lawful authority.

#### ESTABLISHMENT OF POUND

3. The Municipality must establish a pound in accordance with the provisions of section 3 of the KwaZulu-Natal Pounds Act, 2006 (Act No. 3 of 2006).

#### APPOINTMENT OF POUNDKEEPER

4. The Municipality must, in terms of its human resource policy, appoint a suitably skilled and experienced person as a poundkeeper, unless the pound is established and operated in terms of a service level agreement contemplated in section 3(2) of the KwaZulu-Natal Pound Act, 2006 (Act No. 3 of 2006).

#### TRESPASSING OR STRAYING ANIMALS MAY BE IMPOUNDED

5. (1) The owner of land upon which any animal is found trespassing may seize such animal : Provided that such animal may not be removed to a pound before notice is given to the owner in writing no less than 48 (forty-eight) hours prior to the removal to the pound.
- (2) Any animal found straying untended upon any public road or public place may be seized for impounding by -
  - (a) a member of the South African Police Service;
  - (b) a member of the South African National Defence Force;
  - (c) a member of the KwaZulu-Natal Road Traffic Inspectorate;
  - (d) a member of the municipal police or protection services; or
  - (e) the owner of any land through or alongside which such road passes or which abuts on such public place.
- (3) A person may not keep an animal, seized for purposes of impounding in terms of in subsections (1) and (2), for a period longer than 6 (six) hours without supplying such animal with adequate food and water.
- (4) Any person who has seized an animal for purposes of impounding must comply with the provisions of the *Code of Good Practice on the Handling and Transportation of Impounded Animals* contained in Schedule 1.

#### ANIMALS TOO VICIOUS, INTRACTABLE OR WILD TO BE IMPOUNDED

6. If a state veterinarian or official contemplated in section 5(2)(a) to (d) is satisfied that an animal found trespassing on any land, or straying untended upon any public road or public place, is too dangerously vicious, intractable or wild to be impounded, he or she may authorise the humane destruction or other disposal of the animal, after giving written reasons and written notice thereof to the owner of the animal, if possible.

#### RELEASE OF ANIMALS BEFORE REMOVAL TO POUND

7. (1) The owner of an animal, seized in terms of section 5(1) may apply to the owner of land contemplated in section 5(1) for the release of such animal prior to its removal to the pound.
- (2) The owner of land referred to in section 5(1) -
  - (a) may release such animal forthwith; or
  - (b) may refuse the release of the animal, whereupon he or she may apply to Court for authority to impound the animal or to claim any damages he or she may have suffered, in which event the Court may make any order, including an order as to costs that the Court deems just and equitable.



- (3) The owner of an animal seized in terms of section 5(2) may apply to the relevant person referred to in section 5(2) for the release of such animal prior to its removal to the pound, in which event that person must release such animal forthwith.

#### CARE OF TRESPASSING ANIMALS

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

#### POUND TO WHICH ANIMALS MUST BE TAKEN

9. An animal seized for the purposes of impounding as contemplated in section 5, must be removed to the nearest accessible pound, by the shortest practical route, and within the shortest practical time : Provided that animals of different species must be separated at all times according to their species.

#### INFORMATION TO BE SUPPLIED TO POUNDKEEPER

10. A person sending animals to the pound must advise the poundkeeper in writing of -
- (a) the number and descriptions of the animals;
  - (b) the land upon which they were found trespassing; and
  - (c) the distance in kilometres, by the shortest practical route, between the place on such land where they were seized and the pound.

#### ACCEPTANCE AT POUND OF ANIMALS TO BE IMPOUNDED

11. The poundkeeper may not refuse to accept an animal for impounding.

#### POUND REGISTER

12. (1) The poundkeeper must -
- (a) maintain a pound register containing the information contemplated in Schedule 2, which must be available for public inspection at all reasonable times; and
  - (b) complete the pound register immediately upon the acceptance into the pound of any animal.
- (2) If the poundkeeper -
- (a) neglects or refuses to comply with any of the provisions of subsection (1);
  - (b) knowingly makes a false entry in the pound register;
  - (c) fraudulently destroys or erases any previous entry in the pound register; or
  - (d) wilfully delivers a false copy or extract from the pound register to any person,
- he or she is guilty of an offence.

#### NOTICE TO OWNERS OF ANIMALS

13. The owner of an animal contemplated in section 5(1), 6, 14(2)(b), 15(c), 17(b), 21(1)(b) and 23(a), must be notified by -
- (a) addressing a written notice to him or her; or
  - (b) placing a copy of the notice to the owner on the municipal notice board; and
  - (c) publishing a copy of the notice on at least two consecutive days in a newspaper of general circulation in the Municipality.

#### CARE OF IMPOUNDED ANIMALS

14. (1) The poundkeeper -
- (a) is responsible for the proper care of all impounded animals;
  - (b) must ensure that fresh water and sufficient food is available to impounded animals at all times; and
  - (c) is liable to the owner of an impounded animal for any damage caused by his or her wilful or negligent acts or omissions.
- (2) (a) If the poundkeeper is of the opinion that an impounded animal is dangerously vicious, permanently disabled or terminally ill, he or she must apply to the Court, which may authorise the destruction or other disposal of the impounded animal, if the Court is satisfied that the condition of such animal warrants its destruction or disposal.
- (b) Where the Court authorises the destruction or disposal of an animal on application by the poundkeeper, the poundkeeper must immediately notify the owner in writing of the order of Court and the destruction or disposal of the animal.

#### ISOLATION OF INFECTED ANIMALS

15. If the poundkeeper suspects, or is aware, that an impounded animal, or an animal to be impounded, is infected with any disease contemplated in the Animal Diseases Act, 1984 (Act No. 35 of 1984), he or she must -
- (a) provide separate accommodation for such animal;
  - (b) immediately isolate the animal, and report the disease to the nearest state veterinarian; and
  - (c) immediately notify the owner of the animal of such disease in writing.

**TREATMENT OF IMPOUNDED ANIMALS****16. The poundkeeper -**

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

**DEATH OF OR INJURY TO IMPOUNDED ANIMALS****17. If an impounded animal is injured or dies, the poundkeeper must -**

- (a) record the injury or cause of death in the pound register referred to in section 12; and
- (b) notify the owner of the animal in writing of the injury or death.

**COPIES OF BY-LAWS****18. The poundkeeper must ensure that legible copies of these by-laws in English, isiZulu and Afrikaans are available at the pound for inspection.****FEES AND COSTS PAYABLE****19. The poundkeeper must -**

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

**RELEASE OF IMPOUNDED ANIMALS****20. (1) The poundkeeper must immediately release an impounded animal, and give the owner a receipt, upon the owner –**

- (a) providing proof of ownership of such animal; and
- (b) paying the fees and costs contemplated in section 19.

- (2) If the owner of an impounded animal is unable to pay the fees or costs contemplated in section 19, the poundkeeper may retain such animal in order to recover such fees or costs as may be due and payable.

**SALE OF IMPOUNDED ANIMALS****21. (1) The poundkeeper must -**

- (a) within 14 days of the impounding of an animal, apply to the Court for authority to sell the animal; and
- (b) in the application contemplated in paragraph (a), provide the Court with proof that he or she lodged a statement as contemplated in subsection (2) with the owner.

**(2) The statement contemplated in subsection (1)(b) must include -**

- (a) the fees and costs due in terms of these by-laws; and
- (b) the amount of any damages that the owner of the land on which the impounded animal trespassed, may have suffered.

**(3) The Court, whether the amounts set forth in the statement contemplated in subsection (1)(b) are disputed or not, must –**

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

**POUNDKEEPER MAY NOT PURCHASE IMPOUNDED ANIMALS****22. The poundkeeper, or a family member, or a close associate of the poundkeeper, may not purchase an animal offered for sale at a pound sale, either personally or through any other person, directly or indirectly.****ANIMALS UNSUCCESSFULLY OFFERED FOR SALE****23. In the event that any animal is not sold as contemplated in section 21 -**

- (a) the poundkeeper must immediately advise the Court and the owner of its estimated value and the fees and costs incurred; and
- (b) the Court may make such order as it may deem just and equitable.

**PROCEEDS****24. All proceeds from the collection of fees and costs contemplated in section 19 must be paid into the municipal revenue fund : Provided that in the event that any impounded animal is sold at a price in excess of -**

- (a) the fees and costs incurred; and
- (b) any damages awarded in terms of section 21(3)(c),

such excess must be paid to the owner within 30 days of the sale, unless the identity of the owner has not been established, in which event the excess must be paid into the municipal revenue fund.

#### **ACTION FOR RECOVERY OF DAMAGES**

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

#### **PROCEDURE TO BE FOLLOWED IN APPLICATION TO COURT**

26. An application to Court for -

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

#### **OFFENCES AND PENALTIES**

27. A person who -

- (a) unlawfully releases an animal that was lawfully seized for the purpose of being impounded or which has been lawfully impounded;
  - (b) unlawfully seizes an animal for the purpose of impounding it;
  - (c) unlawfully impounds an animal; or
  - (d) contravenes any provision of these by-laws,
- is guilty of an offence and is liable on conviction to a fine, or to imprisonment for a period not exceeding one year.

#### **SCHEDULES 1 AND 2 FORM PART OF THESE BY-LAWS**

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

#### **REPEAL OF EXISTING BY-LAWS**

29. The Municipality's existing pound by-laws are hereby repealed.

#### **SHORT TITLE**

30. These by-laws will be called the Okhahlamba Local Municipality Pound By-laws, 2007.

### **SCHEDULE 1**

#### **Code of Good Practice on the Handling and Transportation of Impounded Animals (Section 594))**

#### **PART I**

##### **Paddock requirements**

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

7. The floor of the entire paddock, including the off-loading banks, races and passages, must be so constructed as to provide adequate non-slip surfaces that can be efficiently and suitably cleaned and kept dry and in a condition fit for the holding of animals.

## PART II

### Handling of animals

8. Animals must at all times be handled humanely and with patience and tolerance.
9. The following must be kept in mind when handling animals -
- (a) animals respond more readily to being driven when the driver stands behind the animal but within its field of vision; and
  - (b) herd animals respond more readily to being driven when in a group rather than singly.
10. Animals may not be dragged by their legs, or carried by their head, ears or tail.
11. Young calves must be carried if they cannot walk with ease, by lifting the calf around the chest and hindquarters, alternatively they must be guided with one hand on the hindquarters and the other near shoulder or neck, and walked in the required direction at an appropriate and comfortable pace.
12. Only sticks with canvas or belting flaps may be used when driving animals and it is preferable to strike the ground behind the animal rather than to hit the animal.
13. Electric prodders, sticks or goads may not be used on young calves.
14. Electric prodders may not be used excessively or indiscriminately or applied to the face, anal or genital areas of animals.

## PART III

### Movement of animals

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

## PART IV

### Vehicles used in transporting animals

22. Vehicles and all trailers used in the transport of hoofed animals must be suitable for the transport of such animals and in a roadworthy condition.
23. All vehicles and trailers referred to in item 22 must have -
- (a) a suitable non-slip floor which may not impede the cleaning of the floor of the vehicle, with hinged or removable battens or steel grids being permissible;
  - (b) adequate ventilation and light whilst in motion as well as when stationary, with no vehicle being totally enclosed;
  - (c) adequate protection from exhaust gasses, as exposure fumes could interfere with the animals' respiration or cause distress;
  - (d) sidewalls high enough to prevent animals from escaping or falling out of the vehicle : Provided that -
    - (i) the sides and partitions, when used in a vehicle to separate animals carried therein, must be of a height not lower than the shoulder joint of the largest animal being transported;
    - (ii) in the case of cattle other than calves, the minimum height must be 1 800 millimetres; and
    - (iii) the minimum height must be 750 millimetres in the case of any smaller animals;
  - (e) in multi-tier vehicles, heights between decks must be adequate, and in case of sheep and pigs not less than 1 000 millimetres, to enable the largest animals to stand naturally, freely and fully erect and to allow adequate space for the free flow of air above the animals;
  - (f) floors that are solid and impervious;
  - (g) loading and off-loading openings at the rear of the vehicle that are the full width of the vehicle or, if at the sides, a width not less than 2 400 millimetres; and
  - (h) gates, with or without partitions -

- (i) of a design and construction strong enough and suitable for the conveyance of the intended consignment; and
  - (ii) that open and close freely and are able to be well-secured.
24. The density of animals packed into any given space must be such as to ensure the safety and comfort of the animals during transport, and the recommended floor space per animal is -
- (a) 1,4 square metres per large animal; and
  - (b) 0,5 square metres per small animal.

#### **PART V**

##### **Watering and feeding of live animals prior to loading**

25. Animals must be provided with sufficient and suitable food and fresh water until the commencement of the journey.

##### **Loading and off-loading procedure**

26. Loading and off-loading into or out of a vehicle must be accomplished as quietly and calmly as possible, with patience and tolerance and without undue harassment, terrifying of the animals, bruising, injury, suffering or undue stress.
27. No animal may be loaded or off-loaded by lifting by the head, fleece, skin, ears, tails, horns or legs.
28. No animals may be loaded or off-loaded otherwise than -
- (a) by means of a ramp with a non-slip surface, sturdy enough to support the weight of the species of animals being handled, with side panels or bars adequate to prevent animals escaping or falling off the ramp and of an incline not steeper than 25 degrees; or
  - (b) at a loading bank equal to the height of the floor of the vehicle or, at off-loading, not more than 310 millimetres below the level of the off-loading vehicle and with an incline not exceeding 25 degrees.
29. Where a truck is equipped with an onboard removable loading ramp it must have a non-slip surface and be of a sufficient length when lowered, that the inclination is no steeper than the inclines referred to in item 28, with the distance from the ground to the heel of the ramp not exceeding 120 millimetres.
30. Ramps must be correctly adjusted to the exact height of the vehicle's floor.
31. Journeys must commence as soon as possible after the live animals have been loaded and the animals must be promptly off-loaded upon arrival at the destination.
32. Unless adequate provision has been made for effective separation, different species of animals may not be loaded and transported in the same vehicle.
33. Animals of different ages, sizes and sexes may not be loaded and transported in the same vehicle unless adequate provision has been made for the effective separation of such animals.
34. Adult horned cattle may not be transported with polled cattle and they must also be penned separately.
35. When there is reason to believe that an animal is likely to give birth in the course of a proposed journey, the animal may not be loaded onto a vehicle.
36. In the case of an animal giving birth during transport, the necessary measures must be taken to ensure the protection of the mother and offspring from being trampled or otherwise injured or harassed by other animals.
37. In the event of -
- (a) a breakdown of the transport vehicle;
  - (b) an accident or collision in which the transport vehicle is involved; or
  - (c) injury to, or death of, any animal in transit,
- the carrier must immediately report the details to, and request assistance from -
- (i) in the case of paragraph (a), a breakdown service;
  - (ii) in the case of paragraph (b), the South African Police and the traffic authorities; or
  - (iii) in the case of paragraph (c), a veterinarian.

#### **PART VI**

##### **Restraining of animals during transportation**

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

#### **SCHEDULE 2**

**Pound register information**  
(Section 12)

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

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

## No. 10

29 February 2008

The Council of the Okhahlamba Local Municipality has in terms of section 156 of the Constitution, 1996 (Act No. 108 of 1996), read in conjunction with sections 11 and 98 of the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000), made the following By-laws:

**OKHAHLAMBA LOCAL MUNICIPALITY  
BY-LAWS RELATING TO DOGS**

**INDEX**

**Section**

1. Definitions
2. Liability for tax
3. Person liable for tax
4. Exemption from payment of tax
5. Application to pay tax
6. Duplicate tax receipt
7. Transfer of tax receipt
8. Tax receipt to be produced for inspection
9. Impounding of dogs
10. Unclaimed dogs may be sold or destroyed
11. Collar of dog not to be illegally used or removed
12. Certain dogs not allowed in public places
13. Dogs not to be incited
14. Dogs causing nuisance
15. Destruction of dogs
16. Number of dogs on premises
17. Control of dogs in public places
18. Entering of premises
19. Dog kennels
20. Establishment and leasing of dog pound
21. Duties of poundmaster
22. Penalties
23. Repeal
24. Application

**1. DEFINITIONS**

- (1) In these By-laws, unless the context otherwise indicates –

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

“**dog**” means both a male and a female dog;

“**driving fees**” means the fees payable when a dog has been seized and transported to the pound by an authorised officer of the Council in terms of these By-laws;

“**owner**” in relation to a dog includes any person who keeps or has in his possession or charge a dog, excluding:

- (a) a person contemplated in paragraphs (2)(c) and (d) of item 18 of Schedule 1 to the Licences Ordinance, 1974;
- (b) a veterinary surgeon in respect of a dog left in his care for treatment;
- (c) a society for the prevention of cruelty to and the advancement of the welfare of animals registered as a welfare organisation in terms of the National Welfare Act, 1965;

“**poundmaster**” means a person in charge of a pound;

“**tax**” means the tax as determined by the Council in the appropriate resolution from time to time;

“**tax receipt**” means a receipt issued by the Council as proof that tax has been paid;

“**year**” means a period of twelve (12) months ending 24h00 on 31 December.

- (2) Words applying to any individual shall include persons, companies and corporations, and the masculine gender shall include females as well as males, and the singular number shall include the plural and *vice versa*.

**2. LIABILITY FOR TAX**

- (1) The owner shall pay the tax as determined by Council resolution in respect of each dog which is six (6) months old or older.
- (2) No owner may keep a dog which is six (6) months old or older within the Municipality unless such dog has been registered at the municipal offices and a tax receipt for such dog has been obtained.
- (3) In any legal proceedings instituted in terms of these By-laws against any person for not paying the tax prescribed in terms of subsection (1), such dog shall be deemed to be six (6) months old or older unless the contrary is proved.

**3. PERSON LIABLE FOR TAX**

For the purposes of these By-laws any person who keeps a dog or within whose premises any dog is found or seen, shall be deemed to be the owner of such dog until the contrary shall have been proved.

**4. EXEMPTION FROM PAYMENT OF TAX**

- (1) The following owners shall be exempted from the payment of tax as contemplated in section 2 –
- (a) any person residing outside the Municipality –
- (i) who brings a dog into the Municipality for a period not exceeding thirty (30) days;
- (ii) who brings a dog into the Municipality for treatment or boarding at a veterinary surgeon or a kennel: Provided that such dog shall be removed from the Municipality immediately after such treatment or boarding: Provided further that the owner of such dog shall be in possession of a licence issued by the authority within whose jurisdiction such dog is normally kept;
- (b) a blind person using a dog as a guide or lead dog.

**5. APPLICATION TO PAY TAX**

- (1) Every person applying for a dog tax receipt shall furnish his full name and address, as well as particulars with regard to the breed and sex of the dog.
- (2) The tax payable in terms of section 2 is levied annually and is payable –
- (a) on or before 31 January of each year in respect of each dog which has attained the age as determined in section 2(1); or
- (b) within thirty (30) days after attaining such age in respect of each dog attaining such age after 31 January: Provided that in any case where a dog attains the age of six (6) months after 30 June of the year concerned, only half the tax as prescribed shall be payable.

**6. DUPLICATE TAX RECEIPT**

Any person may obtain a duplicate of a tax receipt issued in terms of section 2 upon payment of the relevant charges as prescribed by Council resolution.

**7. TRANSFER OF TAX RECEIPT**

Where the ownership in a dog is transferred to someone else, the transferee shall, after payment to the Council of the prescribed charges cause such transfer, together with his name and address, to be endorsed on the tax receipt or on the duplicate thereof.

**8. TAX RECEIPT TO BE PRODUCED FOR INSPECTION**

The owner shall produce the tax receipt for inspection to any authorised officer when reasonably requested to do so.

**9. IMPOUNDING OF DOGS**

- (1) Any authorised officer may seize and impound any dog –
- (a) which he reasonably believes to be ownerless; or
- (b) in respect of which he reasonably believes that the tax due in terms of these By-laws has not been paid;
- (2) Any person may seize and impound any dog found trespassing on property of which he is the owner or occupier and –
- (a) which he reasonably believes to be ownerless; or
- (b) in respect of which he reasonably believes that the tax due in terms of these By-laws has not been paid.



- (3) Notwithstanding the provisions of subsections (1) and (2) no person shall seize or impound –
- (a) any dog if he reasonably believes that such dog is exempted from tax in terms of section 4;
  - (b) any bitch rearing unweaned young, unless such bitch and unweaned young are impounded together; or
  - (c) any diseased dog in respect of which the provisions of section 10 of the Animal Diseases and Parasites Act, 1956, apply.
- (4) Any person who has seized a dog in terms of this section shall ensure that such dog is not ill-treated in any manner.
- (5) Any person who has seized a dog in terms of this section shall forthwith cause such dog to be impounded.
- (6) No person shall set free any dog that has been seized, is being kept in custody or has been impounded in terms of this section.
- (7) Subject to any provisions to the contrary in these By-laws contained, any dog impounded shall be kept in the pound until the person claiming such dog produces to the poundmaster a tax receipt in respect thereof, and shall have paid to the poundmaster the prescribed charges.
- (8) Where the name and address of a person appears on the collar of any dog impounded, the poundmaster shall forthwith give notice to such person that such dog has been impounded. A written notice addressed to the address appearing on the collar shall be deemed to be sufficient notice.

**10. UNCLAIMED DOGS MAY BE SOLD OR DESTROYED**

- (1) Where an impounded dog is not claimed by any person entitled thereto within five (5) days after it was impounded, an authorised officer may cause the dog to be sold or destroyed.
- (2) If the poundmaster is of the opinion that an impounded dog is so ill, or seriously injured or in such a physical condition that it would be inhuman to keep it alive, he may have it destroyed.

**11. DOGS' COLLAR NOT TO BE UNLAWFULLY USED OR REMOVED**

- (1) The owner of every dog aged six (6) months or older, shall provide it with a collar bearing a clear impression of the name and address of such owner.
- (2) No person shall unlawfully use or destroy the collar of a dog or remove it from the neck of the dog.

**12. CERTAIN DOGS NOT ALLOWED IN PUBLIC PLACES**

- (1) Subject to provisions to the contrary in these By-laws or any other law, no person shall bring or allow in a public place any dog that –
- (a) is wild, dangerous or ferocious; or
  - (b) is in the habit of charging or chasing people, vehicles, animals, fowls or birds outside the premises where such dog is kept; or
  - (c) causes damage to any person or property; or
  - (d) is a bitch on heat.
- (2) Any authorised officer may impound a dog such as that described in subsection (1).

**13. DOGS NOT TO BE INCITED**

- (1) No person shall, without reasonable cause –
- (a) set any dog on any person, animal or bird; or
  - (b) permit any dog under his supervision or in his custody to attack or terrify any person, animal or bird.

**14. DOGS CAUSING DISTURBANCE**

- (1) No person shall keep a dog that –
- (a) creates a disturbance or a nuisance; or
  - (b) suffers from a contagious disease, excluding a veterinary surgeon who keeps such dog in a clinic for treatment.

**15. DESTRUCTION OF DOGS**

- (1) The Council may, subject to the provisions of section 10, order the destruction of a dog–
- (a) where it appears that such dog is of the type described in section 12(1)(a), (b) and (c) and that the person claiming such dog is not entitled to its return in terms of section 9(7); or

- (b) where such dog is found at large in any public place and appears to be ownerless; or
- (c) where such dog is found at large in a public place and the owner refuses or fails to pay the tax due in terms of these By-laws in respect of such dog; or
- (d) where such dog is in such a state of injury that it would, in the opinion of the Council, be humane to do so.

#### 16. NUMBER OF DOGS ON PREMISES

- (1) The number of dogs, older than six (6) months, which may be kept within the Municipality shall be as follows –
  - (a) Four (4) dogs per household of which not more than one (1) may be an unspayed bitch: Provided that a person owning a larger number of dogs than the prescribed number at the date of promulgation of these By-laws, may continue to keep such larger number of dogs but shall not replace any dog in excess of the prescribed number should one or more of the dogs die or be disposed of, unless prior written consent of the Council has been obtained for the replacement or for exceeding the prescribed number.
- (2) The Council may at the written request of an owner of an erf, grant permission for the keeping of a larger number of dogs than the prescribed number on such erf, should it be justified in the opinion of the Council.

#### 17. CONTROL OF DOGS IN PUBLIC PLACES

- (1) No person shall allow any dog in a public place unless the owner or another person keeps such dog on a leash.
- (2) An authorised officer may impound any dog found wandering at large and uncontrolled in a public place.
- (3) Except in the event of a blind person being lead by a guide dog, any person in charge of a dog in a public place, shall remove any faeces left by such dog.

#### 18. ENTERING UPON PREMISES

- (1) – An authorised officer may for any purpose connected with the application of these By-laws –
  - (a) at any reasonable time and without notice, enter upon any premises, accompanied, if he deems it necessary, by an interpreter or other assistant with a view to –
    - (i) carrying out any examination, inspection or enquiry as he may deem necessary; or
    - (ii) exercising any other power in terms of these By-laws and he may for that purpose take any necessary appliance with him onto the premises;
  - (b) call upon the owner of a dog to render such assistance or to furnish such information, including his full name and address, as such officer may reasonably require.

#### 19. KENNELS

Subject to the provisions of any other law, no person may establish, manage or keep any kennels or a pets' boarding establishment in any residential area or in any area that has been classified in terms of an approved town planning scheme for residential usage, or within 500 metres thereof.

#### 20. ESTABLISHMENT AND LEASE OF DOG POUND

- (1) The Council may for the purposes of these By-laws establish a dog pound and lease such pound to any person or body on the terms and conditions deemed fit by the Council.
- (2) If a pound is leased to any person or body –
  - (a) the powers and duties set forth in sections 9, 10 and 15 shall be deemed to have been delegated to such person or body or to any authorised official in the employ of such person or body, as the case may be, and the provisions of the said sections shall *mutatis mutandis* apply;
  - (b) such person or body shall accept in the pound any dog seized in terms of sections 9 or 17(2) for the purpose of impounding it and shall thereafter dispose thereof in accordance with these By-laws;
  - (c) such person or body shall be entitled to any fees payable in terms of these By-laws for an impounded dog and to any amount derived from the sale of an impounded dog in terms of section 10(1).

#### 21. DUTIES OF POUNDMASTER

- (1) The poundmaster –
  - (a) keeps the pound open between 08h00 and 17h00 during every day of the week;
  - (b) receives any dog brought to the pound in terms of these By-laws during the hours when the pound is open and shall, subject to the provisions of these By-laws, keep such dog in the pound: Provided that the poundmaster may

refuse to receive a dog, and may release any dog if he at any time has reason to believe that such dog was not lawfully seized or impounded;

- (c) keeps a register in which the following particulars in respect of every impounded dog are recorded:
  - (i) the name, residential address and telephone number of the person who impounded the dog;
  - (ii) the time at which and date on which, the dog was impounded;
  - (iii) the place where the dog was seized or found;
  - (iv) the date on which and the time at which the dog was seized or found;
  - (v) the reason for impounding the dog;
  - (vi) the age, breed, sex, colour markings and any injury found on it when the poundmaster received it;
  - (vii) the manner in which the dog was disposed of;
  - (viii) the amount of money obtained for the release or sale of the dog;
  - (ix) the cost of any veterinary services incurred in respect of such dog;
- (d) ensures that all utensils used in connection with impounded dogs are at all times kept in a clean condition and in a good state of repair;
- (e) ensures that the pound is at all times free from flies, insects, rodents and odious smells;
- (f) ensures that every dog in the pound is properly fed and cared for;
- (g) isolates bitches on heat;
- (h) takes all reasonable steps to prevent fighting among dogs in the pound; and
- (i) isolates any diseased dog, have such dog treated by a veterinary surgeon and take all possible steps to recover the costs incurred in this respect from the owner.

## **22. PENALTIES**

Any person contravening any of the provisions of these By-laws shall be guilty of an offence and liable, on conviction, to a fine not exceeding Five Hundred Rand (R500.00) or in default of payment, to imprisonment for a period not exceeding three (3) months, or to both such fine and imprisonment.

## **23. REPEAL**

The By-laws relating to Dogs for the Okhahlamba Local Municipality, are hereby repealed and replaced by these By-laws, which are to become effective on promulgation hereof.

## **24. APPLICATION**

The Council may by notice determine that the provision of these By-laws do not apply in certain areas within its area of jurisdiction from a date specified in the notice.

**No. 11****29 February 2008**

The Council of Okhahlamba Local Municipality has in terms of section 156 of the Constitution, 1996 (Act No. 108 of 1996), read in conjunction with sections 11 and 98 of the Local Government : Municipal Systems Act, 2000, (Act No. 32 of 2000), made the following By-laws:

**OKHAHLAMBA LOCAL MUNICIPALITY  
PUBLIC HEALTH BY-LAWS**

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**CHAPTER 1  
INTERPRETATION AND FUNDAMENTAL PRINCIPLES**

**1. DEFINITIONS AND INTERPRETATION**

- (1) In these By-laws, unless the context otherwise indicates -

"adequate" when used to describe a standard or manner in which anything required by these By-laws must be done, means the standard or manner that, in the opinion of an environmental health officer, is sufficient to safeguard public health, and to achieve the purpose and apply the principles of these By-laws and "adequately" has a corresponding meaning;

**"approved"** when used to describe a particular object, measure or material, means an object, measure or material which has been approved in terms of section 12 as being adequate in specified circumstances to prevent, or reduce to a level acceptable to the Council, the risk of any public health hazard or public health nuisance occurring, continuing or recurring;

**"authorised official"** means any official of the Council who has been authorised by the Council to administer, implement and enforce the provisions of these By-laws;

**"communicable diseases"** means any disease which can be communicated directly or indirectly from any animal or through any agent to any person or from any person suffering therefrom or who is a carrier thereof, to any other person;

**"Council"** means -

- (a) the Okhahlamba Local Municipality exercising its legislative and executive authority through its municipal Council; or
- (b) its successor in title; or
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-laws has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); or
- (d) a service provider fulfilling a responsibility under these By-laws, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act, or any other law, as the case may be;

**"dwelling"** means any house, room, shed, hut, tent, cave, container, shelter, vehicle, boat or any other structure or place whatsoever, any part of which is used or appears intended for use by any human being for sleeping or in which any human being dwells or sleeps and "room" has a corresponding meaning;

**"environmental health officer"** means an official appointed by the Council, and who is duly registered as an environmental health officer or environmental health practitioner with the Health Professions Council of South Africa in terms of section 33(1) of the Medical Dental and Supplementary Health Services Professions Act, 1974 (Act No. 56 of 1974);

**"exemption certificate"** means a certificate issued in terms of section 10;

**"hot water"** means water which has a minimum temperature of 55° C at the point of discharge;

**"municipal area"** means the area under the jurisdiction of the Council;

**"municipal manager"** means a person appointed as such by the Council in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

**"National Building Regulations and Building Standards Act"** means the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);

**"occupier"**, in relation to any premises, means any person -

- (a) occupying the premises;
- (b) leasing the premises;
- (c) who is not occupying the premises but is entitled to do so; or
- (d) who manages the premises or a business on the premises on behalf of a person referred to in paragraph (a), (b) or (c);

**"organ of state"** means an organ of state as defined in section 239 of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996);

**"owner"**, in relation to any premises, means -

- (a) the person in whose name the title to the premises is registered, and includes the holder of a stand licence; or
- (b) if the person referred to in paragraph (a) is dead, insolvent, mentally ill, a minor or under any legal disability, the executor, guardian or other person who is legally responsible for administering that person's estate;

**"permit"** means a public health permit issued by the Council in terms of the section 11;

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

**"pest"** means any animal or mammal which may create a public health hazard or public health nuisance if it is present in significant numbers and without limitation,



includes rats, mice, flies, mosquitoes, bed bugs, fleas, lice, termites and cockroaches;

**"potable water"** means water that complies with the requirements set out in SABS 241: Water for Domestic Supplies;

**"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 which 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, includes -

- (a) the circumstances referred to in section 5 (3);
- (b) unsanitary conditions;
- (c) circumstances which make it easier for a communicable disease to spread;
- (d) circumstances which make food or drink, including water for domestic consumption, unhygienic or unsafe to eat or drink; and
- (e) circumstances which 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, and without limitation, includes those circumstances in which a public health nuisance is considered to exist in terms of Schedule 1;

**"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;

**"scheduled use"** means a use listed in Schedule 2.

- (2) Unless the context otherwise indicates, any word or expression which is defined in any Chapter, has the same meaning wherever it is used in these By-laws.
- (3) If any provision in these By-laws vests or imposes any power, function or duty of the Council in or on an employee of the Council and such power, function or duty has in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000, or any other law, been assigned to a service provider, the reference to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorised by it.

## 2. PURPOSE

- (1) The purpose of these By-laws is to enable the Council to protect and promote the long term health and well-being of people in the municipal area by -
  - (a) providing, in conjunction with any other applicable law, an effective legal and administrative framework within which the Council can -
    - (i) manage and regulate activities that have the potential to impact adversely on public health; and
    - (ii) require premises to be properly maintained and managed; and
  - (b) defining the rights and obligations of the Council and the public in relation to this purpose.

## CHAPTER 2 PUBLIC HEALTH

### Part 1: Public health principles

#### 3. PRINCIPLES

- (1) Every person has a constitutional right to an environment that is not harmful to his or her health or well-being and to have access to sufficient water and the Council has a constitutional duty to strive, within its financial and administrative capacity, to promote a safe and healthy environment.
- (2) The risk of a public health hazard occurring, continuing or recurring must be eliminated wherever reasonably possible, and if it is not reasonably possible to do so, it must be reduced to a level acceptable to the Council.
- (3) Any person who owns or occupies premises in the municipal area must ensure that it is used for and maintained in a manner that ensures that no public health hazard or public health nuisance occurs on the premises.
- (4) Any person who wishes to undertake an activity which creates a risk to public health that is more than trivial or insignificant must -
  - (a) take all reasonable measures to eliminate that risk, and if that is not reasonably possible, to reduce the risk to a level acceptable to the Council; and
  - (b) bear the costs of taking those measures and of any reasonable costs incurred by the Council in ensuring that the risk is eliminated or reduced to an acceptable level.
- (5) The Council must regulate all activities and administer all matters for which it is legally responsible in a manner that -
  - (a) avoids creating a public health hazard or a public health nuisance;
  - (b) does not make it easier for any human or animal disease to spread;
  - (c) does not give rise to unsanitary or unhygienic conditions;
  - (d) prevents unsafe food or drink from being eaten or drunk;
  - (e) avoids creating conditions favourable for infestation by pests; or
  - (f) wherever reasonably possible, improves public health in the municipal area.
- (6) In dealing with matters affecting public health the Council must -
  - (a) adopt a cautious and risk-averse approach;
  - (b) prioritise the collective interests of the people of the municipal area, and of South Africa, over the interests of any specific interest group or sector of society;
  - (c) take account of historic inequalities in the management and regulation of activities that may have an adverse impact on public health and redress these inequalities in an equitable and non-discriminatory manner;
  - (d) adopt a long-term perspective that takes account of the interests of future generations; and
  - (e) take account of, and wherever possible without compromising public health, minimise any adverse effects on other living organisms and ecosystems.

#### 4. APPLICATION OF PRINCIPLES

The public health principles set out in section 3 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 that is likely to have a significant effect on, or which concerns the carrying on of activities likely to impact on, public health in the municipal area; or
- (c) exercising a public power or function or performing a public duty in the municipal area which is likely to have a significant effect on public health in that area.

### Part 2: Public health hazards and public health nuisances

#### 5. PROHIBITION ON CAUSING PUBLIC HEALTH HAZARDS

- (1) No person may create a public health hazard anywhere in the municipal area.
- (2) Every owner or occupier of premises must ensure that a public health hazard does not occur on those premises.
- (3) An owner or occupier of premises creates a public health hazard if -
  - (a) the premises are infested with pests or pests are breeding in large numbers on the premises;

- (b) there are conditions on the premises which are conducive to the spread of a communicable disease or which may cause a non-communicable disease;
- (c) there is any unsanitary condition in any part of the premises; or
- (d) any water supply for domestic consumption on the premises is unsafe for human consumption.

**6. DUTY TO REPORT PUBLIC HEALTH HAZARDS**

The owner or occupier of premises who knows of a public health hazard on those premises, must within 24 hours of becoming aware of its existence -

- (a) eliminate the public health hazard; or
- (b) if the owner or occupier is unable to comply with paragraph (a), take reasonable steps to reduce the risk to public health and forthwith report the existence of the public health hazard to the Council in writing.

**7. PROHIBITION ON CAUSING PUBLIC HEALTH NUISANCES**

- (1) No person may cause a public health nuisance anywhere in the municipal area.
- (2) Every owner or occupier of premises must ensure that a public health nuisance does not arise on those premises.

**CHAPTER 3  
POTENTIALLY HAZARDOUS USES OF PREMISES AND ENFORCEMENT**

**Part 1: Potentially hazardous uses**

**8. DUTY TO LIST POTENTIALLY HAZARDOUS USES**

If the Council reasonably believes that any premises have been, or are likely to be, used for a purpose or in a manner that has caused, or is likely to cause, a public health hazard or to create a public health nuisance unless reasonable measures are taken to avoid the risk or to reduce it to an acceptable level, the Council must list the activity concerned in Schedule 2 and must prescribe measures that must be taken to avoid the risk or reduce it to a level acceptable to the Council.

**9. SCHEDULED USES**

- (1) Any person who uses premises in a manner or for a purpose listed in Schedule 2 must comply with every provision specified in the Chapter of these By-laws relating to that use, unless that person has been granted an exemption in terms of section 10 from complying with any such provision.
- (2) Any person who uses premises in a manner or for a purpose that is listed in Part A of Schedule 2, must obtain a permit in terms of section 11 before commencing that use and must comply with the terms and conditions of that permit.

**10. EXEMPTION CERTIFICATES**

- (1) Any person who wants to undertake a scheduled use on any premises but wishes to be exempted from complying with any requirement of these By-laws relating to the use concerned, may apply to the Council in accordance with section 13 for an exemption certificate.
- (2) The Council may grant an exemption certificate, subject to such conditions as it may impose, if an environmental health officer is satisfied that -
  - (a) the measures taken to avoid or reduce the risk to public health arising from the scheduled use are equivalent to or better than the measures required by the relevant requirement of these By-laws; and
  - (b) the scheduled use in respect of which the exemption is required, is not likely to cause a public health hazard or a public health nuisance.

**11. PUBLIC HEALTH PERMITS**

- (1) Any person who wants to undertake a scheduled use that is listed in Part A of Schedule 2, must apply to the Council in accordance with section 13 for a public health permit.
- (2) The Council may issue a public health permit to the owner or occupier of any premises, if an environmental health officer is satisfied that the use for which the permit is required is not likely to cause a public health hazard or a public health nuisance.
- (3) A public health permit -
  - (a) must be issued subject to conditions aimed at reducing the risk to public health created by the scheduled use, to a level acceptable to the Council;

- (b) may exempt the permit holder from complying with any relevant provision of these By-laws, if the Council reasonably believes that the permit requires the permit holder to take measures to avoid or reduce the risk to public health arising from the activity that are equivalent to, or better than, the measures required by the relevant provision of these By-laws; and
- (c) may approve any measure or material in connection with the activity authorised by the permit that must be approved in terms of these By-laws.

## 12. APPROVAL OF MEASURES, OBJECTS AND MATERIALS

- (1) The Council may approve any object or material used, or any measure taken, in specified circumstances as being adequate to eliminate the risk of any public health hazard or public health nuisance occurring, continuing or recurring, or to reduce that risk to a level acceptable to the Council.
- (2) An object, material or measure referred to in subsection (1) may be approved by the Council in -
  - (a) a public health permit; or
  - (b) guidelines prescribed by the Council in terms of subsection (3).
- (3) The Council may publish guidelines in the *Provincial Gazette* which describe -
  - (a) appropriate measures that can be taken and objects and materials that can be used, to eliminate the risk of any public health hazard or public health nuisance occurring, continuing or recurring, or to reduce that risk to a level acceptable to the Council; and
  - (b) the circumstances in which taking these measures or using these objects or materials are acceptable to the Council.

## 13. APPLICATION PROCEDURE

- (1) Any person who wants to obtain an exemption certificate or a permit must apply to the Council in writing in a form prescribed by the Council, prior to undertaking the scheduled use concerned.
- (2) When the Council receives an application contemplated in subsection (1), it must ensure that the relevant premises concerned are inspected by an environmental health officer as soon as reasonably possible.
- (3) Before deciding whether or not to approve an application contemplated in subsection (1), the Council -
  - (a) must ensure that any persons in the vicinity of the premises whose health or well-being may be affected if the premises are used for the scheduled use concerned, have been consulted and had an opportunity to make representations; and
  - (b) may require the applicant to provide any further information which the Council considers relevant to enable it to make an informed decision.
- (4) In deciding whether or not to issue an exemption certificate or a permit, and what terms and conditions, if any, to include in it, the Council must apply the public health principles set out in section 3.

## 14. GENERAL TERMS APPLICABLE TO CERTIFICATES AND PERMITS

- (1) An exemption certificate or a permit-
  - (a) is not transferable from one person to another; and
  - (b) applies only to the premises specified in that certificate or permit.
- (2) Every exemption certificate or permit must-
  - (a) specify the address and other relevant details regarding the location of the premises concerned;
  - (b) describe the premises concerned;
  - (c) describe the activity concerned;
  - (d) specify terms and conditions imposed, if any; and
  - (e) indicate when it expires.
- (3) An applicant must pay a prescribed fee, if determined by the Council, in respect of an application for a permit or exemption certificate and such fee must accompany the application.
- (4) The Council may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and until the prescribed fee has been paid.

**15. SUSPENSION, CANCELLATION AND AMENDMENT OF EXEMPTION CERTIFICATES AND PERMITS**

- (1) An environmental health officer may by written notice to the holder of an exemption certificate or permit, suspend, amend or cancel that certificate or permit.
- (2) An environmental health officer may suspend or cancel an exemption certificate or permit with immediate effect if -
  - (a) the environmental health officer reasonably believes that it is urgently necessary to do so to eliminate or to reduce a significant risk to public health posed by a public health hazard or a public health nuisance; or
  - (b) the holder of such certificate or permit fails to comply with a compliance notice, in which is stated that such certificate or permit may be suspended or cancelled without further notice if the holder fails to comply with that notice.
- (3) An environmental health officer may suspend or cancel an exemption certificate or permit after having given the holder thereof a reasonable opportunity of making representations as to why the permit or exemption certificate should not be suspended or cancelled if -
  - (a) the environmental health officer reasonably believes that it is desirable to do so to eliminate or reduce the risk to public health posed by a public health hazard or a public health nuisance; or
  - (b) the holder of such certificate or permit contravenes or fails to comply with any relevant provision of these By-laws.
- (4) An environmental health officer may amend an exemption certificate or permit by endorsing such certificate or permit or by written notice to the holder thereof, if the environmental health officer reasonably believes that it is necessary to do so to protect public health or to take account of changed circumstances since the exemption certificate or permit concerned was issued.

**Part 2: Enforcement, remedial work and costs****16. DEMOLITION ORDERS**

- (1) If the Council believes that a public health hazard would be eliminated or a public health nuisance would be significantly reduced by demolishing a building or other structure, it may, subject to the provisions of any other law, apply to any court having jurisdiction for an order directing any person to demolish the building or structure or authorising the Council to do so and to recover the costs of doing so from the owner or the occupier of the premises concerned, or from both.
- (2) The Council may not apply to court in terms of subsection (1) unless it has given the owner and the occupier of the premises not less than 14 days' notice in writing of its intention to make the application and has considered any representations made within that period.

**17. MUNICIPAL REMEDIAL WORK**

The Council may, subject to the provisions of any other law, enter any premises and do anything on the premises that it reasonably considers necessary -

- (a) to ensure compliance with these By-laws or with any compliance notice;
- (b) to reduce, remove or minimise any other significant public health hazard; or
- (c) to reduce, remove or minimise any public health nuisance.

**18. COST ORDERS**

- (1) The Council may recover any costs reasonably incurred by it in taking measures contemplated in section 16 from any person who was under a legal obligation to take those measures, including -
  - (a) a person on whom a compliance notice referred to in section 17(a) that required those steps to be taken, was served;
  - (b) the owner or occupier of the premises concerned; or
  - (c) any person responsible for creating a public health hazard or a public health nuisance.
- (2) The municipal manager may issue a cost order requiring a person who is liable to pay costs incurred by the Council in terms of subsection (1), to pay those costs by a date specified in the order and such order constitutes prima facie evidence of the amount due.

**CHAPTER 4  
SANITARY SERVICES**

**19. COMPULSORY CONNECTION TO MUNICIPAL SEWAGE SYSTEM**

Every owner of premises to which a municipal sewage service is available, must ensure that all waste water drainage pipes from any bath, wash-hand basin, toilet, shower or kitchen sink is connected to the municipal sewer in an approved manner.

**20. PROHIBITION AGAINST OBSTRUCTION OF SANITARY SERVICES**

No person may prevent, obstruct or interfere with any sanitary service provided by the Council.

**21. REQUIREMENTS IN RESPECT OF TOILET FACILITIES**

Every owner of premises must ensure that the number of toilets provided on those premises comply with the provisions of the National Building Regulations and Building Standards Act.

**22. TOILETS FOR WORKERS**

Every contractor must provide his or her workers with toilet facilities as prescribed by the National Building Regulations and Building Standards Act.

**23. PROHIBITION AGAINST USE OF A BUCKET TOILET UNDER THE SAME ROOF AS A DWELLING**

No person may provide, erect, retain or use any bucket toilet inside, or under the same roof, as a dwelling.

**24. CONDITION OF TOILETS, URINALS, BACKYARDS AND REFUSE AREAS**

Every owner or occupier of any premises must keep every backyard, refuse area, toilet, and urinal in a sanitary condition and good state of repair.

**25. SEPARATE STORAGE OF URINE**

- (1) Any owner or occupier required by the Council to provide for the separate storage of urine, due to the size, extent of occupation or use of any premises, must comply with any notice issued by the Council calling on him or her to provide an adequate urine tank or an adequate number of urine buckets on the premises.
- (2) Every owner or occupier referred to in subsection (1) must use the urine tank or urine bucket exclusively for the reception of urine.

**26. PROVISION OF TANK FOR WASTE LIQUIDS IN AREAS WITHOUT SEWERS**

- (1) Any owner of premises not connected to a public sewer or not provided with other adequate measures for the disposal of waste liquid, must provide the premises with a tank big enough to contain the slops, bath water or other waste water produced on the premises during a period of 48 hours.
- (2) Subject to the provisions of subsection (3), premises referred to in subsection (1), must be equipped either with -
  - (a) an overhead tank placed in a way that its contents can be gravity fed into the Council's waste removal vehicles; or
  - (b) an adequate filter, pump and indicator, with outlet pipes constructed and placed in a way that the tank may be easily emptied and cleansed.
- (3) The provisions of subsection (2) do not apply if -
  - (a) adequate arrangements have been made for dispersing waste water produced on the premises, other than urine, over land associated with the premises concerned; and
  - (b) the waste water is dispersed in a way that will not create a public health nuisance.

**27. PUMPING OF CONTENTS OF UNDERGROUND TANK TO SURFACE TANK**

Any occupier of premises on which both underground and overhead tanks are provided for the storage of waste water, must pump the contents of the underground tank to the overhead tank immediately prior to the overhead tank being emptied by the Council.

**28. BLOCKED OR DEFECTIVE OUTLET PIPES**

Every owner or occupier of premises must keep any drainage system free from obstruction and in a good condition.

**29. PROHIBITION AGAINST URINE IN SLOPS TANKS**

No person may discharge or allow any urine or excrement to be discharged into a slops tank situated on any premises.

**CHAPTER 5  
PRIVATE SEWAGE WORKS**

**30. PERMIT FOR PROVISION OF SERVICE FOR THE REMOVAL OF HUMAN EXCREMENT OR URINE**

No person may provide any service for the removal or disposal of human excrement and urine on any premises except in terms of a permit authorising that service.

**31. PERMIT FOR INSTALLATION OF SEWAGE WORKS**

No person may, on any private premises, install, alter, re-site, operate or maintain any septic tank, filter installation or other works for the disposal of sewage, except in terms of a permit authorising that activity.

**32. MAINTENANCE OF SEWAGE WORKS**

Any person operating a sewage works must ensure that it is maintained in a sanitary condition and good state of repair at all times.

**33. DISPOSAL OF SEWAGE, SEWAGE EFFLUENT AND WASTE WATER WITHOUT CAUSING A PUBLIC HEALTH NUISANCE AND/OR HAZARD**

No person may dispose of sewage or waste water from any bath, wash-hand basin, toilet, shower or kitchen sink in a way or in a location that may -

- (a) cause dampness in or on any premises;
- (b) endanger the quality of any water supply, surface water, stream or river; or
- (c) create a public health nuisance and/or hazard.

**34. COMPULSORY USE OF COUNCIL'S SEWAGE REMOVAL SERVICE**

Every occupier of premises must use the sewage removal service prescribed by the Council for those premises.

**CHAPTER 6  
WATER**

**35. DEFINITIONS**

In this Chapter, unless the context otherwise indicates -

"domestic consumption" in relation to water, means the use of water for -

- (a) human consumption;
- (b) preparing or manufacturing food or drink for human consumption;
- (c) cleaning vessels or utensils used in the preparation or manufacture of food or drink for human consumption; or
- (d) any other domestic purpose.

"effluent" means any waste water which may be generated as a result of undertaking any scheduled use or an activity which is likely to cause a public health nuisance.

**36. POLLUTION OF SOURCES OF WATER SUPPLY**

No person may pollute or contaminate any catchment area, river, canal, well, reservoir, filter bed, water purification or pumping works, tank, cistern or other source of water supply or storage in a way that creates a public health nuisance or a public health hazard.

**37. DANGEROUS WELLS, BOREHOLES AND EXCAVATIONS**

Every owner or occupier of premises must ensure that any well, borehole or other excavation located on his or her premises -

- (a) is fenced, filled in or covered over in a way that adequately safeguards it from creating a public health nuisance or public health hazard; and
- (b) is not filled in a way, or with material, that may cause any adjacent well, borehole or underground water source to be polluted or contaminated to an extent that may create a public health nuisance or a public health hazard.

**38. PROVISION OF ADEQUATE WATER SUPPLY**

Every owner of premises must provide every resident on the premises with an adequate and readily available potable water supply at all times.

**39. USE OF WATER FROM SOURCES OTHER THAN THE MUNICIPAL SUPPLY**

No person may use, or permit to be used, any water obtained from a source other than the municipal water supply for domestic consumption, unless the water concerned has been approved for that purpose.

**40. FURNISHING OF PARTICULARS OF THE SOURCE OF WATER**

- (1) Any owner or occupier of premises on which a well, borehole, spring, dam, river or other water source is located, the water of which is used for domestic consumption, must within 14 days of receiving a notice from the Council calling on him or her to do so, provide the Council with all particulars of the water source reasonably available to the owner or occupier.
- (2) An owner or occupier of premises contemplated in subsection (1), must, if requested to do so by the Council, and at his or her own cost, furnish to the Council a certificate of analysis and bacteriological investigation issued by an analyst, as defined in the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972), in respect of any water supply on that premises used for domestic consumption.
- (3) If water from a borehole is used for domestic consumption, a certificate of analysis as contemplated in subsection (2), must be submitted to Council annually or at any time on request of an environmental health officer.

**41. NOTICE OF THE SINKING OR DIGGING OF BOREHOLES OR WELLS**

- (1) No person may sink or dig, or cause or permit to be sunk or dug, a well or borehole, to obtain water, unless -
  - (a) it is done so in accordance with any relevant law; and
  - (b) he or she has given the Council at least 14 days' written notice of his or her intention to do so.
- (2) The notice referred to in subsection (1)(b), must state the proposed location and the purpose for which the water is to be used.

**42. STORM WATER RUNOFF FROM PREMISES WHICH MAY IMPACT ON PUBLIC HEALTH**

- (1) Every owner or occupier of premises must erect adequately designed, constructed and maintained hydraulic and hydrological structures on those premises -
  - (a) to divert the maximum storm water runoff, which could be expected within a period of 24 hours with an average frequency of recurrence of once in 100 years, from any part of the premises on which any waste, likely to create a public health nuisance, is or was handled, produced, stored, dumped or spilled;
  - (b) to collect all polluted runoff water from any part of the premises on which waste, likely to create a public health nuisance is or was handled, produced, stored, dumped or spilled, for re-use, treatment or purification;
  - (c) to separate all effluent from storm water systems;
  - (d) to prevent the erosion or leaching of material from any slimes dam, ash dam and any dump or stock-pile on the premises, and to contain any eroded or leached material in the area where it originated;
  - (e) to prevent any waste or waste water from entering any borehole, well, spring, vlei or water course; and
  - (f) to prevent any adverse impact on the quality of surface and ground water occurring, due to the location of any dump, stock-pile, dam, drain, canal, conduit, sewer or any other structure on the premises.
- (2) An owner or occupier of premises -
  - (a) must keep all water passages open and free of obstruction from matter which may impede the flow of water or effluent;
  - (b) may not locate any dump within the one hundred year flood line of any water resource;
  - (c) may not use coal, coal discard, carbonaceous material or any other material for the construction of any slurry, evaporation or catchment dam, or any embankment, road or railway in a way likely to create a public health nuisance;
  - (d) must construct bund walls around any tank, or group of tanks, containing any substance that can create a public health nuisance, of a size that is capable of containing the volume of the largest tank in the event of any unlawful or accidental discharge from the tank or group of tanks; and
  - (e) must clean any industrial surface area so as to prevent the pollution of storm water which may result in an adverse impact on the quality of any surface or ground water.

**43. CONTAINMENT OF WASTE WATER**

Any dam, conduit or channel used for the containment of waste water must have a free board of at least 0.5 metres above the highest level of precipitation which could be expected within a period of 24 hours with an average frequency of recurrence of once in 100 years.



## CHAPTER 7 OFFENSIVE TRADES

### 44. DEFINITIONS

In this Chapter, unless the context otherwise indicates -

"**effluent**" means any waste water which may be generated as a result of undertaking any scheduled use or an activity which is likely to cause a public health nuisance;

"**offensive trade**" means any business listed below or business which involves an activity listed below:

- (a) panel beating or spray painting;
- (b) operating a waste recycling plant including oil and petroleum product recycling;
- (c) scrap yard or scrap metal dealing;
- (d) blood boiling, bone boiling, tallow melting, fat melting or fat extracting, soap boiling, tripe boiling or cleaning, skin storing, bone storing, hide boiling, skin curing, blood drying, gut scraping, leather dressing, tanning or glue or size making;
- (e) charcoal burning, brick burning, lime burning;
- (f) manure making or storing or compost making;
- (g) parchment making;
- (h) manufacturing malt or yeast;
- (i) cement works, coke-ovens or salt glazing works;
- (j) sintering of sulphurous materials;
- (k) viscose works;
- (l) ore or mineral smelting, calcining, puddling or rolling of iron or other metal, conversion of pig iron into cast iron, reheating, tempering, hardening, forging, conversion or compounding of carbon with iron or other metals;
- (m) works for the production of carbon bisulphide, cellulose lacquer, cyan or its compounds, hot pitch or bitumen, pulverized fuel, peridine, liquid or gaseous sulphur dioxide or sulphur chlorides;
- (n) works for the production of amyl acetate, aromatic ethers, butyric acid, caramel, enamelled wire, glass, hexamine, lampblack, B-naphthol, resin products, salicylic acid, sulphated organic compounds, sulphurous paints, ultramarine, zinc chloride or zinc oxide; or
- (o) the refining or processing of petrol, oil or their products;

"**offensive trader**" means any person who owns, conducts or carries on an offensive trade.

### 45. PERMIT REQUIREMENT

No person may conduct an offensive trade in or on any premises, except in terms of a permit authorising such trade.

### 46. REQUIREMENTS FOR PREMISES

No person may conduct an offensive trade in or on any premises unless -

- (a) the floors of the premises are constructed of cement concrete or a similar impervious material, brought to a smooth finish;
- (b) the floors of the premises are adequately graded and drained for the disposal of effluent to an approved disposal system;
- (c) the inside walls, except where glazed or glass brick or glazed tiles are used, are plastered, brought to a smooth finish and painted with a light-coloured, washable paint;
- (d) the surface of any backyard or open space is paved with concrete or similar impervious material, brought to a smooth finish;
- (e) the premises are provided with adequate light and ventilation as prescribed in the National Building Regulations and Building Standards Act;
- (f) an adequate supply of running potable water is provided;

- (g) an adequate number of portable containers constructed of iron or another non-absorbent material, equipped with closely fitting lids, are provided for the removal of all waste and waste water from the premises;
- (h) adequate means are provided for the disposal of all effluent arising from the manufacturing or other process performed on the premises;
- (i) adequate accommodation is provided for the storage of all finished products, articles or materials which are used in the manufacturing or other process and which may -
  - (i) discharge offensive or injurious effluent or liquid; or
  - (ii) decompose in the course of the work or trade;
- (j) adequate means are provided to control the discharge in the open air of any noxious, injurious or offensive gas, fume, vapour or dust produced during any handling, preparation, drying, melting, rendering, boiling or grinding process or storage of material;
- (k) adequate sanitary fixtures are provided as prescribed in the National Building Regulations and Building Standards Act;
- (l) a perimeter wall made of brick or some other impervious material, with a minimum height of 2 metres, is constructed around the premises;
- (m) all gates to the premises are of solid construction with a minimum height of 2 metres;
- (n) all perimeter walls and gates adequately screen activities on the premises from public view; and
- (o) all materials are stacked or stored on the premises below the height of the perimeter screening;
- (p) adequate separate change-rooms for males and females, where five or more persons of the same sex are employed, must be provided containing -
  - (i) an adequate metal locker for every employee;
  - (ii) a wash-hand basin provided with a supply of running hot and cold potable water; and
  - (iii) an adequate supply of soap and disposable towels at every wash-hand basin;
- (q) if no change-room has been provided in terms of paragraph (p) -
  - (i) a wash-hand basin with a supply of running hot and cold potable water, must be provided in an accessible position; and
  - (ii) an adequate metal locker must be provided for every employee in the work area.

#### 47. DUTIES OF OFFENSIVE TRADERS

Every offensive trader must -

- (a) maintain the premises in a clean, hygienic and good condition at all times;
- (b) maintain all walls and floors of the premises in a manner and condition that prevents the absorption of any waste or waste water;
- (c) maintain all machinery, plant, apparatus, furniture, fittings, tools, implements, vessels, containers, receptacles and vehicles in a clean, hygienic and good condition at all times;
- (d) prevent any waste accumulating on the premises; and
- (e) prevent the emission of noxious, injurious or offensive gases, fumes, vapours or dust generated during any handling, preparation, drying, melting, rendering, boiling or grinding process or storage of any material on the premises.

#### 48. LIQUID REFUSE FROM BONE AND TRIPE BOILING

- (1) Every bone boiler and every tripe boiler must adequately cool all waste water before it is discharged into any sewer or other receptacle.
- (2) The cooling process referred to in subsection (1), must take place in a manner that prevents the generation of any noxious and injurious effluent.

#### 49. LIQUIDS, TANKS AND TUBS IN LEATHER MAKING

Every fell-monger, leather dresser or tanner must -

- (a) renew and dispose of the liquid from every tank or other receptacle used on the premises to wash or soak any skin or hide, other than a lime pit, at adequate intervals and in an adequate manner;

- (b) clean the entire tank or other receptacle every time it is emptied;
- (c) clean every tub or other receptacle used to contain a solution of the material known as "puer".

**50. STORAGE OF RAGS, BONES AND WASTE**

No trader in rags, bones or waste may place or store, or cause or permit to be stored, rags, bones or waste in any part of the premises concerned which is -

- (a) inhabited by people; or
- (b) not adequately ventilated.

**CHAPTER 8  
HAIRDRESSING, BEAUTY AND COSMETOLOGY SERVICES**

**51. DEFINITIONS**

In this Chapter, unless the context otherwise indicates -

**"body piercing"** means the piercing of the skin for the purpose of inserting any foreign object;

**"cosmetology or beauty service"** includes, but is not limited to, any one or more of the following services:

- (a) manicure, pedicure, nail technology, or the application of artificial nails or nail extensions, whatever the substance used;
- (b) eyebrow shaping and plucking including the application of false or artificial eyebrows or eyelashes and tinting of eyelashes;
- (c) cosmetic and camouflage makeup of the face and its features, whether by permanent, semi permanent or temporary means;
- (d) facial skin care;
- (e) removal of unwanted or superfluous hair from any part of the body by any means, other than shaving, including by means of waxing, chemical depilatories, electrical or mechanical means, whether or not any apparatus, appliance, heat, preparation or substance is used in any of these operations;
- (f) body piercing and tattooing for cosmetic purposes;
- (g) massaging;
- (h) body bronzing by means of ultraviolet radiation or any similar method; or (i) body contouring including all forms of slimming;

**"hairstyling"** includes, but is not limited to, any one or more of the following services:

- (a) shampooing and cleansing, conditioning and treating hair;
- (b) chemical reformation of the hair including permanent waving, relaxing and straightening of the hair;
- (c) hair colouring, including tinting, dyeing and colouring by means of permanent, semi-permanent or temporary means, including the use of colour rinses, shampoos, gels or mousses and lightening by means of tints, bleaches, highlights or high lifting tints or toners;
- (d) hair cutting and shaping;
- (e) barbering services including shaving and singeing of hair; or
- (f) the adding to hair of natural and artificial hair and hair extensions, board work, pastiche, wig-making or the performing of any operation specified in paragraphs (a) to (e) on a wig or hairpiece to be worn by any person; or
- (g) trichology and trichological treatment of the hair including the treatment of abnormalities and disorders of the hair;

**"salon"** means any place where any or more of the following services are performed for gain:

- (a) hairstyling service;
- (b) cosmetology or beauty service;
- (c) body piercing and tattooing; or
- (d) massaging service;

**"salon service"** means any one or more or a combination of the practices or services generally and usually performed by a person rendering service in the hairdressing, cosmetology or beauty service industry including any massage, body piercing and tattooing service.

**52. PERMIT REQUIREMENT**

No person may operate a salon except in terms of a permit authorising that activity.

**53. REQUIREMENTS FOR PREMISES**

No person may operate a salon on any premises which do not comply with the following requirements:

- (a) adequate lighting and ventilation, as prescribed in the National Building Regulations and Buildings Standards Act, must be provided;
- (b) all shelves, fixtures and table tops on which instruments are placed must be constructed of an approved material that is durable, non-absorbent, and easy to clean;
- (c) water and toilet facilities must be provided as prescribed in the National Building Regulations and Building Standards Act;
- (d) adequate facilities, with a supply of running potable water, must be available for the washing of hair and hands;
- (e) an approved system for the disposal of waste water must be provided;
- (f) adequate storage facilities must be provided;
- (g) the walls and floors must be constructed of a material that is easy to clean and which prevents cut hair from being dispersed; and
- (h) the premises may not be used for the storage and preparation of food or for sleeping unless any area for that purpose is clearly separated by an impervious wall.
- (i) adequate separate change-rooms for males and females, where five or more persons of the same sex are employed, must be provided containing -
  - (i) an adequate metal locker for every employee;
  - (ii) a wash-hand basin provided with a supply of running hot and cold potable water; and
  - (iii) an adequate supply of soap and disposable towels at every wash-hand basin;
- (j) if no change-room has been provided in terms of paragraph (i) -
  - (i) a wash-hand basin with a supply of running hot and cold potable water, must be provided in an accessible position; and
  - (ii) an adequate metal locker must be provided for every employee in the work area.

**54. DUTIES OF SALON OPERATORS**

Any person operating a salon must -

- (a) maintain the premises, tools, equipment and clothing in a hygienic and good condition at all times;
- (b) equip the premises with an adequate means to disinfect and sterilise instruments and equipment that may come into direct contact with any customer's hair or skin;
- (c) provide employees on the premises with approved protective clothing and equipment;
- (d) collect all hair clippings and other waste in an approved container after every service;
- (e) store or dispose of waste in an approved manner;
- (f) adequately train any person working on the premises;
- (g) not permit any animal on the premises unless it is a guide dog accompanying a blind person; and
- (h) ensure that every person working in the salon complies with the requirements of this section and sections 55 and 56.

**55. REQUIRED MINIMUM HEALTH STANDARDS FOR THE OPERATION OF A SALON**

Any person operating or employed in, a salon must take the following measures:

- (a) adequately disinfect the following instruments after each use:
  - (i) razors;
  - (ii) blades;
  - (iii) nail files;
  - (iv) scissors;
  - (v) clippers;
  - (vi) hairbrushes;
  - (vii) combs;
  - (viii) bristle brushes;
  - (ix) metal clips; and
  - (x) rollers;
- (b) adequately sterilise the following instruments after each use:
  - (i) any instrument used for body piercing or tattooing;
  - (ii) any instrument which has come in contact with blood or any other body fluid;
- (c) wash and clean all plastic and cloth towels after each use;
- (d) dispose of all disposable gloves or other disposable material after each use;
- (e) wash all aprons and caps daily;
- (f) wash his or her hands with soap and water or disinfectant before and after rendering each service to a client;
- (g) wear disposable gloves when providing one of the following salon services:
  - (i) any chemical service;
  - (ii) any hair implant;
  - (iii) body piercing; and
  - (iv) tattooing;
- (h) wash all walls, floors, chairs and other surfaces in the premises at least once a day with a disinfectant or household detergent;
- (i) dispose of all waste water, sharp instruments, bloodied and otherwise contaminated towels and towelling paper in an approved manner;
- (j) store razors, blades, needles and other sharp instruments separately in a "sharp instrument" box;
- (k) adequately treat any injury or wound which may occur on the premises;
- (l) clean and disinfect all surfaces that have been contaminated by blood after each service; and
- (m) keep an approved first aid kit on the premises at all times.

**56. PROHIBITION AGAINST THE USE OF SALON PREMISES FOR OTHER PURPOSES**

- (1) Any person operating a salon must ensure that the premises are used exclusively for that purpose.
- (2) Any person who wants to prepare any beverage for customers on the premises of a salon, must provide a separate area, equipped with a facility for cleaning crockery and utensils, for that purpose.

**CHAPTER 9  
SECOND-HAND GOODS**

**57. DEFINITIONS**

In this Chapter, unless the context otherwise indicates -

**"second-hand goods business"** means any business in which used goods and materials are sold, including, without limitation -

- (a) clothing, furniture, scrapped motor vehicles, footwear, timber, building bricks or blocks, building material or fittings, machinery, drums, tins, bottles, packing cases, boxes, crates or other containers, metal, rags, plastic bags, paper or any other material, which has previously been used; and
- (b) bones or tallow.

**58. REQUIREMENTS FOR PREMISES**

No person may operate a second-hand goods business in or on any premises which do not comply with the following requirements:

- (a) any section of the premises where second-hand goods are stored and handled must be enclosed by walls constructed of brick, rock or concrete, with a minimum height of two metres;
- (b) all gates to the premises must be of solid construction with a minimum height of two metres;
- (c) all materials must be stacked or stored below the height of the perimeter screening;
- (d) adequate lighting and ventilation, as prescribed in the National Building Regulations and Building Standards Act must be provided;
- (e) all storage areas must be paved with cement, concrete or other approved impervious material;
- (f) all backyard surfaces and open spaces of the premises must be graded and drained to allow for the effective run-off of all precipitation;
- (g) adequate sanitary fixtures for both sexes employed on the premises must be provided, as prescribed in the National Building Regulations and Building Standard Act; and
- (h) an adequate number of refuse containers must be provided.
- (i) adequate separate change-rooms for males and females, where five or more persons of the same sex are employed, must be provided containing -
  - (i) an adequate metal locker for every employee;
  - (ii) a wash-hand basin provided with a supply of running hot and cold potable water; and
  - (iii) an adequate supply of soap and disposable towels at every wash-hand basin;
- (j) If no change-room has been provided in terms of paragraph (i) -
  - (i) a wash-hand basin with a supply of running hot and cold potable water, must be provided in an accessible position; and
  - (ii) an adequate metal locker must be provided for every employee in the work area.

#### 59. DUTIES OF SECOND-HAND GOODS TRADERS

Any person who conducts a second-hand goods business must -

- (a) store second-hand goods in a backyard, building or open space that is constructed of an approved material in such a manner as to prevent the harbourage of rodents or other vermin and pests;
- (b) ensure that no water accumulates in any article stored on the premises;
- (c) keep the premises in a clean, neat and sanitary condition at all times;
- (d) immediately on receipt, disinfect all furniture, soft furnishings, clothing, bedding or other fabrics in an adequate manner;
- (e) keep any other articles separate from articles which have been disinfected; and
- (f) label all articles which have been disinfected in a conspicuous place on each article.

### CHAPTER 10 ACCOMMODATION ESTABLISHMENTS

#### 60. DEFINITIONS

In this Chapter, unless the context otherwise indicates -

"**accommodation establishment**" means any place in which accommodation is provided for gain to four or more people, with or without meals;

"**dormitory**" means a sleeping room in which sleeping accommodation is provided for four or more persons.

#### 61. PERMIT REQUIREMENT

No person may operate an accommodation establishment except in terms of a permit authorising that activity.

#### 62. REQUIREMENTS FOR PREMISES OF ACCOMMODATION ESTABLISHMENTS

No person may operate an accommodation establishment on premises which do not comply with the following requirements:

- (a) no room wholly or partly used by persons for sleeping in may be occupied by a greater number of persons than will allow-

- (i) less than 11,3 m<sup>3</sup> of free air space and 3,7 m<sup>2</sup> of floor space for each person over the age of 10 years; and
  - (ii) less than 5,7 m<sup>3</sup> of free air space and 1,9 m<sup>2</sup> of floor space for each person under the age of 10 years;
- (b) no latrine, passage, staircase, landing, bathroom, cupboard, outbuilding, garage, stable, tent, storeroom, lean-to, shed, kitchen, diningroom, food preparation area, cellar or loft may be used as sleeping accommodation;
- (c) if a dormitory is provided on the premises -
  - (i) a single bed, manufactured of metal or some other durable material and equipped with a mattress, must be provided for every person housed in the dormitory;
  - (ii) a separate locker must be provided for every person making use of the dormitory for safeguarding the person's clothing and other possessions;
  - (iii) every bed in a dormitory must be so placed that its sides are at least one metre away from any part of any other bed;
- (d) an accommodation establishment must be provided with -
  - (i) an area for the preparation and cooking of food, adequate for the use of and easily accessible to any occupier residing in the accommodation establishment;
  - (ii) adequate separate wash-up facilities; and
  - (iii) where meals are provided to persons housed in the accommodation establishment, a dining-room or adequate dining area with tables and chairs or benches and unobstructed floor area, including the area occupied by tables, chairs and benches, of at least 1,2 m<sup>2</sup> for every seat provided for dining purposes;
- (e)
  - (i) an accommodation establishment must be provided with one or more showers, each suitably placed in a separate compartment, easily accessible to every occupier, and fitted with waste pipes which comply with the provisions of the National Building Regulations and Building Standards Act.
  - (ii) a bath fitted with a waste pipe may be substituted for each shower referred to in subparagraph (i);
  - (iii) the facilities referred to in subparagraphs (i) and (ii) must be designated for the different sexes;
- (f) an accommodation establishment must be provided with sanitary fixtures as prescribed in the National Building Regulations and Building Standards Act and such fixtures must be designated for the different sexes;
- (g) an accommodation establishment must be provided with an adequate supply of hot and cold running potable water;
- (h) all rooms and passages must be provided with adequate ventilation and lighting as prescribed in the National Building Regulations and Building Standards Act;
  - (i) openings such as doors, windows or fanlights may not be obstructed in a manner that interferes with the lighting or cross ventilation they provide;
- (i)
  - (i) a separate room with metal bins or canvas laundry bags must be provided for the storage of dirty articles used in connection with an accommodation establishment, pending removal to be laundered; and
  - (ii) if articles used in connection with an accommodation establishment are laundered on the premises, a separate approved washing, drying and ironing area equipped with the necessary facilities for this purpose must be provided.
- (k) a store-room for the storage of furniture and equipment and a separate linen room with cupboards or shelves for the storage of clean bed and other linen, towels, blankets, pillows and other articles used in connection with an accommodation establishment, must be provided;
- (l)
  - (i) all walls and ceilings must have a smooth finish and be painted with a light-coloured washable paint, or have some other approved finish;
  - (ii) the floor surface of every kitchen, scullery, laundry, bathroom, shower, ablution room, toilet and sluice room must be constructed of concrete or some other durable, impervious material brought to a smooth finish; and
  - (iii) the floor surface of every habitable room must be constructed of an approved material;
- (m) the following facilities must be provided for people who are employed and also reside on the premises:
  - (i) sleeping quarters equipped with a bed, mattress and locker which comply with the provisions of paragraphs (a), (b) and (c) for each employee; and
  - (ii) if employees are not provided with meals in the accommodation establishment, food preparation and dining facilities that comply with the provisions of paragraph (d).

- (n) adequate changing facilities must be provided for non-resident employees;
- (o) adequate ablution and sanitary facilities, which comply with the provisions of paragraphs (e) and (f), must be provided for resident and non-resident employees;
- (p) an adequate refuse holding area must be provided and an approved refuse removal system must be maintained;
- (q) all walls, floors and roofs must be constructed in a manner which prevents wind or rain entering an accommodation establishment or dampness entering the interior surfaces of any wall or floor;
- (r) all accesses to an accommodation establishment must have a door which when closed, prevents the wind or rain entering the premises; and
- (s) all windows must be constructed in a manner that prevents rain entering the accommodation establishment when the windows are closed.

**63. DUTIES OF OPERATORS OF ACCOMMODATION ESTABLISHMENTS**

Every person who conducts an accommodation establishment must -

- (a) keep the premises and all furniture, fittings, appliances, equipment, containers, curtains, covers, hangings and other soft furnishings, table linen, bed linen, and other bedding, towels and cloths of whatever nature used in connection with the accommodation establishment, in a clean, hygienic and good condition at all times;
- (b) clean and wash any bed linen, towel, bath mat or face cloth after each use by a different person;
- (c) take adequate measures to eradicate pests on the premises;
- (d) provide a container made of a durable and impervious material, equipped with a close-fitting lid, in every toilet used by females;
- (e) provide towel rails or hooks in every bathroom and in every room in which there is a wash-hand basin or shower;
- (f) store all dirty linen, blankets, clothing, curtains and other articles used in connection with an accommodation establishment in the manner provided in section 62(j);
- (g) store all clean linen, towels, blankets, pillows and other articles used in connection with the accommodation establishment in the manner provided in section 62(k);
- (h) keep all sanitary, ablution and water supply fittings in good working order;
- (i) keep every wall, surface and ceiling, unless constructed of materials not intended to be painted, painted at the intervals to ensure that the area painted, remains clean and in a good state of repair; and
- (j) handle refuse in the manner provided in section 62(p).

**CHAPTER 11  
DRY-CLEANING AND LAUNDRY ESTABLISHMENTS**

**64. DEFINITIONS**

In this Chapter, unless the context otherwise indicates -

**"dry-cleaning or laundry business"** means any business in which clothes or other fabrics are cleaned with water or other solvents, or clothes or fabrics are ironed;

**"dry-cleaning or laundry receiving depot"** means premises used for the receipt, storage and dispatch of clothes or other fabrics in connection with a dry cleaning or laundry business.

**65. PREMISES FOR DRY-CLEANING OR LAUNDRY BUSINESSES**

No person may conduct a dry-cleaning or laundry business on premises which do not comply with the following requirements:

- (a) a work-room or area used for housing dry-cleaning machines, washing-machines, ironing boards, presses and other fixed or movable equipment, with a minimum unobstructed floor area of 2,5 m<sup>2</sup> per person employed on the premises, must be provided;
- (b) adequate separate areas for marking clean and dirty articles must be provided with-
  - (i) tables with an impervious surface;
  - (ii) adequate washable containers for dirty articles; and
  - (iii) hanging rails and shelves constructed of an impervious material in the area for marking clean articles;



- (c) a separate room or area with separate designated counters, with impervious surfaces, must be provided for the receipt and dispatch of articles;
- (d) a store-room or facility for the storage of packing material and other articles must be provided and equipped with adequate packing shelves of which the lowest shelf must be at least 250 mm above floor level;
- (e) adequate separate change-rooms for males and females, where five or more persons of the same sex are employed, must be provided containing -
  - (i) an adequate metal locker for every employee;
  - (ii) a wash-hand basin provided with a supply of running hot and cold potable water; and
  - (iii) an adequate supply of soap and disposable towels at every wash-hand basin;
- (f) if no change-room has been provided in terms of paragraph (e) -
  - (i) a wash-hand basin with a supply of running hot and cold potable water, must be provided in an accessible position; and
  - (ii) an adequate metal locker must be provided for every employee in the work area;
- (g) a tea kitchen with a single-basin stainless steel sink, with a supply of running hot and cold potable water, must be provided;
- (h) separate toilets for males and females must be provided which comply with the provisions of the National Building Regulations and Building Standards Act;
- (i) every toilet and change-room must be clearly gender designated;
- (j) all internal walls must be constructed of an impervious material, brought to a smooth finish and painted with a light-coloured washable paint;
- (k) all ceilings must be dust-proof, smoothly finished, and painted with a light-coloured washable paint;
- (l) all floor surfaces must be constructed of cement or some other adequate impervious material, brought to a smooth finish and properly drained;
- (m) the minimum height from floor to ceiling of any room or area must be 2,4 metres;
- (n) adequate lighting and ventilation, as prescribed by the National Building Regulations and Building Standards Act must be provided;
- (o) all machinery and equipment must be equipped with adequate suction fans to remove any noxious gas, steam and hot air from any room and to release it in the open air in an adequate manner;
- (p) all machinery and equipment must be placed so that there is free access to all areas around and underneath each machine or item of equipment, to enable those areas to be adequately cleansed; and
- (q) a separate pre-rinsing area must be provided on any premises where nappies are laundered.

**66. PREMISES FOR DRY-CLEANING OR LAUNDRY RECEIVING DEPOTS**

No person may operate a dry-cleaning or laundry receiving depot on premises which do not comply with the following requirements:

- (a) a separate room or area with a minimum width of two metres must be provided for the receipt and dispatch of articles;
- (b) fifty percent of the floor space of the room referred to in paragraph (a) must be unobstructed;
- (c) a wash-hand basin with a supply of running potable water must be provided;
- (d) an adequate supply of soap and disposable towels must be provided at every wash-hand basin;
- (e) all internal wall and ceiling surfaces must be constructed of an impervious material, brought to a smooth finish and painted with a light-coloured washable paint;
- (f) all floor surfaces must be constructed of cement or other impervious material, brought to a smooth finish;
- (g) lighting and cross-ventilation, as prescribed by the National Building Regulations and Building Standards Act, must be provided;
- (h) adequate washable containers for storing dirty articles must be provided;
- (i) adequate quantities of hanging rails or impervious shelves for the storage of clean articles must be provided;

- (j) adequate designated counters, with impervious surfaces, must be provided separately for the receipt and dispatch of dirty and clean articles; and
- (k) an adequate metal locker must be provided for every person employed in the receiving depot.

**67. PREMISES FOR COIN-OPERATED LAUNDRIES**

No person may operate a coin-operated laundry on premises which do not comply with the following requirements:

- (a) separate toilet and hand washing facilities for the different sexes, as prescribed in the National Building Regulations and Building Standards Act, must be provided;
- (b) an adequate area must be provided where ironing is done on the premises; and
- (c) any machine on the premises must be installed in accordance with any applicable law.

**68. GENERAL REQUIREMENTS FOR DRY-CLEANING AND LAUNDRY BUSINESSES**

Any person conducting a dry-cleaning or laundry business or in charge of premises on which a dry-cleaning, laundry or receiving depot exists, must -

- (a) keep the premises, all fittings, equipment, appliances, machinery, containers and business vehicles in a clean, hygienic and good condition at all times;
- (b) separate dirty articles from clean articles at all times, including when in transit;
- (c) use a change-room solely for changing;
- (d) ensure that every person who handles clean or dirty articles wears adequate protective clothing at all times;
- (e) keep protective clothing in a clean and sound condition at all times;
- (f) store protective clothing in a locker when it is not being worn;
- (g) affix the name and business address, in clear lettering, to the outside of any business vehicle;
- (h) ensure that the premises are not directly connected to any food premises, new clothing shop, hairdresser or any other area from which contamination might occur;
- (i) comply with the requirements of the following legislation at all times:
  - (i) the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993); and
  - (ii) the Atmospheric Pollution Prevention Act, 1965 (Act No. 45 of 1965);
- (j) place all piping in the building, not chased into the walls, at least 100 mm away from all walls or floors and comply with the provisions of the National Building Regulations and Building Standards Act;
- (k) insulate all steam piping with an adequate material; and
- (l) dispose of all waste water in an approved manner.

**CHAPTER 12  
SWIMMING POOLS AND SPA-BATHS**

**69. DEFINITIONS**

In this Chapter, unless the context otherwise indicates -

**"spa-bath"** means a structure constructed of an approved material, provided with a controlled circulating water supply and used for bathing, excluding a spa bath situated at a private home which is not used for commercial purposes;

**"spa-bath keeper"** means any person who owns or controls the operation of a spa-bath;

**"swimming pool"** means a structure with a controlled water supply used for swimming or bathing, including a children's swimming and paddling pool, but excluding a swimming pool at a private home which is not used for commercial purposes;

**"swimming pool keeper"** means any person who owns or controls the operation of a swimming pool.

**70. REQUIREMENTS FOR PREMISES**

No person may operate a swimming pool or spa bath in or on any premises which do not comply with the following requirements:

- (a) readily accessible change-rooms, showers and toilet facilities must be provided separate for each sex in compliance with the National Building Regulations and Building Standards Act;

- (b) every swimming-pool must be surrounded by a wall or fence as prescribed by the National Building Regulations and Building Standards Act;
- (c) the surface of the floor area surrounding any spa-bath or swimming-pool must be constructed of an impervious, non-slip material;
- (d) an approved chemical gas mask must be provided at the chlorinator installation;
- (e) if so instructed in writing by an environmental health officer, an oxygen or air breathing apparatus must be provided; and
- (f) an adequate number of refuse receptacles must be provided on the premises.

**71. DUTIES OF SPA-BATH KEEPERS**

Every spa-bath keeper must -

- (a) keep the premises in a safe, clean and sanitary condition and in good repair at all times;
- (b) provide a properly maintained approved first-aid box in a prominent, easily accessible and protected position;
- (c) purify, treat and maintain the spa-bath water to an adequate quality level at all times;
- (d) provide and maintain, in good working order, equipment for testing the quality of the spa-bath water;
- (e) be capable of undertaking routine tests on the water quality in the spa-bath and interpreting the tests results; and
- (f) maintain a daily record of the spa-bath water quality.

**72. DUTIES OF SWIMMING POOL KEEPERS**

Every swimming pool keeper must -

- (a) keep the premises in a safe, clean and sanitary condition at all times;
- (b) provide a properly maintained approved first-aid box in a prominent, easily accessible and protected position;
- (c) be qualified and proficient in life saving, rendering first aid, use of a resuscitation appliance, the operation of the swimming pool and testing and maintaining the safety of the swimming pool water;
- (d) ensure that the swimming pool water is purified, treated and maintained to an adequate quality at all times;
- (e) provide and maintain, in proper working order, equipment for testing the quality of the swimming pool water;
- (f) be capable of undertaking routine tests on the water quality in the swimming pool and interpreting the tests results; and
- (g) maintain a daily record of the swimming pool water quality.

**73. WATER SUPPLY**

- (1) Unless the prior written approval of an environmental health officer has been obtained, no person operating a spa-bath or swimming pool may use water from a source other than a municipal supply to clean, fill or maintain the water level in a swimming pool or spa-bath.
- (2) An environmental health officer must -
  - (a) take samples of a swimming pool or spa-bath water, at intervals which he or she considers appropriate for the purpose of a chemical analysis or bacteriological examination of that water;
  - (b) submit the samples to an analyst authorised in terms of section 12 of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 to conduct an analysis.

**74. SAFETY OF WATER**

Every spa-bath keeper and swimming pool keeper must ensure that the water in the spa-bath or swimming pool complies with the following requirements:

- (a) it must be free from floating, suspended or settled debris or swimming organisms and the walls, floor, access ladders or steps and gutters must be free from slime and algae;
- (b) the pH value of the water must be not less than 7 and not greater than 8;

- (c) where chlorine based disinfectants are used, a minimum free available chlorine residual of 0,5 mg/l, with a maximum free available chlorine residual of 3 mg/l, must be maintained;
- (d) if a disinfectant other than chlorine is used, the residual level must be equivalent in effect to the requirements of paragraph (c);
- (e) the total viable bacteriological count of any sample submitted for analysis, must not exceed 100 organisms per ml of water; and
- (f) *Escherichia coli* type 1 bacteria must not be present in any 100 ml of water.

#### 75. ORDER AND BEHAVIOUR

No person may -

- (a) interfere with a spa-bath keeper or swimming pool keeper in the execution of his or her duties;
- (b) allow any dog or other pet belonging to him or her or under his or her care to enter or to remain within the premises of a spa-bath or swimming pool, unless it is a guide dog accompanying a blind person;
- (c) enter or remain in any premises of a spa-bath or swimming pool if he or she knows or suspects that he or she may be suffering from any communicable or contagious disease; and
- (d) urinate, defecate, spit or blow his or her nose in a spa-bath or swimming pool.

### CHAPTER 13 NURSING HOMES

#### 76. DEFINITIONS

In this Chapter, unless the context otherwise indicates -

"**general practice**" when used to describe the purpose for which a nursing home is used, means all medical, gynaecological and surgical cases, excluding maternity cases;

"**maternity home**" means any nursing home, or part thereof, dealing exclusively with maternity cases;

"**nursing home**" means any premises where the nursing or care of patients is carried on for gain, but does not include -

- (a) any institution owned or controlled by the Government of the Republic of South Africa or a Provincial Administration; or
- (b) any consulting room, dental surgery or home for aged persons.

#### 77. USE OF PREMISES

- (1) Any person who operates a nursing home may use it for the purpose of either a maternity home or for general practice, but not for both those functions, unless -
  - (a) the nursing home carried on business prior to the promulgation of these By-laws; or
  - (b) the nursing home -
    - (i) complies with the requirements of subsection (2);
    - (ii) is in possession of a permit authorising that activity; and
    - (iii) complies with the requirements of any relevant Town Planning Scheme.
- (2) Any person who operates a nursing home may use the premises concerned as a maternity home and for general practice, subject to compliance with the following requirements:
  - (a) One part of the premises must be set aside exclusively as a maternity area for maternity cases and another part must be set aside exclusively as a general practice area for general practice;
  - (b) no room, passage, stairway, hall, corridor, lift, external entrance or exit or other portion of the premises may be used in common for any purpose whatsoever, except those that are used for the purpose of -
    - (i) laundries;
    - (ii) central sterilising unit, including ancillary units and stores;
    - (iii) pathological laboratories;
    - (iv) kitchens, sculleries, washing-up facilities, larders and any associated storage space;
    - (v) storage space for unused or adequately sterilised stores;

- (vi) an administrative office other than an office used to admit and discharge patients;
- (vii) central pharmaceutical units;
- (viii) mortuaries; and
- (ix) workshops;
- (c) access to any common area may not be gained from the maternity area by going through the general practice area, and *vice versa*;
- (d) any common area leading from the two exclusive areas must be adequately ventilated;
- (e) there may not be any direct means of access between the two exclusive areas;
- (f) there may not be any opening, aperture or gap in any common wall dividing the two exclusive areas which could allow air to pass from one area to the other;
- (g) every floor of one exclusive area, which is located immediately above the other exclusive area, must be made of reinforced concrete or other impervious material;
- (h) no member of the nursing or ward domestic staff who has performed duties in one exclusive area may, within 24 hours thereafter, perform duties in or enter the other exclusive area in an official capacity or in uniform;
- (i) the uniforms and protective clothing worn by persons employed in the common area and the two exclusive areas, must be clearly distinguishable from one another;
- (j) no furniture, equipment, utensils, apparatus, linen, blankets or any other articles located in a common area, may be taken to any exclusive area until they have been adequately sterilised;
- (k) all furniture, equipment, utensils, apparatus and other articles, excluding linen, blankets, kitchen utensils, catering equipment, crockery, medical, surgical instruments and other incidental items, used in or intended for use in the two exclusive areas, must be clearly marked to indicate in which of the those areas they are used or originated;
- (l) no article identified for use in the one exclusive area may be taken into or kept in the other exclusive area unless a certificate is obtained from an environmental health officer that the article has been adequately sterilised;
- (m) all articles issued from the common area for use in the two exclusive areas, must be returned to the common area;
- (n) no article issued for use in one exclusive area may be used in the other exclusive area until it has been returned to the common area for adequate sterilisation;
- (o) no patient from the maternity area may be accommodated, nursed or cared for in the general practice area, and *vice versa*; and
- (p) no person shall bring any animal, poultry or bird onto the premises.

#### 78. GENERAL REQUIREMENTS

No person may operate a nursing home which does not comply with the following requirements:

- (a) separate residential accommodation must be provided for staff required to reside on the premises;
- (b) separate bathrooms and toilets must be provided in accordance with section 85(b) and (c), for each of the following classes of person:
  - (i) patients;
  - (ii) nursing staff; and
  - (iii) domestic staff;
- (c) the bathrooms and toilets must be designated for each sex and must be laid out in a manner that satisfies an environmental health officer;
- (d) an adequate supply of running hot and cold potable water, drawn from the Council's main supply, must be provided;
- (e) a water-borne sewerage system connected to the Council's sewer, a septic tank or other disposal system approved by the technical director of the Council and an environmental health officer in writing, must be provided;
- (f) adequate accommodation for the administrative purposes of the nursing home, must be provided;

- (g) adequate storage accommodation for articles that are reasonably necessary to store on the premises, must be provided;
- (h) an adequate kitchen and scullery, having regard to the size and layout of the nursing home, must be provided;
- (i) adequate accommodation and facilities for the storage and refrigeration of food, must be provided;
- (j) a separate linen room, containing adequate cupboards or shelves for the storage of clean linen, must be provided;
- (k) an incinerator, adequate for the complete incineration of any combustible article placed in it, must be provided;
- (l) any laundry located on the premises, must comply with the provisions of these By-laws;
- (m) no autopsy may be performed on the premises, other than in a room which is used solely for the reception of dead bodies and is constructed as follows:
  - (i) the room must be divided from any other room by a solid wall;
  - (ii) the floor and walls must be constructed of an impervious material brought to a smooth finish;
  - (iii) all tables in the room must have impervious tops;
  - (iv) a sink, supplied with hot and cold running potable water, must be provided; and
  - (v) an adequate drainage system must be provided;
- (n) adequate facilities must be provided for the hygienic handling and disposal of flowers, vases and other related materials;
- (o) fire prevention equipment, which in the opinion of the chief fire officer of the Council is adequate, must be provided and maintained on the premises;
- (p) a fire escape, the stairs of which are a minimum of 1 metre wide with landings at each turning point measuring a minimum of 2.2 metres by 1.7 metres, must be affixed to the premises;
- (q) the premises must provide adequate accommodation for the storage of any spare equipment, including particularly heavy equipment and gas cylinders, in a manner that will not obstruct any passages or exits to the premises; and
- (r) an emergency stand-by electrical plant must be provided which is adequate to provide an immediate alternative supply of electricity to -
  - (i) each operating theatre throughout the period of any power failure;
  - (ii) any part of the nursing home to ensure the continued operation, throughout the period of the failure, of all electrically operated appliances and equipment which, in the opinion of an environmental health officer, are or may be life saving.

#### 79. FLOOR REQUIREMENTS

No person may operate a nursing home, unless the following are provided on each floor:

- (a) a duty-room equipped in accordance with section 90;
- (b) adequate sluicing facilities, taking into account the number of beds on the floor;
- (c) a dressing room fitted with adequate sterilising equipment, containing impervious shelves for the storage of sterile drums and other equipment, and used exclusively for -
  - (i) the sterilisation or preparation of instruments, dressings and other equipment; and
  - (ii) the treatment of patients;
- (d) a ward kitchen equipped with a sink with hot and cold running potable water, a refrigerator, a stove and cupboards for crockery and cutlery: Provided that a floor does not require a separate ward kitchen if all the needs of that floor are adequately catered for by the premises' main kitchen;
- (e) an adequate room or cupboard for the storage of clean linen;
- (f) a portable receptacle for the collection of soiled linen;
- (g) a room reserved exclusively for sorting and handling linen: Provided that such separate linen rooms are not required, if the entire premises are adequately served by one such room;
- (h) a room for the storage of any spare equipment including heavy equipment and gas cylinders; and
- (i) where accommodation is provided for children under the age of six years, a separate milk room for the storage and preparation of milk and other children's foods, unless a ward kitchen adequately fulfils this purpose.

**80. MAINTENANCE AND CONSTRUCTION**

No person may operate a nursing home in or on premises which do not comply with the following requirements:

- (a) the premises must be kept in good and hygienic condition at all times;
- (b) all walls must be constructed of brick, stone, concrete or other impervious material;
- (c) except where glazed or glass bricks, glazed tiles or other similar material with a hard and smooth surface have been used, the internal walls of operating theatres, sterilizing rooms, wards, labour wards, scrubbing-up rooms, dressing-rooms, duty-rooms, kitchens, sculleries, pantries, food store-rooms, milk rooms, bathrooms, toilets, sluice-rooms, wash-houses and mortuaries must be -
  - (i) plastered and brought to a smooth finish; and
  - (ii) covered with a light-coloured washable paint, adequate plastic finish or other approved material;
- (d) the angles formed between each floor and wall, and between two walls, in operating units, wards, labour wards, sluice-rooms, milk rooms, bathrooms, toilets and kitchens, must be rounded;
- (e) the floors of wards must be constructed of concrete, hardwood or other durable material, brought to a smooth finish and maintained in this way at all times;
- (f) the floors of operating theatres, sterilizing rooms, wards, including labour wards, scrubbing-up rooms, dressing-rooms, duty-rooms, kitchens, sculleries, pantries, food store-rooms, milk rooms, bathrooms, toilets, sluice-rooms, wash-houses and mortuaries must be made of cement concrete or other impervious material brought to a smooth finish and maintained in this way at all times;
- (g) all ceilings must be constructed so as not to attract dust; and
- (h) the ceilings of operating theatres, labour wards, sterilizing rooms and scrubbing-up rooms must have a hard, smooth and washable surface.

**81. VENTILATION**

No person may operate a nursing home which does not comply with the provisions of the National Building Regulations and Building Standards Act with regard to adequate light and ventilation.

**82. WARD REQUIREMENTS**

No person may operate a nursing home which does not comply with the following requirements in respect of each ward:

- (a) all ceilings must have a minimum height of three metres, except in the case of existing nursing homes where the height may be a minimum of 2.6 metres as long as the floor area of the ward is sufficient to provide 22m<sup>3</sup> of air space for every bed;
- (b) the size of the floor area must be such as to provide a minimum of 8, 5 m<sup>2</sup> of floor space for every bed;
- (c) no bed may be placed -
  - (i) within 750mm of any wall on the side of a bed or wall fixture, other than a wash-hand basin or central-heating radiator; or
  - (ii) within one metre of any other bed;
- (d) no space left between beds in terms of paragraph (c), may be obstructed in any manner;
- (e) the following must be displayed on the outside of each ward door:
  - (i) the number of the ward; and
  - (ii) the number of patients that may be accommodated in the ward;
- (f) an adequate number of easily accessible wash-hand basins, complying with the following requirements, must be placed inside each ward:
  - (i) the basins must be of adequate size for scrubbing up; and
  - (ii) the basins must be provided with an adequate supply of hot and cold running potable water;
- (g) no room, any of the windows of which are situated less than 1.5 metres from an object which obstructs its light, may be used as a ward; and
- (h) every ward must have a door opening directly onto a passage.

**83. MATERNITY HOMES**

Any person who operates a maternity home must, in addition to the requirements for nursing homes, comply with the following requirements:

- (a) one or more rooms, as an environmental health officer may think fit to avoid overcrowding and congestion, must be set aside for each of the following purposes:
  - (i) a nursery;
  - (ii) a labour ward;
  - (iii) a delivery ward; and
  - (iv) a milk room;
- (b) every delivery ward must have a scrubbing-up basin, with a supply of hot and cold running potable water, the taps of which are designed for operation by elbow or by foot;
- (c) newborn infants must be kept in the nursery except when brought to their mothers for feeding or for some other specific purpose, except that the infants may be kept with their mother at all times if there are no more than two maternity cases in a ward;
- (d) the floor area of any delivery ward in which a maximum of two maternity cases are accommodated, must provide a minimum of 10 m<sup>2</sup> for each bed and crib;
- (e) one separate crib for each baby, each with a minimum of least 2 m<sup>2</sup> of floor space, must be provided in every nursery;
- (f) the cribs must be situated as follows:
  - (i) a minimum of 750 mm from any other crib; or
  - (ii) a minimum of 300 mm from any wall on the side of the crib or wall fixture, excluding a wash-hand basin or a central-heating radiator;
- (g) a baby's bathing and changing-room, fitted with adequate baby bathing equipment, must adjoin every nursery; and
- (h) every milk room must be provided with -
  - (i) a sink made of porcelain, enamel or stainless steel and a wash-hand basin with hot and cold running potable water;
  - (ii) a refrigerator;
  - (iii) tables with impervious tops; and
  - (iv) adequate equipment for sterilising utensils used in the handling of milk.

**84. OPERATING THEATRES**

Any person who operates a nursing home which receives patients in need of surgical treatment, must provide an operating theatre used exclusively for surgical operations, which complies with the following requirements:

- (a) every operating theatre must be provided with -
  - (i) a scrubbing-up room or bay, which must immediately adjoin the operating theatre;
  - (ii) a sterilising room;
  - (iii) a theatre sluice-room; and
  - (iv) a recovery room;
- (b) the sterilising room, which adjoins an operating theatre, must be separated by a swing door or other approved type of door;
- (c) the sluice-room, sterilising room and recovery room must be reasonably accessible from the operating theatre; and
- (d) one sluice-room, sterilizing room and recovery room may be used to serve more than one operating theatre.

**85. ABLUTION AND SANITARY REQUIREMENTS**

Any person who operates a nursing home must ensure that the premises complies with the following requirements:

- (a) all bathrooms must be fitted with porcelain enamel or cast-iron enamel baths with a supply of hot and cold running potable water;
- (b) the following number of baths and toilets must be provided for patients:
  - (i) in a maternity home -
    - (aa) the ratio of toilets to patients must not be less than 1:8; and
    - (bb) the ratio of bathrooms to patients must not be less than 1:12;



- (ii) in any other nursing home -
  - (aa) the ratio of toilets to patients must not be less than 1:12; and
  - (bb) the ratio of bathrooms to patients must not be less than 1:12;
- (c) the following number of baths and toilets must be provided for nursing staff, domestic staff and other employees:
  - (i) the ratio of each of toilets and bathrooms to nursing and domestic staff must not be less than 1:12 respectively; and
  - (ii) the ratio of each of toilets and bathrooms or shower cubicles to other employees must not be less than 1:12 respectively;
- (d) in calculating the number of toilets in terms of paragraph (b), no account must be taken of any toilet contained in a bathroom; and
- (e) every toilet must be equipped with an adequate flushing system maintained in proper working order.

**86. SLUICE-ROOMS**

Any person who operates a nursing home must ensure that every sluice room located on the premises -

- (a) is a minimum of 7 m<sup>2</sup> in area and have a minimum width of 2.2 metres;
- (b) opens into a well-ventilated passage and is accessible to every ward which it serves;
- (c) has a sluice-pan of approved design and equipped with an adequate flushing system maintained in proper working order;
- (d) has smooth and impervious shelves or other adequate apparatus for the storage of bed-pans or other sanitary utensils;
- (e) has, in the case of a maternity home, adequate apparatus for sterilizing bedpans by steam or boiling water and in the case of a nursing home carrying on a general practice, adequate apparatus for cleaning bed-pans;
- (f) has an impervious receptacle, with a tight fitting lid and of adequate size, for the reception of soiled dressings; and
- (g) is used only for -
  - (i) the storage and cleansing of bed-pans and other sanitary utensils;
  - (ii) the temporary deposit of soiled dressings; and
  - (iii) the testing of urine.

**87. KITCHENS AND SCULLERIES**

Any person who operates a nursing home must ensure that any kitchen and scullery located on the premises complies with the following requirements:

- (a) every draining board and top of every table installed, whether as a new installation or by way of replacement, must be constructed of stainless steel, enamelled metal or of another adequate smooth and impervious material;
- (b) every sink installed, whether as a new installation or by way of replacement, must -
  - (i) be constructed of stainless steel;
  - (ii) have two compartments each with hot and cold running potable water; and
  - (iii) together with its draining board, be installed at least 100mm away from any wall;
- (c) any wall within 600mm of any part of a sink, draining board or of any table on which food is prepared or handled, must be tiled or treated in some other adequate manner to a minimum height of 1.35 metres above the floor;
- (d) a receptacle with a tight fitting lid suitable for the reception of kitchen refuse, must be provided;
- (e) the receptacle must be kept tightly shut and emptied at least once a day into an external refuse receptacle; and
- (f) a hood or canopy of adequate size, having a flue at least 300mm in diameter and which emits fumes and gasses in such a manner that it creates no public health nuisance, must be provided immediately over any stove where cooking is carried out on the premises.

**88. STORAGE OF FOODSTUFFS**

Any person who operates a nursing home must ensure that-

- (a) all crockery, cutlery and foodstuffs are stored in a hygienic place and manner;
- (b) adequate refrigeration facilities are provided for the storage of perishable foodstuffs; and