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VUNDU LA LIMPOPO
IPHROVINSI YELIMPOPO

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Extraordinary

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Hlawuleka hinkwato**

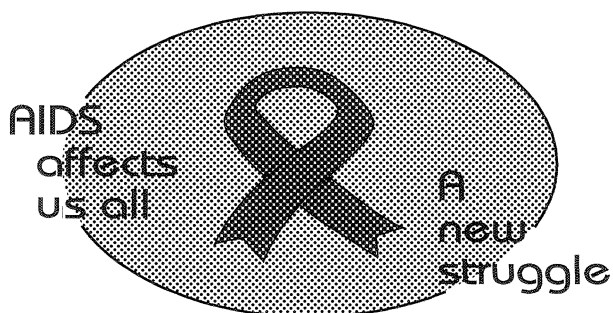
12 OCTOBER 2012
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No. 2126

Buitengewoon

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Gazethe dza Nyingo**

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DEPARTMENT OF HEALTH

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LOCAL AUTHORITY NOTICES

LOCAL AUTHORITY NOTICE 195

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THABAZIMBI LOCAL MUNICIPALITY CEMETERIES AND CREMATORIA BY-LAW

CEMETERIES AND CREMATORIA BY-LAW

The Municipal Manager of Thabazimbi Local Municipality hereby in terms of section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) and section 162(1) of the Constitution of the Republic of South Africa (Act 108 of 1996), hereby publishes the Cemeteries and Crematoria by-law for Thabazimbi Local Municipality as approved by the Council, as set out hereunder.

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THABAZIMBI LOCAL MUNICIPALITY CEMETERIES AND CREMATORIA BY-LAW

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1. Definitions

In this By-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa:

“**Berm**” means a concrete strip laid by the Municipality on a grave plot, on which a memorial stone, if any, is to be erected;

“**Body**” shall mean any dead human body, including the body of any stillborn child;

“**Burial**” means burial in the earth or some other form of internment and shall include any other mode of disposal of a body;

“**Burial Order**” means an order issued in terms of the Births and Deaths Registration Act, 1992 (Act 51 of 1992);

“**Cemetery**” means any burial place which, has been duly set apart by the Municipality for the burial or disposal of bodies within the municipal area;

“**Holder Of Reservation Certificate**” means a person to whom a certificate has been issued or transferred;

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**THABAZIMBI LOCAL MUNICIPALITY
CEMETERIES AND CREMATORIA BY-LAW**

“Municipal Area” means the area described in Clause 2(1) of the Establishment Notice published under Provincial Notice 487 dated 22 September 2000 as amended;

“Municipality” means Thabazimbi Municipality of the established in terms of Section 12 of the Local Government: Municipal Structures Act, 117 of 1998, Provincial Notice 487 dated 22 September 2000 and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councilor, agent or employee;

“Name” means any identifying description of a deceased human being who possessed no name or whose name is unknown.

2. Purpose of the By-Law

- (1) The main purpose of this by-law is to—
- (i) provide for cemeteries for the burial of dead bodies; and
 - (ii) provide for procedures, methods and practices to regulate the burial and exhumation of dead bodies, the provision of grave plots and the maintenance thereof.

3. Application

- (1) This by-law applies to Thabazimbi municipal jurisdictional area only.

4. Establishment of cemetery

- (1) The Municipality may set apart any area as a cemetery for the burial of the dead of any religious denomination or other body or community provided that such setting apart, shall not entitle any person to be buried in any particular place in a cemetery.

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**THABAZIMBI LOCAL MUNICIPALITY
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5. Control of cemetery

- (1) Cemeteries shall be under the control of the municipality at all times.

6. Authority for burial

- (1) No person shall bury any body in the earth or cause such body to be so buried within the municipal area other than in a cemetery.
- (2) No body shall be buried in the earth in a cemetery within the municipal area permission of the municipality.
- (3) Such permission shall not be given without a burial order authorising such burial, and payment of the fees determined by the municipality. If the grave plot has been reserved the certificate concerned shall be produced in lieu of payment of the relevant fees.
- (4) The municipality may at its discretion, in such manner as it may deem fit; allow the burial of any body without charge in that portion of a cemetery set apart for such purpose.

7. Burial hours

- (1) Except with the permission of the municipality, who shall record the circumstances under which such permission is granted, no person shall bury a body in a cemetery during the hours between sunset and sunrise.

8. Register of burials

- (1) The municipality shall keep a register of burials and of graves.

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**THABAZIMBI LOCAL MUNICIPALITY
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- (2) The register shall be completed as soon as possible immediately after a burial has taken place.

9. Demarcation of grave plots

- (1) The municipality shall demarcate grave plots in accordance with an approved layout plan.

10. General provisions relating to cemeteries and burials

- (1) No person under the age of 12 years shall enter any cemetery unless he is in the care of an adult or he does so with the approval of the municipality.
- (2) No person shall enter or leave any cemetery except by the gates provided for that purpose, nor shall any person enter any office or enclosed place in any cemetery except on business.
- (3) No person shall carry on any trade or solicit any business, or exhibit, distribute or leave any business card or advertisement, within any cemetery, except on sites specifically determined and set apart for such purposes.
- (4) No person shall sit, stand or climb upon any grave, tombstone, work, gate, wall, fence or building in any cemetery.
- (5) No person shall bring or cause to be brought any animal into any cemetery without the permission of the municipality.
- (6) No person shall obstruct, resist or oppose the municipality or any employee of the municipality in the course of his duty, or refuse to comply with any order or request which the municipality may give or make under this by-law.

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**THABAZIMBI LOCAL MUNICIPALITY
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- (7) No person shall destroy or do or cause to be done any damage to, or shall mark or draw or erect any advertisement, bill or placard upon, or in any other way deface any grave, tombstone, monument, wall, building, fence, railing or other structure or any road in any cemetery.
- (8) Except where it is expressly permitted by this by-law or the consent of the municipality has been obtained, no person shall disturb the soil, or plant or uproot any plant, shrub or flowering plant, or in any way interfere with any grave or structure in any cemetery.
- (9) No person shall play any game or take part in any sport or fire any firearm or discharge any airgun or catapult, or disturb or interfere with any person in any cemetery.

11. Reservation of grave plots

- (1) Every grave plot in respect of which a burial has been authorised in terms of this by-law shall be reserved in the name of the next of kin, and, in the event of there being no known next of kin, in the name of the person applying for the grave, except reservation made in terms of sub section 2 of this section
- (2) Where a burial has been authorised upon application received from a body or an association or institution or the government, the plot allotted for such burial shall be reserved in the name of such body, association or institution or the Government, as the case may be.
- (3) A grave plot for a person of the age of nine years or over may in the discretion of the municipality be reserved in advance upon application submitted to the municipality and upon payment of the respective grave plot charges as determined by the municipality, provided that no reservation effected in terms of this subsection shall confer the right for the body of a person who at the time of his death was liable for the payment of the additional charges, as determined by the municipality, to be buried in the grave plot in respect of which such reservation was effected, unless such additional charges shall have

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**THABAZIMBI LOCAL MUNICIPALITY
CEMETERIES AND CREMATORIA BY-LAW**

been paid.

- (4) A certificate of reservation in the form prescribed in Schedule 1 of this by-law shall be issued in respect of every grave plot reserved in terms of this by-law.

12. Provisions relating to the transfer of certificates of reservation

- (1) A certificate of reservation in respect of any grave plot may be transferred, assigned or alienated with the written consent of the municipality in the form prescribed in Schedule 2 of this by-law.
- (2) All particulars in regard to every reservation and transfer shall be entered and shown in the register of burial and graves.
- (3) No persons shall acquire any title to or ownership of any grave plot reserved in terms of section 11 and no person shall acquire any right to or interest in any such grave plot in any cemetery other than such rights or interest as may be permitted under this by-law.

13. Burial orders: Numbering of graves

- (1) A notice of every burial in the form prescribed in Schedule 3 of this by-law shall, together with the burial order concerned, be delivered at the office of the municipality not less than eight working hours before any burial is to take place.
- (2) Where a grave is to be re-opened for a second burial or where a new grave is to be dug, the said notice shall be delivered not less than 24 hours before such burial is to take place unless, in the opinion of the municipality, the burial of the body is a matter of urgency, in which case the time limit specified in this subsection shall not apply.
- (3) Every such notice shall be accompanied by the fees determined by the municipality and in the case of the prior reservation of a grave plot, also by the certificate of reservation or transfer concerned, as the case may be.

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**THABAZIMBI LOCAL MUNICIPALITY
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- (4) The municipality shall, as soon as possible, issue the necessary authority for such burial.

14. Removal of monuments or structures

- (1) If it is necessary to remove a monument or other structure for the purpose of a burial, it shall be removed by the holder of the certificate of reservation in respect of such plot or by his or her duly authorised representatives not less than eight working hours before the burial is to take place.

15. Grave to be identified

- (1) In every case where a burial has been authorised, the municipality shall number the plot allotted for such burial and no person shall bury any body in any grave other than that allotted by the municipality for such purpose.

16. Dimensions of graves

- (1) The excavation for a single grave for a deceased person of the age of nine years or over shall be at least 1800mm deep, 2 200 mm long and 750mm wide.
- (2) The excavation for a single grave for a deceased person under the age of nine years shall be at least 1 300mm deep, 1 200mm long and 750mm wide.

17. Provisions relating to grave plots

- (1) The extent of a grave plot for a deceased person of the age of nine years or over shall be 2 500mm by 1 500mm; provided that in the case of a grave plot which is supplied with a berm, the width shall be reduced by 300mm.

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**THABAZIMBI LOCAL MUNICIPALITY
CEMETERIES AND CREMATORIA BY-LAW**

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- (2) The extent of a grave plot for a deceased person under the age of nine years shall be 1 500mm by 1 000mm.
 - (3) The width of a kerb on any grave plot shall be 150mm.
 - (4) The extent of any double grave plot shall be double the extent of any single grave plot.
 - (5) Where a grave of a greater depth, length or width than that specified is required, application in respect thereof, together with payment of an extra fee, as determined by the municipality, shall be made when notice of burial is given.
 - (6) All graves shall be prepared by the municipality with the exception of brick lined or concrete lined graves, in which case the brick work or concrete work shall be carried out by the undertaker under the supervision of the municipality and in conformity with the specifications applicable to ordinary graves.

18. Burials in one grave

- (1) In the case of a family, more than two bodies may be buried in one single grave at the discretion of the municipality; provided that not more than two coffins shall be used; provided further that the lid of the second coffin placed in the grave under no circumstances be less than 900mm from the surface, that, in the event of the reopening of the grave for the purpose of the burial of a further body, a layer of soil not less than 150mm thick shall be left undisturbed above the coffin previously placed in the grave and that, if on the reopening of any grave the soil is found to be offensive, the reopening shall not be proceeded with and the grave shall be refilled.

19. Preparation of graves, and coffins

- (1) All graves shall be prepared under the supervision of the municipality.

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**THABAZIMBI LOCAL MUNICIPALITY
CEMETERIES AND CREMATORIA BY-LAW**

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- (2) Bodies shall be placed in coffins for burials.
 - (3) A coffin not constructed of perishable material shall not be placed or caused to be placed in a grave.

20. Provisions relating to funerals

- (1) No person shall, without prior permission of the municipality, conduct any religious ceremony or service according to the rights of any denomination in any portion of any cemetery which has been set apart by the municipality for the use of any other denomination.
- (2) No person shall cause any hearse, while a cemetery, to leave the roads and every hearse shall leave the cemetery as soon as possible after the funeral for which it was engaged.
- (3) Every person taking part in any funeral procession or ceremony shall comply with the directions of the municipality as to the route to be taken within the cemetery.

21. Provisions relating to exhumations

- (1) No person shall, unless authorised thereto by written order by the appropriate authority, exhume or cause to be exhumed any body.
- (2) Any person duly authorised to exhume a body in terms of subsection (1) shall hand the order in respect thereof to the municipality and shall give him not less than eight working hours' notice of the date and time proposed for the exhumation of such body and shall at the same time pay the fees determined by the municipality.
- (3) No person shall exhume or remove any body unless the employee of the municipality who is responsible for cemeteries is present.

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**THABAZIMBI LOCAL MUNICIPALITY
CEMETERIES AND CREMATORIA BY-LAW**

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- (4) The grave from which any body is to be removed shall, if the municipality so requires, be effectively screened from view during the exhumation.

22. Provisions relating to memorial stones or monuments

- (1) No person shall bring or cause to be brought any material into any cemetery for the purpose of carrying out any work in connection with a memorial stone or brickwork or stonework upon any grave, and no person shall erect or place in position any tombstone, kerbing, or monument or any structure whatsoever on any grave, unless and until - the grave plot shall have been reserved in the name of the person authorising such work; a drawing with dimensions and figures thereon showing the position of the proposed work together with a specification of the material to be used, and a copy of any proposed epitaph or ornamentation have been handed to the municipality not less than three working days before it is intended to bring such material into the cemetery; and all fees, determined by the municipality, which are due in respect of such work shall have been paid;
- (2) The municipality's written approval of the proposed work shall have been given to the holder of the certificate of reservation or his authorised representative.
- (3) The municipality may refuse to approve any proposed work with regard to a memorial stone or monument, the plan and specification of which reveals that it will disfigure any cemetery, or which bears any epitaph which may cause offence to users of the cemetery or visitors to it.
- (5) No person shall convey any stonework or brickwork or monuments or any portion thereof within any cemetery upon any vehicle or truck which is not fitted with wheels having pneumatic tyres and which is of a kind likely to cause damage to the roads and grounds of such cemetery.

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**THABAZIMBI LOCAL MUNICIPALITY
CEMETERIES AND CREMATORIA BY-LAW**

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- (6) No person engaged in work in connection with any memorial stone or monument shall at any time disturb any adjacent grave plot or, on completion of the work, leave the grave plot before it is in a clean and tidy condition.
- (7) All work in connection with a monument which is carried out within any cemetery shall be completed in accordance with the drawing and specification approved in terms of subsection (1).
- (8) Any person carrying out any work in connection with any memorial stones or monuments shall comply with the following provisions:
- (a) the various parts of any memorial stone or monument, other than masonry, shall be affixed by copper or galvanised iron dowel pins of a length and thickness sufficient to ensure the permanent stability of the work;
 - (b) any part of such work which rests upon any stone or other foundation shall be fairly squared and pointed;
 - (c) the underside of every flat memorial stone made of stone and the base or foundation of every monument or headstone shall be set at least 50mm below the natural level of the ground;
 - (d) every headstone shall be securely attached to the base;
 - (e) the base shall consist of one solid piece in the case of a single grave plot;
 - (f) all kerbing or monuments on single grave plots shall be erected on concrete foundation at least 610mm wide and 205mm deep over the full width;
 - (g) all kerbing on plots larger than single grave plots shall be fixed to a solid concrete surface at the four corners and wherever joints occur;
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**THABAZIMBI LOCAL MUNICIPALITY
CEMETERIES AND CREMATORIA BY-LAW**

- (9) The municipality may require any concrete foundation on any grave plot to be reinforced where, owing to the mass of the monument or headstone, it is necessary in the interests of safety.
- (10) No person shall erect any memorial stone within any cemetery unless the number and section letter of the plot upon which such work is to be placed are indelibly engraved thereon in such a position as to be legible at all times from a pathway.
- (11) With the consent of the registered certificate holder, the name only of the maker of such memorial stone may appear on the base.
- (12) No person shall, without municipality's permission, bring any memorial stone or material into a cemetery nor do any work in connection with any memorial stones or monuments within any cemetery from twelve noon on a Saturday until the opening hour on the following Monday.
- (13) Any person carrying out work within any cemetery shall in all matters comply with the directions of the municipality.

23. Grave plots supplied with a berm

- (1) Notwithstanding anything to the contrary contained in this by-law, a grave plot which is supplied with a berm shall be subject to the following conditions:
 - (a) No kerbing shall be erected on such a plot.
 - (b) The base of a memorial stone shall not be larger than 610mm by 260mm; provided that the base of a memorial stone which is erected over two adjoining grave plots may be 1220mm by 260mm.
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**THABAZIMBI LOCAL MUNICIPALITY
CEMETERIES AND CREMATORIA BY-LAW**

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- (c) A memorial stone which is erected shall not protrude beyond the base and shall be at least 120mm from the front edge of the berm.

24. Maintenance of graves

- (1) Any memorial stone or monument erected upon any grave shall at all times be maintained in good order and condition by the holder of the reservation certificate in respect of such grave.
- (2) If any such memorial stone or monument is allowed to fall into a state of disrepair or to constitute a danger or to disfigure the cemetery, the municipality may, by written notice sent by registered post to the holder of the reservation certificate at his last-known postal address, require him to effect such repairs as may be necessary.
- (3) Failure on the part of the holder of the reservation certificate to effect the required repairs within one month of the date of such notice, shall be a breach of this by-law and the municipality may have the repairs effected or may have the memorial stone or monument removed, as it deems fit, and may recover the expense of such repairs or removal from the holder of the reservation certificate.
- (4) Any memorial stone or monument dismantled for the purpose of a further burial shall be either re-erected or removed from the cemetery by the holder of the reservation certificate within two months of date of such dismantling.
- (5) In the event of such failure, the municipality shall be entitled to remove any such dismantled memorial stone or monument from the cemetery without further notice to the holder of the reservation certificate and recover from him or her the cost of such removal.

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**THABAZIMBI LOCAL MUNICIPALITY
CEMETERIES AND CREMATORIA BY-LAW**

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- (6) The municipality shall not be liable for any loss of or damage to any memorial stone, monument or any article placed upon any grave plot which may occur at any time from any cause whatsoever, nor for any compensation in respect of any memorial stone or monument repaired or removed in terms of subsections (1) and (2).
- (7) No person shall without the prior permission in writing of the municipality plant any tree, shrub, bush or any other plant on any grave plot, nor shall any such tree, shrub, bush or plant be planted upon any portion of such plot other than that indicated by the municipality.
- (8) No holder of a reservation certificate shall allow any shrub, bush or plant to overhang or extend beyond the boundaries of such grave plot.
- (9) The municipality shall have the right to remove, trim or prune any plant which extends beyond the boundaries of the grave plot upon which it is planted or which is untidy.

25. Provisions relating to persons dying outside the municipal area

- (1) The provisions of this by-law shall apply *mutatis mutandis* to any burial within the municipal area of the human remains of any person who has died outside such area.
- (2) Every application and every document relating to any burial shall be marked with a number which corresponds with the number in the register and shall be filed in order and kept by the Municipality for a period of not less than 10 years.

26. Fees payable

- (1) All fees payable in respect of burials shall be determined by the municipality from time to time.

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**THABAZIMBI LOCAL MUNICIPALITY
CEMETERIES AND CREMATORIA BY-LAW**

27. Offences and penalties

- (1) Any person contravening the provisions of this by-law shall be guilty of an offence and liable on conviction to a fine or imprisonment for a period of six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment and, in the case of a continuing offence, to an additional fine or an additional period of imprisonment of 10 days or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and, a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention.

28. Short title and commencement

- (1) This by-law is called Thabazimbi Cemeteries and Crematoria by-law and shall come to force and effect upon publication in the *Government gazette*.

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**THABAZIMBI LOCAL MUNICIPALITY
CEMETERIES AND CREMATORIA BY-LAW****SCHEDULE 1****THABAZIMBI MUNICIPALITY****CEMETERIES**

Certificate of Reservation no.....

(Issued in terms of section 10)

This serves to certify that ofhaving paid the prescribed fees
of R, is entitled to use the site(s) described below for the purposes of burial:

Grave plot no. Section

Measuring

Cemetery

Dated atthis.....day of 20.....

.....

Thabazimbi Local Municipality

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**THABAZIMBI LOCAL MUNICIPALITY
CEMETERIES AND CREMATORIA BY-LAW****SCHEDULE 2****THABAZIMBI LOCAL MUNICIPALITY****CEMETERIES**

Transfer of Certificate of Reservation no.....

(Issued in terms of section 11)

This serves to certify that Certificate of reservation No.....in respect of grave plot
no..... has been transferred from.....

Address.....

To.....

Address.....

Transferor

Confirmed on behalf of the Municipality on this day of20.....

.....

Thabazimbi Local Municipality

□

**THABAZIMBI LOCAL MUNICIPALITY
CEMETERIES AND CREMATORIA BY-LAW**

SCHEDULE 3

THABAZIMBI LOCAL MUNICIPALITY

Application for burial no

To the Municipality of Cemeteries

.....20.....

Please supply grave in

.....

Denomination

.....

Size of coffin lid

Time at gate

For the late (state name and surname in full)

.....

Nationality.....

Sex.....

Age

□

**THABAZIMBI LOCAL MUNICIPALITY
CEMETERIES AND CREMATORIA BY-LAW**

(1) Address where death occurred

.....

(2) Residential address

.....

Date of death

Cause of death

Name of next of kin

Name of applicant

.....

Undertaker

LOCAL AUTHORITY NOTICE 196

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THABAZIMBI LOCAL MUNICIPALITY**REFUSE REMOVAL BY-LAW****REFUSE REMOVAL BY-LAW**

The Municipal Manager of Thabazimbi Local Municipality hereby in terms of section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), publishes the refuse removal by-law for the municipality as approved by its council as set out hereunder.

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THABAZIMBI LOCAL MUNICIPALITY
REFUSE REMOVAL BY-LAW

1. Purpose of By-Law

- To promote the achievement of a safe and healthy environment for the benefit of the residents in the area of jurisdiction of the municipality;
- To provide for procedures, methods and practices to regulate the dumping of refuse and the removal thereof.

2. Definitions

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

"Bin-Liner" means a plastic bag, as prescribed by the municipality, which shall be placed inside the container;

"Builder's Refuse" means any waste or refuse resulting from or generated by the construction, renovation or demolition of a building or other structure or works;

"Bulky Refuse" means any refuse, other than industrial refuse, which emanates from any premises and which by virtue of its mass, shape, size or quantity cannot be conveniently accumulated in or removed from a container with a bin liner;

"Charge" means the charge prescribed by the municipality by special resolution;

"Container" means a standard type of refuse container as approved by the municipality.

"Domestic Refuse" means any refuse or waste normally emanating from or incidental to the normal occupation of a dwelling, flat, hotel, boarding-house, restaurant, guest house, hospital, school, cafe, shop, old age home or office but shall not include stones, soil, gravel, bricks, waste liquids, night soil, or industrial, builder's or trade refuse;

"Garden Refuse" means any refuse which is generated as a result of normal gardening activities such as grass cuttings, leaves, trees, plants, flowers, weeds and other similar light matter;

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THABAZIMBI LOCAL MUNICIPALITY
REFUSE REMOVAL BY-LAW

"Industrial Refuse" means any refuse generated as a result of manufacturing, maintenance, production and dismantling activities;

"Municipality" means the Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, Provincial Notice 487 dated 22 September 2000 and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"Municipal Service" means, unless otherwise stated, the provision or supply of water-, sewerage or electricity services;

"Occupier" for the purposes hereof means the person who controls and resides on or who controls and otherwise uses immovable property;

"Owner" means and includes:

- (a) the person or persons with whom the legal proprietary of any fixed property is vested;
- (b) the person administering an estate as curator, executor, proxy, trustee or administrator of a person with whom the legal title is vested.
- (c) the agent or persons receiving the rental of a property in cases where the owner as described above is away;
- (d) the usufruct of fixed property, or
- (e) the fiduciaries of fixed property;

"Trade Refuse" means any trade material or trade waste as determined by the municipality and agreed to by the owner or occupier.

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**THABAZIMBI LOCAL MUNICIPALITY
REFUSE REMOVAL BY-LAW**

3. Domestic refuse removal

- (1) Thabazimbi Municipality shall provide a service for the removal and disposal of domestic refuse subject to such conditions as it may determine.

4. Use of service compulsory

- (1) Every occupier of a property shall make use of the service for the removal and disposal of domestic refuse provided by the municipality in respect of all domestic refuse which emanates from such property.

5. Municipality to remove refuse

- (1) No person other than the municipality or person authorised thereto by the municipality shall remove domestic refuse from any property or dispose of it.

6. Accumulation and removal of domestic refuse

- (1) Subject to the provisions of subsection (6) hereunder the municipality may require from every occupier of a property to provide on such property a container with a capacity of not less than 85 litres, constructed of a material approved by the municipality and with a closefitting lid and two handles for the accumulation of domestic refuse.
- (2) If the municipality is of the opinion that more than one container for the accumulation of domestic refuse is essential on a particular property, it may, according to the quantity of domestic refuse normally accumulated on such property, require the occupier or occupiers thereof to provide as many containers as it may determine on such property.
- (3) If a container used by an occupier does not comply with the requirements of the municipality, it may instruct such occupier to obtain and use some other suitable container.

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THABAZIMBI LOCAL MUNICIPALITY
REFUSE REMOVAL BY-LAW

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- (4) The municipality may, where it considers it necessary or desirable, of its own accord supply containers to particular classes of occupiers, or on particular classes of properties, or in particular areas, in which event the cost of such container shall be recovered from the owners of the properties.
- (5) All containers shall be equipped with bin liners, unless the municipality determines otherwise.
- (6) The municipality may, generally or in particular, issue instructions to occupiers on the manner in which or the arrangements according to which refuse or refuse bags shall be placed in containers, be removed there from, be tied and thereafter be placed for removal, and any disregard of such instructions shall be considered to be a contravention in terms of this by-law.
- (7) No material, including any liquid which, by reason of its mass or other property is likely to render such bin liners or containers too difficult for the municipality's employees to handle or carry, shall be placed in such bin liners or containers.
- (8) The containers or bin liners, or both, shall be removed by the municipality at such intervals as the municipality may deem necessary, only if such containers or bin liners, or both, have been put at the prescribed places as provided by the municipality.
- (9) The municipality shall not be liable for the loss of or for any damage to a container or bin liner.
- (10) In any case where the occupier of a property is not also the owner, the municipality may hold the owner himself, instead of the occupier, liable for compliance with the provisions of this by-law.
- (11) The municipality may, in specific cases, impose different directions, other than the use of an 85 litre container.
- (12) The municipality may lay down policy with regard to the reclamation of refuse in which case directions may be issued in terms of which certain types of refuse shall be separated and disposed of.
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THABAZIMBI LOCAL MUNICIPALITY
REFUSE REMOVAL BY-LAW

7. Accumulation of domestic refuse

- (1) The owner or occupier of any property shall ensure that all domestic refuse generated on such property shall be accumulated only in a container, as determined by section 5.

8. Littering

- (1) No person shall -
- (a) throw, drop, deposit or spill any refuse into or onto a public place, street, vacant stand, vacant erf, stream or water-course, or
 - (b) sweep any refuse into a gutter on a public place or into any public street.

9. Pavements

- (1) It shall be the duty of every owner or occupier of a shop or trade premises to ensure that the pavement in front of or abutting such shop or premises is kept clean and free of refuse or waste material emanating from such shop or premises or resulting from the delivery of goods to such shop or premises or the supply or sale of goods to the public by the occupier of such shop or premises.

10. Garden refuse

- (1) Garden refuse may be removed from property where it accumulates according to any arrangements which the owner or occupier of such property desires to make, provided that, should any accumulation of garden refuse not be removed and should such accumulation in the opinion of the municipality constitute a nuisance or danger to public health or an unnecessary fire hazard to nearby property, the municipality may order such owner or occupier by written notice to cause such accumulation to be removed within a specified period. If it has sufficient facilities available, the municipality may in its discretion and on application from the owner or occupier of property remove garden refuse there from at the cost of the owner or occupier in which case the municipality may impose certain rules.
- (2) No garden refuse may be dumped, kept or stored on any sidewalk or vacant ground.

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THABAZIMBI LOCAL MUNICIPALITY
REFUSE REMOVAL BY-LAW

11. Removal of bulky and industrial refuse

- (1) The occupier or, in the case of premises occupied by more than one person, the owner of premises in which bulky or industrial refuse is generated, shall ensure that such refuse is disposed of in terms of this by-law within a reasonable period after the generation thereof.
- (2) Bulky and industrial refuse shall, once it has been removed from the premises on which it was generated, be deposited on a site designated by the municipality as a disposal site.
- (3) The municipality does not accept any responsibility for the removal of bulky or industrial refuse.

12. Builder's refuse

- (1) Builder's refuse which may have accumulated in the course of the construction, alteration, renovation or demolition of any structure or works shall be removed from the property concerned according to suitable arrangements to be made by the owner of such property. If there is any undue delay in the removal of such refuse after the completion of the works involved, the municipality may direct, by written notice to such owner, that the refuse be removed within a specified time to an approved disposal site.

13. Trade refuse

- (1) The municipality may enter into an agreement with the owner or occupier of any premises for the removal of trade refuse by the municipality at a charge fixed by the municipality.

14. Disposal sites for domestic, garden and builder's refuse

- (1) The municipality periodically sets aside and maintains a place or places where domestic, garden and builder's refuse shall be dumped. Any person dumping domestic, garden and builder's refuse in any other place shall be guilty of an offence.

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**THABAZIMBI LOCAL MUNICIPALITY
REFUSE REMOVAL BY-LAW**

- (2) The municipality may, from time to time, determine tariffs for the dumping of certain types of refuse.

15. Ownership of refuse

- (1) All refuse removed by the municipality and all refuse on disposal sites controlled by the municipality shall be the property of the municipality, and no person who is not duly authorised by the municipality to do so shall remove or interfere with such refuse.

16. Abandoned objects

- (1) Anything other than a vehicle deemed to have been left or abandoned anywhere in terms of the National Road Traffic Act, 1996 (Act 93 of 1996), which is, 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 thereof, reasonably regarded by the municipality as having been abandoned, may be removed and disposed of by the municipality as it may deem fit.

17. Liability

- (1) Where anything has been removed and disposed of by the municipality in terms of section 15, the person responsible shall be liable to pay the municipality the charge fixed by it for such removal, disposal or custody.
- (2) For the purposes of subsection (1), the person responsible shall be:
- (a) the owner of the object, including any person who is entitled to be in possession of the object by virtue of a hire-purchase agreement or an agreement of lease at the time when it was abandoned or put in the place from which it was so removed, unless he can prove that he was not concerned in and did not know of its being put in such place, or
 - (b) any person by whom the object was put in the place aforesaid, or
 - (c) any person who knowingly permitted the object to be put in the said place.

18. Charges and deposit

- (1) The charges payable to the municipality for the establishment, provision and maintenance of a refuse removal service and the amount a person making use of such service shall deposit with the municipality shall be determined by the municipality.

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THABAZIMBI LOCAL MUNICIPALITY
REFUSE REMOVAL BY-LAW

19. Offences

- (1) Any person who contravenes or fails to comply with any provision of this by-law shall be guilty of an offence and liable upon conviction to-
- (a) a fine or imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment and,
 - (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment of 10 days or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued, and
 - (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

20. Repeal

This by-law repeal Thabazimbi Municipality Cleansing Services advertised by notice number 1929 on the 3rd December 1980.

21. Short title

This by-law is called Thabazimbi Local Municipality Refuse Removal by-law.

LOCAL AUTHORITY NOTICE 197

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THABAZIMBI LOCAL MUNICIPALITY
STREET TRADING BY-LAW**STREET TRADING BY-LAW**

The Municipal Manager of Thabazimbi Local Municipality hereby in terms of section 13(a) of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000), publishes the street trading by-law for the municipality as approved by its council as set out hereunder.

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1. Definitions

“In this by-law, unless the context otherwise indicates; any word or expressions to which a meaning has been assigned in the Business Act, 1991 (Act 71 of 1991) shall have a corresponding meaning in this by-law.”

“approval” means approval by the Council and “approved” has a corresponding meaning;

“authorised Official” means any official of the Council who has been authorised by it to administer, implement and enforce the provisions of this by-law;

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THABAZIMBI LOCAL MUNICIPALITY**STREET TRADING BY-LAW**

“Council” means -

- (a) the Municipality established by Provincial Notice No. 306 of 2000 dated 1 October 2000, as amended, exercising its legislative and executive authority through its municipal Council;
- (b) its successor in title;
- (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, 2000, or any other law, as the case may be;

“council services” means any system conducted by or on behalf of a local authority, for the collection, conveyance, treatment or disposal of refuse, sewage, or storm water, or for the generation, impounding, storage or purification, or supply of water, gas or electricity, or municipal services;

“council service works” means all property or works of whatever nature necessary for or incidental to any Council services;

“foodstuff” means foodstuff as defined in section 1 of the Foodstuff Cosmetics and Disinfectants Act;

“garden or park” means a garden or park to which the public has a right of access;

“goods” means any movable property and includes living things;

“intersection” means an intersection as defined in the regulations promulgated in terms of the National Road Traffic Act;

“litter” includes any receptacle, container or other matter, which has been discarded, abandoned or left behind by a street trader or by his or her customers;

“motor vehicle” means a motor vehicle as defined in the National Road Traffic Act;

“National Road Traffic Act” means the National Road Traffic Act, 1996 (Act No 93 of 1996);

“prescribed” means determined by resolution of the Council from time to time;

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THABAZIMBI LOCAL MUNICIPALITY**STREET TRADING BY-LAW**

“**property**”, in relation to a street trader, means any article, container, vehicle or structure used or intended to be used in connection with such business, and includes goods in which he or she trades;

“**public building**” means a building belonging to or occupied solely by the State or the Council;

“**public monument**” means any one of the “public monuments and memorials” as defined in the National Heritage Resources Act, 1999 (Act No. 25 of 1999);

“**public place**” means a public place owned by the municipality;

“**public road**” means a public road as defined in the National Road Traffic Act;

“**roadway**” means a roadway as defined in the National Road Traffic Act, 1996;

“**sell**” includes -

(a) barter, exchange or hire out;

(b) display, expose, offer or prepare for sale;

(c) store on a public road or public place with a view to sell; or

(d) provide a service for reward;

“**sidewalk**” means a sidewalk as defined in the National Road Traffic Act, 1996;

“**street furniture**” means any furniture installed by the Council on the street for public use;

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

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

“**the Act**” means the Businesses Act, 1991 (Act No. 71 of 1991) and includes the regulations promulgated there under; and

“**verge**” means a verge as defined in section 1 of the National Road Traffic Act, 1996;

2. Purpose of by-law

To provide for the regulation of street trading and matters connected therewith.

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THABAZIMBI LOCAL MUNICIPALITY**STREET TRADING BY-LAW**

3. Assigning powers of a Council employee to employee of a service provider, where a service provider has been appointed

(1) If any provision in this by-law 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 (Act 32 of 2000) or any other law been assigned to a service provider, the reference in such provision 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.

4. Prohibited conduct

- (1) No person shall carry on the business of a street trader -
- (a) at a place or in an area declared by the Council in terms of section 6A(2)(a) of the Act as a place or area in which street trading is prohibited;
 - (b) in a garden or a park to which the public has a right of access;
 - (c) on a verge contiguous to -
 - (i) a building belonging to, or occupied solely by, the State or the Council;
 - (ii) a church or other place of worship;
 - (iii) a building declared to be a public monument; and
 - (iv) an auto teller bank machine;
 - (d) at a place where it causes an obstruction in front of -
 - (i) a fire hydrant; and
 - (ii) an entrance to or exit from a building;
 - (e) at a place where it could obstruct vehicular traffic;
 - (f) at a place where it could substantially obstruct a pedestrian in his or her use of the sidewalk;
 - (g) 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 that building objects thereto and such objection is made known to the street trader by an authorized official;

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THABAZIMBI LOCAL MUNICIPALITY**STREET TRADING BY-LAW**

- (h) on a stand, or in any area demarcated by Council in terms of section 6A(3)(b) of the Act, if he or she is not in possession of a written proof that he or she has hired such stand or area from the Council, or that such stand has otherwise been allocated to him or her;
 - (i) within 5 metres of any intersection as defined in Regulation 322 of the National Road Traffic Act; and
 - (j) on a sidewalk contiguous to a building in which business is being carried on, by any person who sells goods of the same or of a similar nature to the goods being sold on such sidewalk by the street trader, if the goods are sold without the prior consent of such person and an authorized official has informed the street trader that such consent does not exist.
- (2) A person who has hired a stand from, or been allocated a stand by the Council in terms of subsection (1)(h), may not trade in contravention of the terms and conditions of such lease or allocation.

5. Restricted conduct

(1) A person carrying on the business of a street trader

- (a) may not sleep overnight at the place of such business;
- (b) may not erect any structure for the purpose of providing shelter, other than a device approved by the Council;
- (c) may not place his or her property on a public road or public place, with the exception of his or her motor vehicle or trailer from which trade is conducted, and provided that such vehicle or trailer does not obstruct pedestrian and vehicular traffic movement, and complies with the provisions of the National Road Traffic Act;
- (d) must ensure that his or her property or area of activity does not cover an area of a public road or public place which is greater in extent than 6 square metres (with a maximum length of three metres) or unless otherwise approved by the Council, and which on any sidewalk leaves an unobstructed space for pedestrian traffic, the length of the property or area of activity, and not less than 1,5 metres wide, measured from any contiguous building to the obstructed area, and an unobstructed space, the length of the property or area of activity, and not less than 0,5 metres wide, measured from the kerb of the roadway;

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THABAZIMBI LOCAL MUNICIPALITY**STREET TRADING BY-LAW**

- (e) may not trade on a sidewalk where the width of such sidewalk is less than 4 metres;
- (f) may not place or stack his or her property in such a manner that it constitutes a danger to any person or property, or is likely to injure any person or cause damage to any property;
- (g) may not display his or her goods or other property on or in a building, without the consent of the owner, lawful occupier, or person in control of such building or property;
- (h) must on a request by an authorised official of the Council, or supplier of telecommunication or electricity or other council services, move his or her property so as to permit the carrying out of any work in relation to a public road, public place or any such service;
- (i) may not attach any of his or her property by any means to any building, structure, pavement, tree, parking meter, lamp, pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or on a public road or public place;
- (j) may not carry on such business in such a manner as to -
 - (i) create a nuisance;
 - (ii) damage or deface the surface of any public road or public place, or any public or private property;
 - (iii) create a traffic or health hazard; or
 - (iv) create a health hazard or health risk; or both;
- (k) may not make an open fire on a public road or public place;
- (l) may not interfere with the ability of a person using a sidewalk to view the goods displayed behind a shop display window, or obscure such goods from view;
- (m) may not obstruct access to a pedestrian crossing, a parking or loading bay or other facility for vehicular or pedestrian traffic;
- (n) may not obstruct access to, or the use of, street furniture and any other facility designed for the use of the general public;
- (o) may not obscure any road traffic sign displayed in terms of the National Road Traffic Act or any marking, notice or sign displayed or made in terms of this by-law;
- (p) may not carry on business, or take up a position, or place his or her 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 purposes of this by-laws;
- (q) may not, other than in a refuse receptacle approved or supplied 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 any public road or public place or on any public property;

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THABAZIMBI LOCAL MUNICIPALITY**STREET TRADING BY-LAW**

- (r) may not place on a public road or public place, his or her property that is not capable of being easily removed to a storage place away from such public road or public place, at the end of the day's business;
- (s) must on concluding business for the day remove his or her property, except any structure permitted by the Council, to a place which is not part of a public road or public place;
- (t) may not store his or her property in a manhole, storm water drain, public toilet, and bus shelter or in a tree; and
- (u) may not carry on such business in a place or area in contravention of any prohibition or restriction approved by the Council in terms of section 6A (2) (a) of the Act.

6. Cleanliness**(1) A street trader must-**

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

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THABAZIMBI LOCAL MUNICIPALITY**STREET TRADING BY-LAW**

7. Signs indicating restricted and prohibited areas

- (1) The Council may, by resolution and in terms of section 6A(2) of the Act, declare any place in its area of jurisdiction to be an area in which street trading is restricted or prohibited, and must, to enable compliance therewith, prescribe or make signs, markings or other devices indicating-
- (a) specified hours, places, goods or services in respect of which street trading is restricted or prohibited;
 - (b) the locations of boundaries of restricted or prohibited areas;
 - (c) the boundaries of a stand or area set apart for the purposes of the carrying on of the business of street trading;
 - (d) the fact that any such stand or area has been let or otherwise allocated; and
 - (e) any restriction or prohibition against street trading in terms of this by-laws.
- (2) The Council may display any such sign, marking or device in such a position and manner as will indicate any restriction or prohibition and or the location or boundaries of the area or stand concerned.
- (3) Any sign erected in terms of this by-laws or any other law, shall serve as sufficient notice to a street trader of the prohibition or restriction of the area concerned.
- (4) Any sign may be amended from time to time and displayed by the Council for the purpose of this by-laws, and shall have the same effect as a road sign in terms of the National Road Traffic Act.

8. Removal and impoundment

- (1) An authorised official may remove and impound any property of a street trader-
- (a) which he or she reasonably suspects is being used or which intended to be used or has been used in or in connection with street trading; or
 - (b) which he or she finds at a place where street trading is restricted or prohibited and which, constitutes an infringement of any such restriction or prohibition whether or not such property is in possession or under the control of any person at the time of such removal or impoundment.

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THABAZIMBI LOCAL MUNICIPALITY**STREET TRADING BY-LAW**

- (2) Any authorised official acting in terms of subsection (1) above must, except where goods have been left or abandoned, issue to the person carrying on the business of a street trader, a receipt for any property so removed and impounded, which receipt must-
- (i) itemise the property to be removed and impounded;
 - (ii) provide the address where the impounded property will be kept, and the period thereof;
 - (iii) state the conditions for the release of the impounded property;
 - (iv) state the terms and conditions relating to the sale of unclaimed property by public auction; and
 - (v) provide the name and address of a council official to whom any representations regarding the impoundment may be made, and the date and time by which this must be done.
- (3) If any property about to be impounded is attached to any immovable property or a structure, and such property is under the apparent control of a person present thereat, any authorised official of the Council may apply for court order against such person to remove the property.

9. Vicarious responsibility of persons carrying on business

- (1) When an employee of a street trader contravenes a provision of this by-law the employer shall be deemed to have committed such contravention by himself or herself unless such employee satisfies the court that-
- (a) he or she neither connived at nor permitted such contravention; or
 - (b) he or she took reasonable steps to prevent such contravention.
- (2) The fact that the employer issued instructions prohibiting such contravention, shall not in itself constitute sufficient proof of such reasonable steps.

10. Offences and Penalties

Any person who -

- (a) contravenes or fails to comply with any provision of this by-law;
- (b) fails to comply with any notice issued in terms of this by-law;
- (c) fails to comply with any lawful instruction given in terms of this By-law; or
- (d) who obstructs or hinders any authorized representative of the Council in the execution of his or her duties under this by-law is guilty of an offence and liable on conviction to a fine or imprisonment.

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THABAZIMBI LOCAL MUNICIPALITY**STREET TRADING BY-LAW**

11. Repeal

This by-law repeal previous Street Trading by-law of Thabazimbi Local Municipality.

11. Short title

This by-law is called Thabazimbi Local Municipality Street Trading by-law.

LOCAL AUTHORITY NOTICE 198**THABAZIMBI LOCAL MUNICIPALITY****TARIFF BY-LAW****THABAZIMBI LOCAL MUNICIPALITY TARIFF BY-LAW**

The Municipal Manager of Thabazimbi Local Municipality hereby in terms of section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), publishes the tariff by-law for the municipality as approved by its council, as set out hereunder.

PREAMBLE

WHEREAS section 74 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000) requires a municipal council to adopt a tariff policy on the levying of fees for municipal services;

AND WHEREAS the tariff policy must reflect at least the principles set out in section 74(2);

AND WHEREAS the tariff policy may differentiate between different categories of users, debtor, service providers, services, service standards, geographical areas and other matters as long as the differentiation does not amount to unfair discrimination;

AND WHEREAS section 75 of the Systems Act provides that by-laws must be adopted to give effect to the implementation and enforcement of the tariff policy, to levy and recover fees, charges and tariffs;

AND WHEREAS section 64 of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003) provides that a municipality must have an effective revenue collection system and ensure that revenue is collected regularly to meet the requirements and practices of sound financial administration;

THEREFORE the Council of Thabazimbi Local Municipality adopted the following tariff by-law.

THABAZIMBI LOCAL MUNICIPALITY**TARIFF BY-LAW**

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THABAZIMBI LOCAL MUNICIPALITY**TARIFF BY-LAW**

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16. Offences

17. Short-title

CHAPTER 1**DEFINITIONS AND APPLICATION****1. Definitions**

In this By-Law, any word or expression to which a meaning has been assigned in the Municipal Systems Act, 2000 (Act No. 32 of 2000) (herein referred to as the “Act”) bears the same meaning, unless the context otherwise indicates -

“Annual budget” means the budget approved by the Municipal Council for any particular financial year, and shall include any adjustments to such budget;

“Consumer price index” means the CPIX as determined and gazetted from time to time by the South African Bureau of Standards;

“Domestic consumer or user” of municipal services means the person or household which municipal services are rendered in respect of “residential property”;

“Financial year” means the period starting from 1 July in any year and ending on 30 June of the following year;

“Month” means calendar month;

“Municipal tariff” means a tariff for services which a municipality may set for the provision of a service to the local community, and may include a surcharge on such service; and

“the act” means Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

THABAZIMBI LOCAL MUNICIPALITY**TARIFF BY-LAW**

2. Application of the By-Law

(1) This by-law applies in respect of the tariffs set by the municipality namely: -

- (a) electricity;
- (b) water;
- (c) refuse removal; and
- (d) sewerage

(2) This by-law also applies to any municipal service provided through pre-paid meters, in so far as the by-law may be relevant.

CHAPTER 2**GENERAL CONDITIONS****3. Service Charges**

- (1) Service tariffs imposed by the municipality shall be viewed as user charges and shall not be viewed as taxes, and therefore the ability of the relevant consumer or user of the services to which such tariffs relate, shall not be considered as a relevant criterion (except in the case of the indigency relief measures approved by the municipality from time to time).
- (2) The municipality shall ensure that its tariffs are uniformly and fairly applied throughout the municipal region.

THABAZIMBI LOCAL MUNICIPALITY**TARIFF BY-LAW**

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- (3) Tariff charges are applicable to four major services rendered by the municipality, namely:
- a. electricity;
 - b. water;
 - c. sewerage; and
 - d. refuse removal
- (4) The tariff which a particular consumer or user pays shall therefore be directly related to the standard of service received and the quantity of the particular service used or consumed.
- (5) The municipality shall develop, approve and at least annually review an Indigency Support Programme for the municipal area. This programme shall clearly stipulate the municipality's cost recovery plan in respect of the tariffs which it levies on registered indigents, and the implications of such policy on the tariffs which it imposes on other users and consumers in the municipal region.
- (6) In line with the principles embodied in the Constitution and in other legislation local government legislations, the municipality may differentiate between different categories of users and consumers in regard to the tariffs which it levies. Such differentiation shall, however, at all times be reasonable, and shall be fully disclosed in each annual budget.
- (7) The municipality's tariff policy shall be transparent. The extent to which there is cross-subsidization between categories of consumers or users shall be evident to all consumers or users of the service in question.
- (8) Tariffs shall be easily explainable and understood by all consumers and users affected by the tariff policy concerned.
- (9) The municipality shall render its services cost effectively in order to ensure the best possible cost of service delivery.

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- (10) In the case of directly measurable services, namely electricity and water, the consumption of such services shall be properly metered by the municipality, and meters shall be read, wherever circumstances reasonably permit, on a monthly basis. The charges levied on consumers shall be proportionate to the quantity of the service which they consume.
- (11) The municipality shall levy monthly availability charges for the services concerned, and these charges shall be fixed for each type of property as determined in accordance with its appropriate policies.
- (12) In considering the costing of its water, electricity and sewerage services, the municipality shall take due cognisance of the high capital cost of establishing and expanding such services, and of the resultant high fixed costs, as opposed to variable costs of operating these services.
- (13) The municipality's tariffs for electricity services will be determined to ensure that those consumers who are mainly responsible for peak demand, and therefore for the incurring by the municipality of the associated demand charges from Eskom, will have to bear the costs associated with these charges. The municipality shall therefore install demand meters to measure the maximum demand of such consumers during certain periods. Such consumers shall therefore pay the relevant demand charge as well as a service charge directly related to their actual consumption of electricity during the relevant metering period.

4. Calculation of Tariffs for Major Services

- (1) In order to determine the tariffs which must be charged for the supply of the four major services, the municipality shall identify all the costs of operation of the undertakings concerned, including specifically the following:
 - (a) cost of bulk purchases in the case of water and electricity;
 - (b) distribution costs;
 - (c) distribution losses in the case of electricity and water;
 - (d) depreciation expenses;
 - (e) maintenance of infrastructure and other fixed assets;
 - (f) administration and service costs; including:

THABAZIMBI LOCAL MUNICIPALITY**TARIFF BY-LAW**

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- (i) service charges levied by other departments such as finance, human resources and legal services;
 - (ii) reasonable general overheads, such as the costs associated with the office of the municipal manager;
 - (iii) adequate contributions to the provisions for bad debts and obsolescence of stock; and
 - (iv) all other ordinary operating expenses associated with the service concerned including, in the case of the electricity service, the cost of providing street lighting in the municipal area which shall form part of the expenses to be financed from property rates and general revenues and shall not be included in the costing of the major services of the municipality.
- (g) the intended surplus to be generated for the financial year, such surplus to be applied:
- (i) as an appropriation to capital reserves; or
 - (ii) generally in relief of rates and general services; and
- (h) the cost of approved indigency relief measures.

5. Structure of Tariffs

- (1) The municipality shall provide the first 50kwh of electricity per month and the first 6 kl of water per month free of charge to all consumers including those registered as indigents in terms of the municipality's indigency relief programme. The municipality shall further consider relief in respect of the tariffs for sewerage and refuse removal for such registered indigents to the extent that the Council deems such relief affordable in terms of each annual budget, but on the understanding that such relief shall not be less than a discount of 50% on the monthly amount billed for the service concerned.
- (2) Tariffs for pre-paid meters shall be the same as the ordinary consumption tariffs levied on the category of consumer concerned, but no availability charge shall be levied on properties where pre-paid meters have been installed.

THABAZIMBI LOCAL MUNICIPALITY**TARIFF BY-LAW****CHAPTER 3****CATEGORIES OF CONSUMPTIONS AND CHARGES****6. Electricity**

- (1) The various categories of electricity consumers, as set out in sub-section (3) below, shall be charged at the applicable tariffs, as approved by the Council in each annual budget.
- (2) Tariff adjustments shall be effective from 1 July each year or as soon as possible thereafter.
- (3) Categories of consumption and charges shall be as follows:
 - a. with the exception of registered indigents, all electricity consumers shall be billed for their electricity consumption at the tariff applicable to the category in which the particular consumer falls;
 - b. all domestic electricity consumers of the municipality who are registered as indigents with the municipality shall receive the first 50kwh (fifty) of electricity consumed per month free; and
 - c. all commercial, industrial and other non-domestic properties shall additionally be billed a monthly basic charge per meter installed and, where applicable, a demand charge appropriate to their respective levels of consumption.

7. Water

- (1) The categories of water consumers as set out in sub-section (3) below shall be charged at the applicable tariffs, as approved by the Council in each annual budget.
- (2) Tariff adjustments shall be effective from 1 July each year.

THABAZIMBI LOCAL MUNICIPALITY**TARIFF BY-LAW****(3) Categories of consumption and charges shall be:**

- a. all domestic water consumers including those registered as indigents with the municipality, shall receive the first 6 (six) kl of water consumed per month free. Thereafter a stepped tariff per kl as determined by the Council from time to time shall be applicable on metered water consumption;
- b. all other domestic consumers shall be charged for actual water consumption at a stepped tariff per kl as determined by the Council from time to time;
- c. all other consumers, including businesses, industries and institutional consumers shall pay the same fixed tariff per kl, irrespective of the volume of water consumed; and
- d. a basic charge per water meter, as determined by the Council from time to time, shall be charged on all businesses, industries and institutional consumers.

8. Refuse removal

- (1) The categories of refuse removal users as set out in sub-section (3) below shall be charged at the applicable tariffs, as approved by the Council in each annual budget;
- (2) Tariff adjustments shall be effective from 1 July each year.
- (3) A separate fixed monthly refuse removal charge shall apply to each of the following categories of users, based on the costs of the service concerned:
 - a) domestic and other users; and
 - b) business and other users
- (4) Registered indigents may receive such discount on this charge as the Council deems affordable when approving each annual budget, but on the understanding that such discount shall not be less than 50% of the monthly amount billed as a refuse removal charge.

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9. Sewerage

- (1) The categories of sewerage users as set out in sub-section (3) below shall be charged per month at the applicable tariff as approved by the Council in each annual budget.
- (2) Tariff adjustments will be effective from 1 July each year.
- (3) Categories of usage and charges shall be that:
 - a. a basic (availability) charge per month shall be charged for undeveloped erven, irrespective of their permitted or intended use;
 - b. registered indigents may receive such discount on this charge as the council deems affordable when approving each annual budget, but on the understanding that such discount shall not be less than 50% of the monthly amount billed for this service;
 - c. a fixed monthly charge based on the costs of the service shall be charged for domestic users;
 - d. fixed monthly charge based on the costs of the service per sewer point or toilet shall be charged to all businesses, industries and institutional users; and
 - e. an effluent fee shall further be payable by factories and other industrial users where the waste water emanating from such users requires special purification measures by the municipality. Such fees shall be based on the toxic content of the waste water concerned and the costs of the purification.

CHAPTER 4**MISCELLANEOUS TARIFFS****10. Standardization**

- (1) All miscellaneous tariffs shall be standardized within the municipal region.

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- (2) All miscellaneous tariffs shall be approved by the Council in each annual budget, and shall, when deemed appropriate by the council, be subsidized by property rates and general revenues, particularly when the tariffs will prove uneconomical when charged to cover the cost of the service concerned, or when the cost cannot accurately be determined, or when the tariff is designed purely to regulate rather than finance the use of the particular service or amenity.
- (3) All miscellaneous tariffs over which the municipality has full control, and which are not directly related to the cost of a particular service, shall annually be adjusted at least in line with the prevailing consumer price index, unless there are compelling reasons why such adjustment should not be effected.

11. Subsidized Services

- (1) The following services shall be considered as subsidized services, and the tariffs levied shall cover 50% or as near as possible to 50% of the annual operating expenses budgeted for the service concerned namely:
 - (a) burials and cemeteries; and
 - (b) rentals for the use of municipal sports facilities.

12. Community Services

- (1) The following services shall be considered as community services, and no tariffs shall be levied for their use namely:
 - (a) disposal of garden refuse at the municipal tip site;
 - (b) municipal reference library;
 - (c) municipal lending library ; and
 - (d) municipal botanical garden, and all other parks and open spaces.

13. Economic Services

- (1) The following services shall be considered as economic services, and the tariffs levied shall cover 100% or as near as possible to 100% of the budgeted annual operating expenses of the service concerned namely:

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- (a) maintenance of graves and garden of remembrance (cremations);
 - (b) housing rentals;
 - (c) rentals for the use of municipal halls and other premises;
 - (d) building plan fees;
 - (e) sales of plastic refuse bags;
 - (f) sales of refuse bins;
 - (g) cleaning of stands;
 - (h) electricity, water, sewerage (new connection fees)
 - (i) photostat copies and fees; and
 - (j) clearance certificates.

14. Regulatory or Punitive Tariffs

- (1) The following charges and tariffs shall be considered as regulatory or punitive, and shall be determined as appropriate in each annual budget:
 - (a) fines for lost or overdue library books;
 - (b) advertising sign fees;
 - (c) pound fees;
 - (d) disconnection and reconnection fees for electricity and water;
 - (e) penalty and other charges imposed in terms of the approved policy on credit control and debt collection; and
 - (f) penalty charges for the submission of dishonoured, stale, post-dated or otherwise unacceptable cheques.

15. Rental of Municipal Property

- (1) Market-related rentals shall be levied for the lease of municipal properties.
- (2) In the case of rentals for the use of municipal halls and premises, if the municipal manager is satisfied that the halls or premises are required for non-profit making purposes and for the provision of a service to the community, the municipal manager may waive 50% of the applicable rental.
- (3) The municipal manager shall determine whether an indemnity or guarantee must in each instance be lodged for the rental of municipal halls, premises and sports fields, and in so determining shall be guided by the likelihood of the municipality's sustaining damages as a result of the use of the facilities concerned.

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16. Offences

Any person who contravenes or fails to comply with the provisions of this by-law shall be guilty of an offence and liable to a conviction.

17. Repeal

This by-law repeal previous tariff by-law of Thabazimbi Local Municipality.

18. Short-title

This by-law is called Thabazimbi Local Municipality Tariff by-law.

LOCAL AUTHORITY NOTICE 199**THABAZIMBI LOCAL MUNICIPALITY****RULES AND ORDERS BY-LAW****RULES AND ORDERS BY-LAW**

The Municipal Manager of Thabazimbi Local Municipality hereby in terms of section 13(a) of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000), publishes the Rules and orders by-law for the municipality as approved by its council as set out hereunder.

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THABAZIMBI LOCAL MUNICIPALITY**RULES AND ORDERS BY-LAW****(1) Definitions**

In these Rules and Orders, unless the context otherwise indicates -

“Council” means the Municipality of Thabazimbi as established in terms of Section 12 of the Local Government: Municipal Structures Act 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

“Mayor” means the Mayor of the Municipality;

“Mayoral Committee” means the Mayoral Committee appointed by the Mayor;

“Meeting” means a meeting of the Council unless otherwise indicated;

“Member” means a councillor;

“Motion” means a motion introduced in writing in terms of these Rules and Orders, and includes a motion under section 40 or 58 of the Local Government: Municipal Structures Act 117 of 1998;

“Municipal Manager” means the Municipal Manager of the Municipality or the Acting Municipal Manager;

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

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

“Point of Order” means a pointing out of a deviation from or a pointing out of anything contrary to these Rules and Orders or By-Laws of the Municipality or any law;

“Point of Information” means the explanation of some material part of the issue at hand;

THABAZIMBI LOCAL MUNICIPALITY**RULES AND ORDERS BY-LAW**

“Proposal” means a proposal that is moved and seconded at a meeting, but does not include a motion,

“Quorum” means a majority (50 per cent plus one) of the members;

“Report of the Mayor” means the report of the Mayor to the Council as contemplated in section 56(5) of the Local Government: Municipal Structures Act;

“Rules Committee” means a committee of the Council, established in terms of section 79 of the Local Government: Municipal Structures Act; and

“Speaker” means the speaker or acting speaker of the Council appointed in terms of the Local Government: Municipal Structures Act.

Any other word or expression shall have the ordinary meaning assigned thereto.

(2) Notice of meetings

- (1) Notice of the time and place of every meeting of the Council must be served on every member at least 24 hours before the meeting.
- (2) The notice must be served in person or be left at the member's usual place of residence or place of business.
- (3) The validity of a meeting is not affected if the notice of the meeting is accidentally not served on a member.

(3) Attendance Register

- (1) Every member attending a meeting must sign his or her name in the attendance register kept for this purpose.

THABAZIMBI LOCAL MUNICIPALITY**RULES AND ORDERS BY-LAW****(4) Adjourned in the event of no quorum**

- (1) If a quorum is not present at the expiry of 20 minutes after the time appointed for a meeting, the meeting might not be held unless it is decided, with the consent of the majority of the members present, that a further ten minutes should be allowed to enable a quorum to be present.
- (2) If a quorum is still not present after the extended time contemplated in subsection (1), the members present may, by a majority of votes, request the Municipal Manager to adjourn the meeting to another time.
- (3) Notice of an adjourned meeting must be given in accordance with section 2 and, for the purpose of section 6, such a meeting must be deemed to be an adjourned meeting.

(5) Count of Members

- (1) If, at a meeting, the attention of the Speaker is called to the number of members present, the members present must be counted.
- (2) If it is found, after a count contemplated in subsection (1), that a quorum is not present, the Speaker must -
 - (a) have this fact recorded in the minutes; and
 - (b) have the call bell rung for at least one minute.
- (3) If there is still no quorum present within five minutes after the call bell has been rung in accordance with subsection (2), the Speaker must adjourn the meeting immediately.
- (4) Business not disposed of at a meeting adjourned in terms of subsection (3) must be dealt with at an adjourned meeting convened by the Speaker for this purpose.
- (5) If the business not dealt with originated from a special meeting convened at the request of members in terms of section 29(1) of the Local Government: Municipal Structures Act, the business may be held over until the next ordinary meeting.

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(6) Adjourned Meeting

- (1) When a meeting is adjourned, notice of the adjourned meeting must be served in accordance with section 2.
- (2) Subject to the provisions of section 7, no business may be transacted at an adjourned meeting unless the business is specified in the notice of the initial meeting that gave rise to the adjourned meeting.
- (3) The Speaker may, at his or her discretion, adjourn a meeting in order to afford member the opportunity to caucus.

(7) Business limited by notice of meeting and exceptions based on urgency

- (1) Subject to the provision of subsection (2), no business not specified in the notice of a meeting may be transacted at that meeting, with the exception of an urgent report of the Mayor.
- (2) A member may at a meeting propose that the provisions of sub section (1) be suspended to enable him or her to make a proposal on a matter of urgency, which must be in writing.
- (3) The written proposal on a matter of urgency must be -
 - (a) signed by the proposer and be seconded;
 - (b) handed to the Speaker and at least two hours before the commencement of the meeting where moving the proposal and motion is to be proposed, unless the Speaker allows a short period of time;
 - (c) dealt with in terms of the provision of these Rules and Orders.
- (4) Before the new motions in terms of section 8(1) (I) are dealt with, the Speaker shall make known that a proposal and motion in terms of sub section 2 hereof, if any have been handed to him or her.

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- (5) The Speaker shall consider the proposal and motion and shall disallow both if he or she could have disallowed such in terms of section 19.
 - (6) If the Speaker allows the proposal and motion in terms of sub section (5), the member concerned shall, when called upon to do so by the Speaker, read out the motion and after he has spoken for not more than five minutes on only the reasons for the urgency of the consideration of that motion, which includes the reading of the motion, he or she shall propose that the provisions of subsection (1) be suspended.
 - (7) The seconded of the proposal and motion contemplated in subsection (3) (a) hereof shall not speak on them at this stage, except to formally second them.
 - (8) The proposal to suspend shall be deemed to be carried if the members voting in favour thereof constitute a majority of the whole Council.
 - (9) If the proposal to suspend is carried, the proposer shall speak on the motion and thereafter the debate thereon shall proceed in accordance with the provision of these Rules and Orders.
 - (10) The proposer of the motion has the right to reply”.

(8) Order of business at ordinary meetings

- (1) The order of business at an ordinary meeting convened in terms of section 2 of these Rules and Orders must be as follows
 - (a) Opening
 - (b) Application of leave absence
 - (c) Official Notices
 - (d) Unopposed proposal by the Speaker and allowed by the Speaker
 - (e) Consideration of the minutes of the previous meeting or meetings.
 - (f) Report of the Mayor
 - (i) Recommendation of the Council
 - (ii) Resolutions by the Mayoral Committee
 - (iii) Resolutions by committee of the Mayor and committees of the council

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- (g) Questions of which notice has been given
- (h) Motions or proposals deferred from previous meetings
- (i) New Motions
- (j) Petitions
- (k) Any other matter not contained in the notice of the meeting, at the discretion of the Mayor.

- (2) After the matters referred to in paragraphs (a) to (e) of sub section (1) have considered, the Speaker may allow at his or her discretion the bringing forward of any business which is on the agenda.

(9) Consideration of the minutes of a previous meeting or meetings

- (1) If a copy of the minutes of a meeting has been served on every member in the manner provided for in section 2, the minutes are taken as read with a view to confirmation.
- (2) No proposal on or discussion of the minutes is allowed, except for a proposal on or discussion of the accuracy of the minutes.
- (3) The minutes in relation to an item considered by the Council in committee must be -
 - (a) kept separately from the other minutes of the Council, unless the resolution of that item was passed in open Council, and
 - (b) approved by the Council in committee not later than the second ordinary meeting after the meeting to which the minutes relate.

(10) Questions

- (1) A Member may at any meeting put a question on a matter:
 - (a) arising out of or connected with any item of the report of the Mayor when the item has been called or during the discussion of the item, and such a question is not considered to be a speech; and

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- (b) that concerns the general work of the Municipality and that does not arise out of or is not connected with an item of the report of the Mayor, provided that -
- (i) the question is submitted in writing and is signed by the member submitting it;
 - (ii) the question is submitted to the Municipal Manager at least ten working days prior to the meeting; and
 - (iii) the Municipal Manager must acknowledge receipt of all questions in writing and has furnished the Speaker and the Mayor with the copy of the questions before the inclusion of the questions in the agenda of the meeting.
- (2) A question on a matter which, in the opinion of the Speaker, is of urgent public importance and may be put at a meeting after written notice of the question has been given in triplicate to the Municipal Manager at least 120 minutes before the commencement of the meeting, and Municipal Manager must immediately furnish the Speaker and the Mayor with a copy of the questions.
- (3) (a) Any questions put in terms of subsection (1) (a) must be answered by or on behalf of the Mayor during the discussion of the item or when reasonably possible.
- (b) A member who has put a question in terms of subsection (1)(b) is entitled to be furnished with a written reply within seven days after the, meeting at which the questions were answered.
- (4) The Mayor may, if circumstances dictate, and with due motivation, at the next ordinary meeting reply to questions put in terms of subsection (1)(b).
- (5) Any questions put in terms of this section must be answered by or on behalf of the Mayor.

THABAZIMBI LOCAL MUNICIPALITY**RULES AND ORDERS BY-LAW**

- (6) If, after a question has been replied to, the member who posed the question is of the opinion that replies to that question is not clear, he or she may, with the consent of the Speaker, request an elucidation, and no additional questions may be put without the consent of the Speaker.
- (7) The Speaker may disallow a question if he or she is of the opinion that the question is out of order or not put clearly.

(11) Reports of the Mayor

- (1) A report submitted by the Mayor in terms of section 56(5) of the Local Government: Municipal Structures Act must first contain the matters on which recommendations are made and in respect of which no powers have been delegated to the Mayor and thereafter the matters which have been delegated to the Mayor and committees of the Mayor and the Council.
- (2) Unless an item is submitted to the Council for information only, every item on matters in respect of which the Mayor has no delegated powers must contain a recommendation, which may be considered by the Council.

(12) Delivery of reports of the Mayor

- (1) A report of the Mayor, with the exception of a report accepted by the Speaker as a matter of urgency, must for the purposes of a meeting be served in the manner provided for in section 2.

(13) Moving of reports of the Mayor

- (1) The Mayor or member called upon by the Mayor to do so must submit a report of the Mayor to a meeting by requesting that the report be considered and this request may not be discussed.

THABAZIMBI LOCAL MUNICIPALITY**RULES AND ORDERS BY-LAW**

- (2) When a report of the Mayor is being considered, the Speaker must put the recommendations in the part of the report in respect of which the Mayor has no delegated powers one after the other, unless he or she has good cause to vary the order of the recommendations.
- (3) The recommendations contemplated in subsection (2) are deemed to have been proposed and seconded.
- (4) When a recommendation contemplated in subsection (2) has been adopted, the recommendation becomes a resolution of the Council.
- (5) The Mayor, a chairperson of a committee or a member contemplated in subsection (1) may, with the consent of -
- a) all the members of the Mayoral Committee who are present; or
 - b) all the members of the Committee concerned; and
 - c) the majority of the members present withdraw, hold in abeyance, defer, refer any item contained in a report of the Mayor, and the consent must be granted or disallowed without debate.
- (6) If the Mayor or a member contemplated in subsection (1) takes part in the debate concerning an item in a report of the Mayor, he or she must close the debate on that item only after all members have indicated their intention to speak have done so, provided that the Executed Mayor or the member may nominate another member of the Mayoral Committee who, in his or her opinion, is more conversant with the item to close the debate on his or her behalf, irrespective of whether that other member had previously taken part in the debate on that item.
- (7) After the matters in respect of which the Mayor has no delegated powers have been dealt with, the Speaker must permit a debate of the matters delegated to the Mayor and committees of the Mayor and the Council, provided that-
- (a) the debate is limited to-

THABAZIMBI LOCAL MUNICIPALITY**RULES AND ORDERS BY-LAW**

(1) a period not exceeding one hour in the case of matters delegated to the Mayor, or

(2) an extended period that the Council may determine.

- (b) a member, except the Mayor, may not speak on matters for longer than five minutes;
- (c) no other proposal is submitted during the debate, except a proposal that the Mayoral Committee, a committee of the Mayor or a committee if the Council be requested to reconsider its resolution; and
- (d) during the debate a member may request that his or her opposition to a resolution in respect of which the Mayor or a committee of the Mayor or the Council has delegated powers and the reason for the opposition be minted after which the Municipal Manager is required to minute the opposition and the reason (if the reason is supplied by the member) or have them minted.

(14) Review of Council's Resolution

(1) A request by a member for the review in terms of section 59(3) of the Municipal Systems Act may be submitted during the course of a meeting and such a member may not divulge the content of the request except to state the extent of the review of the resolution and reasons for the review.

(2) A request contemplated in subsection (1), except for a request submitted in writing by at least one quarter or the members, the council must

- (a) refer the matter to the Municipal Manager for the submission of a report to the Mayoral Committee; or
- (b) summarily confirm or revoke the resolution

THABAZIMBI LOCAL MUNICIPALITY**RULES AND ORDERS BY-LAW**

(15) Consideration of the Budget

Notwithstanding anything to the contrary of these Rules and Orders, the following provisions apply when the council considers the budget.

- (1) A proposal that is designed to increase or decrease the estimated revenue or expenditure of the Municipality may not be put to the vote before the debate on the budget has been closed.
- (2) After the debate in the budget has been closed, the Speaker must put to the vote any proposals contemplated in subsection (1) in the order in which they were proposed.
- (3) If a proposal contemplated in subsection (1) has been accepted, the budget may not be deemed to have been amended by that proposal, and the meeting must be adjourned to a date and time determined by the Speaker, unless the Mayor or a member of the Mayoral Committee authorized by the Mayor decides that the adjournment is not necessary.
- (4) If it is decided in terms of subsection (3) that the meeting need not be adjourned, the budget is deemed to have been amended in accordance with the proposal accepted in terms of subsection 3.
- (5) After an adjournment in terms of subsection (3), the Mayor must investigate the implications of every proposal that has been accepted and must report to the Council on every proposal when the meeting resumes.
- (6) After the Mayor has reported in terms of subsection (5)-
 - (a) the Speaker must permit debate on the proposals that have been accepted.
 - (b) After the debate contemplated in subsection (6) (a), the Speaker must put every such proposal to the vote again and if a proposal is accepted, the budget must be amended in accordance with the resolution.

THABAZIMBI LOCAL MUNICIPALITY**RULES AND ORDERS BY-LAW**

(16) Petitions

- (1) A petition may be submitted by a member in the course of a meeting, and he or she may not mention or divulge the content of the petition, except to state the subject of the petition.
- (2) A petition contemplated in subsection (1) must be referred to a committee established by the Council to deal with petitions and such petition must be disposed of within 90 days of receipt thereof by the Council.

(17) Deputations

- (1) A deputation desiring an interview with the Council must submit a memorandum to the Municipal Manager which set out the representations the deputation wishes to make.
- (2) The Municipal Manager must submit the memorandum contemplated in the subsection (1) to the Mayoral Committee. The Mayoral committee may receive the deputation and deal with the matter raised in the memorandum, if the necessary power has been delegated to the Mayoral Committee.
- (3) If the Mayor has not been empowered to deal with the matter raised in the memorandum contemplated in subsection (1), or if the Mayor is of the opinion that the matter raised in the memorandum is one that should be placed before the Council, the Mayor must so report to the Council, and the Council, may order that an interview be granted to the deputation.
- (4) A deputation may not exceed five in number, and at an interview contemplated in subsection (3), only one person may speak on behalf of the deputation, except when a member puts a question to the deputation, in which case any person belonging to the deputation may reply to the question.

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(5) The matter may not be further considered until the interview is completed and the deputation has withdrawn.

(18) Motions

(1) Subject to the provisions of these Rules and Orders-

- (a) every motion must be in writing and the notice of the motion must be signed by the member submitting it;
- (b) a motion must be given to the Municipal Manager who must enter it in a book which is kept for that purpose and which is open to inspection by any member;
- (c) a motion must not be specified in the notice for a meeting unless the motion is received at least ten working days prior to the meeting; and
- (d) a motion lapses if the member who submitted it is not present at the meeting at which the motion is being debated.

(2) The Municipal Member must acknowledge receipt of all motions in writing.

(3) Every motion must be relevant to the administration of, or conditions in the Municipality or must deal with a matter in respect of which the Municipality has jurisdiction.

(4) A motion may only be regarded as having been submitted to the Council for a resolution if the proposal introducing that motion was duly seconded.

(5) A member submitting a motion must move the motion and must have the right of reply.

(6) Every motion must, on receipt by the Municipal Manager, be dated and numbered and must be placed on the agenda by the Municipal Manager in the order in which it is received, provided that a motion amending another motion is placed on the agenda immediately after the motion is amending, irrespective of the time when notice of the motion to amend was given.

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(7) No member may have more than one motion placed on the agenda, with the exception of a differed motion, and no member may move more than six months during any financial year.

(8) When a member moves a motion-

- (a) that is intended to rescind or amend a resolution passed by the Council within the preceding the three months,
- (b) that has the same purpose as a motion which was rejected within the preceding three months,
- (c) that must be passed without debate; and
- (d) that call the opposed motions one after the other.

(19) Disallowed motions and Proposal..

The speaker must disallow a motion or proposal if-

(1) In his or her opinion, the motion or proposal-

- (a) May lead to discussion of a matter on the agenda that has already been dealt with or a matter that has no bearing on the administration of, or conditions in the Municipality.
- (b) Advances arguments, expresses opinion, or contains unnecessary factual, incriminating, disparaging or improper suggestions.

(2) the motion or the proposal-

- (a) is one in respect of which the Municipality has no jurisdiction;
- (b) Is one in respect of which a decision by a judicial or quasi-judicial body is pending or
- (c) is one which has not been duly seconded; and

(3) the motion or proposal would, id passed, be contrary to the provisions of these Rules and Orders or lf any other law, or would be impractical:

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Provided that, if the motion or proposal, in the opinion of the Council, justifies further investigation, it is referred to the Mayor.

(20) Withdrawal of a Motion or a Proposal

- (1) a motion or a proposal may be withdrawn or amended by the mover either by the consent of the Council, which may be given or refused without debate.
- (2) After consent for the withdrawal of a motion or proposal has been given, no member may speak on the motion or proposal.
- (3) After consent for the withdrawal of a motion or proposal has been refused, a member may speak on the motion or proposal.

(21) Motion or proposal affecting the budget to be referred to the mayor.

A motion or proposal that is designed to increase or decrease the approved budget of the Municipality may not be adopted before the Mayor has reported on it to the Council, provided that the report by the Mayor may be dispensed with if the Mayor deems the report unnecessary.

a. Motion or proposal affecting a by-law or law to be referred to the Mayor

Before the Council passes a resolution on a motion or proposal, other than recommendation of the Mayor affecting the making or amendment of a law, the motion or proposal must be submitted to the Mayor for a report on it.

b. Further proposals which may be received

- (1) When a motion or proposal is under debate at a meeting, no further proposal may be received, except for a proposal that-
 - (a) the motion or proposal is amended.

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- (b) the motion or proposal be referred back to the Mayoral Committee or the other committees for further consideration;
- (c) consideration of the motion or proposal be postponed;
- (d) the meeting be adjourned;
- (e) the debate be adjourned;
- (f) the motion or proposal be put to the vote;
- (g) the Council proceed to the next business;
- (h) for the purposes of dealing with the matter, the Council resolve itself into committee;
and
- (i) consideration of the matter is held over until the Council has dispatched all the other matters on the agenda.

Provided that the proposal is deemed to have been submitted to the Council for a resolution only if it was duly seconded.

- (2) If a proposal is made in terms of subsection (1)(a) or (b), no further proposal may be made in terms of subsection(1) until the mover and seconder of the motion or proposal under debate have spoken on the motion or proposal.
- (3) A proposal in terms of subsection (1) (c) to (i) by a member who did not take part in the debate on the motion or proposal under discussion may only be made at the conclusion of speech.
- (4) A second proposal in terms of subsection (1) (c) to (i) may not be made on the same matter unless, in the opinion of speaker, new information that is materially different is submitted.

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- (5) A member who has made a proposal in terms of subsection (1)(c) to (i) may speak on the motion or proposal for not more than five minutes, and the seconder is not allowed to speak on the motion or proposal, and there is no right of reply.
- (6) When a motion or proposal is made in terms of subsection (3) the mover of the motion or proposal under debate may speak on the motion or proposal for not more than five minutes, and subsequently the proposal must be made without further debate.
- (7) A proposal in terms of subsection (1) must be dealt with in accordance with the provisions of sections 24 to 30.

c. Amendment of a motion or proposal

(1) An amendment that is moved:

- (a) must be relevant to the motion or proposal on which it is moved;
- (b) must be reduced to writing, be signed by the mover and seconder and be handed to the speaker; and
- (c) must be clearly stated to the meeting by the Speaker before it is put to the vote.

(2) Whenever an amendment has been moved and seconded on a motion or proposal, no further amendment may be moved until a resolution on the first amendment has been passed.

(3) No member may move more than one amendment of the same motion or proposal.

(4) If any amendment is carried, the amended motion or proposal must take the place of the original motion or proposal and must then become the motion or proposal in respect of which any further proposal amendments are made.

d. The Motion or proposal be referred back for further consideration

- (1) A motion or proposal may only be made in respect of a recommendation by the Mayor, which is being considered by the Council.

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- (2) A proposal may not be put to the vote until the Mayor or chairperson of the committee concerned has spoken on it, and if the proposal is carried, the debate on the recommendation must end and the Council must proceed to the next business.

e. Postponement of consideration of motion or proposal [Question]

If a motion that consideration of a motion or proposal be postponed to a particular date is carried, the motion or proposal must-

- (1) be placed first among the motions or proposals to be considered on a particular date: or
- (2) if the motion or proposal arises from a recommendation of the Mayoral Committee, be contained in the report of the Mayoral Committee to the Council on the day in question.

f. Adjournment of meetings

No member may at any meeting move or second more than one proposal for the adjournment.

g. Adjournment of the debate

- (1) If a proposal is carried that the debate be adjourned, the Council must proceed with the agenda, and the motion or proposal in respect of which the debate has been adjourned must, notwithstanding the provisions of section 26, be placed first on the list of motion or proposals contemplated in section 8(1) (i) of the next meeting, and the discussion of the motion or proposal must be resumed at that meeting.
- (2) On the resumption of an adjourned debate, the member who moved its adjournment is entitled to speak first.
- (3) No member may move or second more than one proposal for adjournment of the same debate.

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h. Putting a motion or proposal to the vote

The mover of the original motion or proposal under debate has the right, to reply before the motion or proposal is put to the vote.

i. Proposal that Council proceed to next business

- (1) A proposal may be carried, unless the Council is required on legal grounds to pass a resolution on a particular matter.
- (2) If a proposal is carried, the matter under discussion must be dropped and lapses.

j. Precedence of Speaker

Whenever the Speaker speaks, a member then speaking or offering to speak must sit down and the members must be silent so that the speaker may be heard without interruption.

k. Member to stand while speaking

- (1) A member must stand when speaking, unless otherwise directed by the Speaker, and must address the speaker.
- (2) If a member who is not speaking rises on a point of order of information, and the member is seen and addressed by the Speaker, the member must sit seen until the Speaker has made a ruling.

l. Limits on speeches

- (1) A member may speak for more than five minutes, provided that the Speaker may permit a speech to be continued for a further period or periods of five minutes.
- (2) The provisions of this section do not apply to the Mayor, the Speaker or a member delivering the report of the Mayor or in the presentation of the estimates on income and expenditure.

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- (3) The number of members of different parties to speak on an item may be determined by the whips of the individual parties concerned.

m. Member to speak only once

- (1) Subject to provisions contained in these Rules and Orders, no member may speak more than once on any item, motion or proposal, provided that the mover-

- (a) may reply at the conclusion of the debate;
- (b) confines himself or herself to responding to previous speakers: and
- (c) does not introduce any new matter to the debate.

- (2) The speaker may permit the Mayor or a member who made a proposal to make an explanatory statement prior to the consideration of any particular item contained in the report of the Mayor during the discussion of that report, in reply to a specific question.

(22) Relevance

- (1) A member who speaks must direct his or her speech strictly to the matter under discussion or to an explanation or a point of order, and no discussion is permitted.
- (a) which will anticipate any matter on the agenda; or
 - (b) on any matter in respect of which a decision or a judicial or quasi judicial body or a commission of inquiry, whether instituted in terms of legislation or not, is pending, provided that the matter may be considered with the permission of the speaker.

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(23) Irrelevance, Tedious Repetition, unbecoming language and breach of order

- (1) The Speaker may call the attention of a member to irrelevance, tedious repetition, unbecoming language or any breach of order on the part of that member and may direct the member, if the member is speaking, to discontinue his or her speech or, in the event of persistent disregard of the authority of the Speaker, to retire from the meeting.
- (2) The Speaker may direct a member to apologise or withdraw an allegation if the allegation is unbecoming or injuries or impairs the dignity or honour of a member or an official of the Municipality.

(24) Removal or Executive of a Member.

- (1) If a member refuses to comply, the Speaker may instruct a person to remove the member or have the member remove and to take steps to prevent the members return to the meeting.
- (2) The council may exclude from meetings of the Council for a period that it may determine, but not exceeding 60 days, a member who willfully disregards the meeting.
- (3) A proposal to exclude a person may be moved at any stage of the meeting.

(25) Points of order and points of information.

- (1) For the propose of this section, a point of order or point of information does not constitute a speech and therefore does not affect the right of a member to speak on a particular item.
- (2) Any member, whether or not he or she has addressed the Council on the matter under debate, may-
 - (a) raise a point of order; and
 - (b) raise a point of information.

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- (3) A member contemplated in subsection (2) is entitled to be immediately listening, and the member speaking at the time must cease speaking and sit down until a ruling has been made by the Speaker.
- (4) The ruling of the Speaker on a point of order or on the admissibility of a point of information is final and is not open to discussion.

(26) Methods of voting

- (1) Every motion or proposal must be submitted to the Council by the Speaker, who is required to call on the members to indicate by a show of hands whether they are for or against the motion or proposal, and the Speaker must declare the result of the voting.
- (2) After the Speaker has declared the result of voting in terms of subsection (1), a member or a party, as the case may be, may request that his or her, or its, dissenting vote or abstention be recorded against the decision.
- (3) Should there be an equality of votes in respect of a proposal, the Speaker must record his or her casting vote as contemplated in section 30(4) of the Local Government: Municipal Structures Act.

(27) Interpretation of the rules and Order

- (1) A member may request that the ruling of the Speaker on the interpretation of these Rules and Orders be recorded in the minutes of a meeting, and a register of such rulings must be kept by the Municipal Manager.
- (2) The Speaker must sign at each entry in the register referred to in subsection (1) in respect of each ruling given by him or her.
- (3) A member who has made a request in terms of subsection (1) may, orally during that meeting or in writing within five working days of the meeting, require the Municipal Manager to

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submit the matter to the Mayoral Committee, via the Rules Committee, in which event the Mayor must consider the ruling and report on the ruling to the Council.

- (4) The Council may, at the recommendation of the Mayoral Committee, direct that the ruling of the Speaker be amended or substituted.

(28) Maintenance of order

- (1) The Speaker may at any time during a meeting and if he or she deems it necessary for the maintenance of order.
- (a) instruct a person to remove a person, excluding a member, from the Council Chamber or to have such a person removed; or
 - (b) order that the public gallery be vacated.
- (2) All persons attending a meeting of the Council must be dressed in a manner that is appropriate to the dignity of the Council.
- (3) The Speaker may request or order the removal of a person or persons who refuse to carry out an instruction or order given in terms of subsection (1) or who willfully obstruct the carrying out of such an instruction or order or otherwise contravene the provisions of subsection (1) or (2).

(29) Council in Committee.

- (1) A member may-
- (a) at any time after an item on the agenda has been called or during consideration of the item, move that the Council resolve itself into committee in terms of the relevant legislation for the further consideration of that item; or

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- (b) if the Council is in committee as contemplated in paragraph (a), move that for the further consideration of the item under debate, the Council resolve to consider the matter in open Council, provided that the Mayor or the member of the Mayoral Committee contemplated in section 13(1) may at any time move that the Council resolve itself into committee for consideration of one or more items on the agenda.
- (2) No seconder is required for a motion in terms of subsection (1)
- (3) Only the member moving the motion in terms of subsection (1) may speak on that motion for a period not exceeding five minutes, and such a member must restrict his or her speech to the reasons the Council should resolve itself into committee or discuss the matter in open Council, as the case may be.
- (4) If the Council is in committee, the provisions of these Rules and Orders, except in so far as they are in conflict with this section, apply.
- (5) If a motion in terms of subsection (1) is carried, the Speaker must determine when the item in question is to be considered by the Council in committee.
- (6) Once the Council in committee has considered an item contemplated in subsection (5), the Council must revert to the consideration of further items in open Council.
- (7) When the Council resolves itself into committee, all members of the public and officials of the Municipality, except the Municipal Manager and other officials and persons that the Speaker may require to remain, must leave the Council Chamber and not return to the Council Chamber for the duration for the proceedings in committee.
- (8) The Speaker may instruct a person to remove or to have removed a person who remains in the Council Chamber in contravention of subsection (7), or to take steps to prevent the entry of a person into the Council Chamber in contravention of subsection (7).

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- (9) The Speaker must appoint a person to be responsible for keeping the minutes of the Council while the Council is in committee, unless the matter at hand is a staffing matter.

(10) **Application for leave of absence.**

An application for leave of absence from any meeting of the council or any committee of the Council must be filed by a member in accordance with the Council's approved policy in this regard.

(30) **Penalty Clause.**

- (1) Any contravention of these Rules and Orders or the Code of Conduct for Councillors contained in the Local Government: Municipal Systems Act must be investigated in accordance with item 14 of Schedule 1 of the Municipal Systems Act, and the sanctions referred to in item 14 (2) of Schedule 1 of the Municipal Systems Act apply if a member is found guilty of contravening these Rules and Orders or the Code of Conduct for Councillors.
- (2) A member who is, in a financial year of the Municipality, absent from a meeting of the Council or Mayoral Committee or a meeting of a committee of the Council or Mayoral Committee without the necessary permission or leave forfeits 10 percent of his or her monthly remuneration for the first non-attendance of a meeting, 15 per cent for the second non-attendance of a meeting and 20 per cent for each subsequent non-attendance.

(31) **Short title**

This by-law is called Thabazimbi Local Municipality
Rules and Order by-law.

