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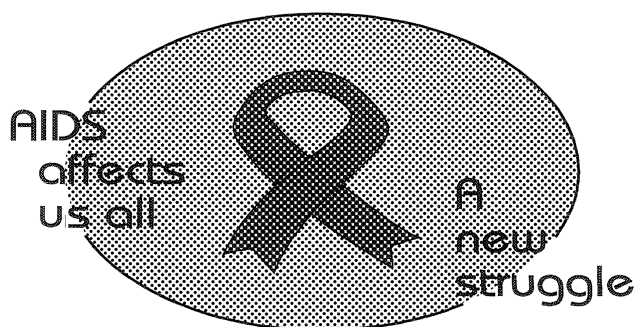
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(Extraordinary)

We all have the power to prevent AIDS



**AIDS
HELPLINE**

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DEPARTMENT OF HEALTH

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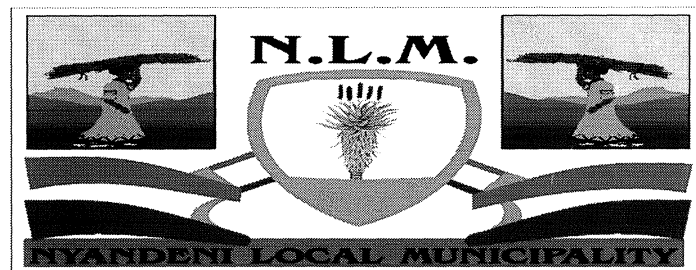
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LOCAL AUTHORITY NOTICE

LOCAL AUTHORITY NOTICE 61

NYANDENI LOCAL MUNICIPALITY



NYANDENI BY-LAWS

JUNE 2012

CREDIT MANAGEMENT BYLAWS FOR NYANDENI MUNICIPALITY

1. DEFINITIONS

Unless the context otherwise indicates –

“Bank guarantee” means an unconditional undertaking by a financial institution to it guarantee a specified maximum amount to be paid if the principal debtor {“the consumer”} fails to pay,

“Calculated amounts” means the amounts calculated by the Director of Finance to be due to the Council by a consumer in respect of the supply of the applicable municipal services for any period during which the exact quantity of the supply cannot be determined accurately for any reason, and shall be based on the average consumption figures, if available, for the service rendered to the consumer over the three months immediately prior to any such period commencing, or failing the availability of such data, on the average consumption figures applicable to one or more properties of similar size and nature in the area in which the consumer resides or carries on business;

“Chief Executive Officer” means the person appointed as Municipal Manager in terms of the Local Government: Municipal System Act, 2000, or any person acting in that capacity;

“Consolidated account” means any person to whom a service is or has been rendered by the Council and

“Consumer services” has a corresponding meaning;

“Conventional electricity and water meters” means electricity and/or water meters, as the case may be, which are used to determine the supply of electricity and water and which are read on a monthly or other fixed interval basis;

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

“Director of finance” means the Head of the Department responsible for the Council’s financial affairs, and any person duly authorized by him or her to act on his or her behalf in the stated capacity.

“Due date” means in the absence of any express agreement between the Council and the consumer, the date stipulated on the account and determined by the Council from time to time as the last date on which the account may be paid;

“Existing consumers” mean consumers who have already entered into an agreement for the supply of municipal services;

“Financial year” means 1 July any year to 30 June at the following year,

“Legal costs” means legal costs on an attorney- own client scale;

“Meter audits” means an investigation to verifying the correctness of the consumption of electricity or water,

“Normal office hours” mean the hours when the offices of the Director of Finance are open to the public from Monday to Friday, exclusive public holidays;

“Owner” means –

(a) The person in whom, from time to time, is vested legal title to the premise;

- (b) In a case where the person in whom legal title to the premises is vested is insolvent or dead, or is of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in any case where the Council is unable to determine the identify of such person, a person who is entitled to the benefit of the use of such premises or a building thereon ;
- (d) in case of premises for which a lease agreement of 30 years or longer has been entered into, the lessee thereof, and
- (e) in a relation to {1} a peace of land delineated on section plan registered in terms of the Section Tittles Act, 1986 {Act No. 95 of 1986}, the developer or the body corporate in respect of common property; or {2} a section as defined in such Act, the person in whose name such section is registered under a section title deed and include the lawfully appointed agent of such a person;

"Property tax" means rates and/or charges according to the value of property, which may be based on tariff on the value of the land or improvement or both, and has the same meaning as assessment;

"Rebate" means a discount on any property tax or service charge determined by the Council from time to time;

"reconnection fee" means the fee charges to reconnect the electricity/water supply when the supply has been disconnected due to non-payment, which fees will be determined periodically by the Council and will form part of the municipal tariff of charges,

"Require amount" means that the total calculated amount of the electricity/ water consumed during any period of tampering, as well as tempering fee:

"Service accounts" means accounts in respect of electricity and/or water consumption

"Service agreement" means an agreement for consumption of electricity and/or water;

"Tempering fee" means a fee charge for the illegal disconnection, adjustment or bypassing of a consumption meter or siphoning of a supply of electricity or water supply to an unlettered destination, which fee will determined annually during the budget process and will form part of the tariff of services charges

"Variable flow- restriction device" means the device that is coupled to the water connection that allows the water supply to be restricted or close, and;

"Voluntary garnishee order/emoluments order" means a court order for the deductions of an amount of money from the salary or other income of a consumer.

2. SERVICE AGREEMENT

- (1) Before being provided with electricity, water and other consumer services, every consumer must enter into a service agreement with the Council in which, inter alias, the consumer agrees that the electricity and/or water payment system may be used for the collection of arrears in respect of all service charges.
- (2) Where a consumer has failed to enter into a service agreement with the Council, water and/or electricity will be blocked, disconnected or restricted, as the circumstances may require, until such time as a service agreement has been entered into and the applicable deposits have been paid .The consumer shall be liable for calculated amounts.

3. ACCOUNTS

- (1) The Council will bill inhabitants, property owner and property occupiers within this area for property tax and municipal services supplied to them by the Council at regular interval or prescribed laws.
- (2) The owner of the property is liable for refuse and sewerage charges.
- (3) The Council will post or hand –deliver to consolidate accounts to the respective consumers at the address notified by each consumer, to reach the consumer before the due date printed on account. Any change of address becomes effective only when notification of the change is received and acknowledge by the Council.
- (4) The consumer must playtime full, the amount rendered on or before the due date. Failure to comply with this section will result in debt collection action being instituted against the consumer, and interest at the rate determined from time to time by the Council in the absence of any determination, as prescribed by law, will be charged from date upon which the amount of the account was due for payment.

4. DEPOSIT

- (1) Deposits are to be determination by the Director of Finance, which determine is based on two and half times the average monthly account for the service in or on that property, either as factually determine or as calculated
- (2) in determining the deposit described in section 4{1}, the Director of Finance will differentiate between areas to give cognizance of differences in service standards and usage.
- (3) The Director of Finance may reassess consumer deposit for new commercial and industrial consumers three months after the initial deposit date, and may, as a result of this reassessment require an additional deposit from any such consumer.
- (4) The Director of Finance must review all deposit biennially or when a consumer's service is disconnected or blocked as result nonpayment. The outcome of this review will be communicated to the consumer in the event of any variation in the deposit arrangements being required. Should deposit mentioned in section 4 (2) or 4 (3) be found to be inadequate, the consumer will be allowed to make arrangement with the Director of Finance for the payment of the addition amount.
- (5) Consumer deposits are to be paid for all separate metered services.
- (6) Consumer deposits are to be paid in respect of water and electricity services only
- (7) Deposit must be paid on cash or by cheque .The Council will accept the bank guarantee in case where the deposit exceeds R2 000-00. The bank guarantee has to be hand – delivered during normal hours to the Director of Finance's offices
- (8) All deposits have to be paid at least 2 days prior to occupation. Failure to comply with this bylaw may cause a delay with the connection of services, and the Council will not be liable for any loss or prejudice that may result.
- (9) No service deposit may be required if a pre- payment meter is installed for the particular services.
- (10) Where new conventional electricity and/or water meters are installed for existing pre-payment consumers, these consumers may enter into an agreement with the Council to pay off, over a maximum period of 6 moths, the deposit levied.

5. DISCONNECTION FOR NON-PAYMENT**(1) General**

The reconnection fee will be charged in cases of consumers who receive municipal services of any kind and who fall into arrears with their payment in respect of those services and whose water and/or electricity supply, whether prepayment or conventional, has been disconnected or restricted.

(2) Notices to Consumers

- (a) The Council may, at its discretion, issue final request notices or other reminders to consumers whose accounts are in arrears, prior to disconnection.
- (b) The Council may issue a final demand for payment of arrears in respect of all debtor account reflecting an amount outstanding for more than 30 days, after which the account will be referred for debt collection, in terms of section 10, in addition to the disconnection of the supply of services.

(3) Electricity

- (a) Depending on the circumstances, the Council may disconnect services to consumers with conventional electricity meters in respect of which service accounts are in arrears after the due date. Should such consumers wish to have their electricity reconnected, they will be charged the applicable reconnection fee and the service will not be reinstated before the account is paid in full or satisfactory arrangements in terms of section 7 have been made with the Director of Finance.
- (b) As far as is practicable, the Council must disconnect the electricity supply before 13:00 on the day of disconnection. Reconstructions will commence as soon as practically possible, but will only be done during normal working hours.
- (c) In the event of mass disconnections, the Council is not obliged to effect same-day reconstructions.
- (d) The Council will not be obliged to sell electricity to consumers with pre-paid meters unless the consumer's municipal account for the other services and property tax, if any, is paid full or satisfactory arrangements in terms of bylaw section 7 have been made with the Director Finance, and have been honoured.
- (e) All disconnected electricity meters must be clearly marked when the supply is disconnected for non-payment, in order to avoid disconnected meters being reported as faulty.
- (f) The Council may restrict the water supply of consumers whose electricity supply has been blocked or disconnection for two months in succession and from whom no payment was received or with whom no satisfactory arrangements for payment of the outstanding amount have been concluded.
- (g) The Council shall be entitled to disconnect, block or restrict, as the case may be, at the earliest opportunity, the electricity and/or water supply of consumers who have offered a cheque as payment for municipal services if any such cheque is returned or dishonored by the Financial Institution on which it is drawn for any reason. The consumer's account will be endorsed accordingly and no further cheque payments will be accepted.
- (h) Standby electricians, meter readers and contractors are not permitted to restore any service to consumers without written authority from the Council's Credit Control Section.
- (i) Consumers whose supply of services have unlawfully reconnected will be regarded as having tampered with the meter or supply

(4) Water

- (a) The Council will serve a written notice on consumers with conventional water meters in respect of which municipal service account are in arrears, stating its intention to restrict the water supply within a set number of days as contemplated in section 4 of the Water Services Act, 1997 {Act No 108 of 1997} and/or the Water Bylaws.
- (b) The water supply to consumers with conventional water meters referred to in section 5 {4} {a}, will be restricted after the period of the notice issued in terms of section 5 has lapsed. Such consumers will be charged the applicable reconnection fee.
- (c) In cases where, water supply is to be restricted or disconnected, Council may install a variable flow-retracting device to facilitate future reconnections and restriction. The full service will not be re-instated before the municipal services account is paid in full or satisfactory arrangements in terms of the Credit Management Policy have been made with the Director of Finance, and only for as long as the arrangements are honored.
- (d) The Council shall not be obliged to sell water to consumers with pre- paid meters if their municipal services accounts are not paid in full or unless satisfactory arrangements in terms of section 7 have been made with the Director of Finance, and then only for as those arrangements are honored.
- (e) Where possible, all disconnected meters will be clearly marked to avoid restricted or disconnected meters being reported as faulty.
- (f) Standby plumbers, meter reader and contractors are not permitted to restore any services to consumers without written authorization from the Council Credit Control Section.
- (g) In cases where water leaks are discovered on the consumer's side of water meter and he or she does not act timorously to rectify the problem, a variable flow-restricting device will be installed to curb water losses and to limit the amount of water to be charged to the consumer.

6. TEMPERING

- (1) When an electrical or water supply is found to have been tampered with or the meter bypassed, the Council may, subject to these bylaws and other applicable legislation, isolate or disconnect the relevant supply, and the consumer shall pay the applicable tampering fee, calculated amount due as a reconnection fee in instances where the supply had been isolated and a connection fee in instances where the supply has been removed.
- (2) In instance where there is evidence of a discrepancy the electricity or water consumption and purchase history of a specific property, transgressors will be dealt with in the following manner:
 - (j) Subject to paragraph {ii}, supply will be isolated at point of supply in instances of a first offence and removed in instances of subsequent offences.
 - (ii) A written notification will be given to the consumer, informing him or her of isolation or removal, as well as the fees due in respect of the tampering, reconnection/connection and the calculated amount due.
 - (iii) The Council will only re-instate services after the amount referred to in paragraph (ii) have been paid.
- (3) In instance where physical tampering with the electricity or water supply is detected, transgressors will be dealt with in the following manner.
 - (i) Supply will be isolated immediately in instance of a first offence and removed in instance of a second or subsequent offence.

- (ii) A written notification will be given to the consumer, informing him or her of the isolation or removal, as well as the fees due in respect of the tampering, reconnection/connection and the calculated amounts due.
- (iii) The Council will only re-instate services after the amounts referred to in paragraph {ii} have been paid.
- (4) In addition to the previous of this bylaw, the Council may enforce any other rights or exercise any power conferred upon it by the Occupational Health and Safety Act, 1993{Act No 85 of 1993}, Water Services Act 1997 {Act No. 108 }, the Council's Water Bylaws, the Electricity Act 1987{Act No.41 of 1987}, the Councils Electricity Bylaws and any other applicable legislation.

7. AGREEMENTS AND ARRANGEMENTS WITH CONSUMER IN ARREAR

- (1) The Director of Finance or his delegate is authorized to enter into agreements with consumers in arrear with their accounts and to grant such persons of time for payment.
- (2) The Director of Finance may determine, on the merits of each case, the initial amount to be paid as part of such agreement, as well as the number of installments over which the arrear amount must be paid off and the term over which payment is to be made. Such term may not exceed 24 months,
- (3) The Director of Finance may, in exceptional cases and with the approval of the Municipal Manager, extend the period of repayment referred to in section 7 (2).
- (4) In instance where the Director of Finance is satisfied, at the time of making arrangement and after investigation that a bona fide consumer can not be reasonably afford the payment of services, such as consumers details will be recorded and father legal steps against such consumer will either be deferred or waived, as the Director of Finance may decide.

8. ACKNOWLEDGEMENT OF DEBT

- (1) Only debtors with positive proof of identity or an authorized agent with the power of attorney will be allow to complete an acknowledgement of debt agreement.
- (2) An acknowledge of debt agreement must contain all the arrangements for paying off arrears accounts. One copy of the document will be handed to the consumer and other filed at the Council Credit Management Section.
- (3) A consumer who has already been served with summons or other legal process by the Council's attorney may apply for credit facilities. However, all legal cost already incurred will be for his or her account and an initial payment of at least half of the total resultant outstanding debt will be require. The consumer must also sign an acknowledgment of debt, which will include legal fees due.
- (4) Failure to honour the acknowledgement of debt agreement will lead to immediate blocking, disconnection or restriction of services without further notice, and the resumption of legal action.
- (5) In all instances where the consumers in arrears is employed, the Council may obtain a voluntary garnishee order or emolument attachment order

9. INTEREST ON ARREARS

- (1) Interest will be charged on service arrears determined by resolution of the Council, or at an interest rate as determined by resolution of the Council, or in the absence of any such determination, as prescribed by law.

- (2) Interest will be charged on arrear property tax as in the applicable legislation.

10. HAND-OVER

The Council will issue a final demand in respect of all consumers accounts reflecting an amount outstanding for longer than 30 days and, if such account still reflecting an amount in arrears after 60 days, it will be handed over for collection by the appropriate Council department or to external debt collection specialists.

Although not obligated, the Director of Finance should, where possible, investigate ways and means of assisting consumers before attaching movable property.

11. CONSUMER MAY NOT SELECTIVELY NOMINATE PAYMENT

A consumer is not entitled to allocate any payment to any portion of the total debt due. The allocation of payments will be made at the sole discretion of the Director of Finance.

12. AUTHORITY TO APPOINT DEBT COLLECTION SPECIALISTS

The Director of Finance has the authority to appoint debt collection specialists and to enter into agreements with such agencies in terms of Contingency Fee Act, 1997 if necessary.

13. RELIEF MEASURES FOR PENSIONERS

- (1) The Council may grant a rebate on property tax to persons who own and occupy property if they submit a written request annually and they can prove to satisfaction of the Director of Finance that they comply with the following requirements;
- (a) The applicant must be a ratepayer of 60 years or older to be a bona a fide pensioner, or a ratepayer receiving a disability pension from the public or local government service or from a registered pension or provident fund.
 - (b) The applicant must be the owner of the residential property in question and the property must be registered in his or her name (Bodies Corporate do not qualify).
 - (c) The total annual income of the applicant must not more than an amount pre-determined by the Council.
 - (d) The applicant must provide a sworn affidavit stating that –
 - (i) the declared income is the sole source of income to the pensioner;
 - (ii) his or her income does not exceed the amount in paragraph (c); and
 - (iii) he or she permanently occupies the residential property.
- (2) All applications must be submitted before a pre-determined date and no applications received after this date will be considered.
- (3) Anew application must be made for each financial year.
- (4) The percentage rebate mentioned in paragraph (1) (a), the maximum income limit mentioned in paragraph (1) (c) and the closing date for applications mentioned in paragraph (2) will, will be determined each year at the approval of the budget an must be advertised within 30 days thereafter

14. CONFLICT OF LAWS

If there is any conflict between these by laws and any other by laws of the council, these by laws will prevail.

BY-LAWS RELATING TO NUISANCES FOR NYANDENI MUNICIPALITY

1. DEFINITIONS

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

"Council" means the Nyandeni Municipality and its successor in law, and includes the Council or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation as well as any officer to whom the Executive Committee has delegated any powers and duties with regard to these bylaws.

2. DISTURBANCE OF THE PEACE

No person shall disturb the public peace in any public place by making unseemly noises or by shouting, roaring, wrangling or quarrelling, or by collecting a crowd, or by fighting or challenging to fight, or by striking with or brandishing or using in a threatening manner any stick or other weapon, or by any other riotous, violent or unseemly behaviour, at any time of the day or night.

3. SUBJECT TO OBTAINING PRIOR WRITTEN APPROVAL OF THE COUNCIL

No person shall advertise any wares or services in any public place by means of any megaphone loudspeakers or other similar device or ringing of bells in such manner to constitute a public nuisance in the neighbourhood.

4. No person being in or on any private premises, shall disrupt the public peace in the neighbourhood of such premises by making therein or thereon unseemly noise shouting quarrelling wrangling or singing or the continuous playing of musical instruments, radios or the like or by the continuous or over-loud use of loudspeakers, or the like.

5. Any itinerant vocalist or musician performing in any public place shall when so required by any protection officer or police officer or by any person residing in the neighbourhood where such vocalist or musician is performing, depart from such neighbourhood.

6. No person shall discharge fireworks or light any bonfire in any public space, without prior written permission of the Council.

7. No person shall, with out lawful cause, discharge any firearm or air gun within the Municipality, provided that this bylaw shall not apply to any persons engaged in authorized target practice in places set aside for that purpose or to any person to whom written permission to do so has given by the Council.

8. (1) No person shall carry any knife, dagger or other dangerous weapon or any other lethal weapon in any public place, provided that this bylaw shall not apply to the following:

(a) Any person in the Military or Police service when on duty.

(b) Any security officer or police office.

(c) Any person who shall have obtained from the police a written exemption from the operation of this bylaw, which exemption the police are hereby authorized to grant.

(2) No persons armed with lethal weapons shall be permitted to congregate in any part of the municipality for any purpose or in any manner liable or calculated to cause a breach of the peace.

(3) No person shall, in any public place, use any abusive or, threatening language or commit any act which is liable or calculated to cause a breach of the peace.

OFFENCES AGAINST DECENCY AND MORALITY

9. No person shall, in any public place, commit any indecent or immoral gesture or act or willfully and obscenely expose his person.
10. No person shall appear in any public place without being decently clothed.
11. No person shall be or appear in any public place in a state of intoxication.
12. No person shall write, print, or draw any obscene or indecent words or figures in any public place or upon any wall, door, window or other part of premises in or within sight of any public place, nor use any foul, obscene or indecent language in any public place within the hearing of any person therein.
13. No person shall litter upon any street or footpath, which might in any way endanger the safety of pedestrians, or pollute the environment.
14. No person shall allow any goods or other article, whether they be his own property or in his charge or custody, to be or remain in or on any street or footpath so as to cause obstruction or inconvenience to the passage of any person for a longer time than may be necessary for loading and unloading, and in no case after receipt of a notice requiring him to remove same given by any security officer, police officer or authorized official.
15. No person shall, for trading or any other purpose, place any goods, wares or articles on any stand or support on or overhanging or protruding over any pavement or street nor place such goods, wares or articles upon any pavement nor place, fix or any such goods wares or articles upon any verandah post, stays or ceiling on or over any public footpath or street.
16. No person shall carry on or take part in any trade or calling nor open, unpack or pack any cases furniture, goods, materials or merchandise in any street.
17. No person shall place any flower pot or box or other heavy article in any window or upon any windowsill, any building abutting on any street or pavement unless proper precautions are taken to prevent such flower pot box or other heavy articles from being blown or falling into or on to such street or pavement.
18. No person shall hold any auction sale in any street or in or from any doorway, window or other opening of any premises abutting on any street without the written consent of the Council and Then only subject to such conditions as may be imposed in such consent.
19. No person shall place or deposit any slops, trimmings of hedges, fences or trees or any garden or other refuse or waste material of any kind on any street or pavement unless same is placed in approved boxes or receptacles for the purpose of removal by the Council's employees or contractors.
20.
 - (1) No person, other than a person appointed for the purpose by a registered welfare organisation which has been authorized by the Council to cause a collection of money to be taken or to hold a cake sale on its behalf in any public place, shall collect or attempt to collect money or hold such cake sale in any public place.
 - (2) Every welfare organization desiring to obtain the authority of the Council for any such collection or cake sale on this behalf shall, make a written application to the Council therefore, and shall, if required by the Council, forward the following documents:
 - (i) its certificate of registration;
 - (ii) a copy of its balance sheet for the proceeding financial year.
 - (3) The Council upon receipt of any such application, may either grant the application or refuse it, if granted, the authority shall be subject to such conditions as the Council may prescribe.
21.
 - (1) No person, being the owner or occupier or any premises abutting on any street or footpath shall permit any tree, branch or shrub growing on such premises to overhang or extend on to such street or footpath in such manger as to cause an obstruction or discomfort to the public, or to come into contact, or to be likely to come into contact with any wire, pole or public work in or over such street or footpath, nor permit the roots of any such tree or shrub to grow to such an extent that they cause or are likely to cause, any damage to the surface of any footpath or street or to any drain, sewer,

By- law Relating to nuisances

water main, underground cable or pipe laid in or under the surface of such footpath or street.

- (2) The owner or occupier of any such premises shall upon receipt of a notice signed by the Municipal Manager requiring him to cut down or back or remove any such tree or shrub or the roots thereof within a time specified and if such owner or occupier shall fail to comply with such notice within such time specified therein the Council may cause such tree or shrub or the roots thereof to be cut down or back or removed, and may recover the cost of executing such work from such owner or occupier.

22. OFFENCES AND PENALTIES

Any person who –

- (1) contravenes or fails to comply with any provision of these bylaws or of any terms, condition restriction requirement notice or order imposed or issued in terms thereof;
- (2) resists, hinders, obstructs molests or interferes with an officer or employee of the Council in the performance of his duties or the exercise of his powers under these bylaws; or
- (3) causes or permits any other person to commit any of the aforesaid acts shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding five hundred rand, or in default of payment of any fine imposed, imprisonment for a person not exceeding six months or both.

23. CONFLICT OF LAWS

If there is any conflict between these bylaws and any other bylaws of the council, these bylaws will prevail.

**BYLAWS RELATING TO THE REMOVAL OF REFUSE FOR
NYANDENI MUNICIPALITY**

1. DEFINITIONS

“authorized official” means an official of the Council to whom it has delegated a duty, function or power under these bylaws in relation to the exercise or performance of that duty, function or power and includes any employee acting under the control and direction of such official;

“Council” means the Council of the Nyandeni Municipality and its successors in law, and includes the Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any official to whom the Executive Committee has delegated any powers and duties with regards to these bylaws;

“refuse receptacle” means any receptacle, complying with the South African Bureau of Standards’ specifications, for holding refuse;

“refuse bag” means a durable refuse bag suitable to be placed in a refuse receptacle;

“refuse of any nature” means all types of refuse including domestic refuse, garden refuse, commercial refuse, industrial refuse, special refuse or bulk refuse; and

“special refuse” means any refuse requiring special handling treatment and / or disposal procedures, and includes abattoir waste, minerals, oil, sludges, sand, stone excavated soils, builders’ rubble, hazardous or radio-active waste, and medical waste, and any other matter so deemed by the Council from time to time.

2. DISPOSAL OF REFUSE

1.
 - (a) No person may dispose or allow the disposal of refuse of any nature in any way other than as prescribed in these bylaws without the written approval of the authorized official.
 - (b) No person may accumulate, store or allow the accumulation or storage of refuse of any nature on any property other than as prescribed in these bylaws without the written approval of the authorized official.
 - (c) The authorized official may direct the occupier or owner of a property on which refuse of any nature is found to be accumulating or person deemed to be responsible for the disposal of refuse of any nature on any public place or vacant land to deal with the refuse as directed and any person failing to comply with such directive will be guilty of an offence.
 - (d) In the event of the person directed to remove refuse in terms of paragraph (c) failing to deal with such refuse in the manner and within the time frame directed, the authorized official may arrange for the removal of such refuse and the Council may recover all costs in this regard from such person.
2.
 - (a) The Council may arrange for the removal of all or a portion of any refuse from premises situated on properties within its area of jurisdiction.
 - (b) The Council may introduce the different levels of refuse removals services in different service areas within the Councils’ area of jurisdiction.

By-law relating to the removal of refuse

- (c) Where the Council selects not to render a removal service in respect of bulk garden refuse, industrial refuse or special refuse, the Council may direct the occupier or owner, as the case may be, in writing to arrange at his/her own cost for the removal of such refuse and the disposal thereof at a dump site approved by the Council.
 - (d) Should the owner or occupier fail to comply with a directive as contemplated in clause (c), the authorised official may arrange for the removal of such refuse and recover the costs thus incurred from the occupier or owner as the case may be.
- 3.
 - (a) For the purposes of these bylaws, the Council may raise-
 - (i) an annual levy against the owner; and/or
 - (ii) a monthly charge payable by the occupier, on all premises in the service area which shall be payable regardless of whether or not the refuse removal service is actually utilized; and/or
 - (iii) recover the levy for the service through the sale of municipal refuse bags;
 - (iv) A fee per service; and/or
 - (v) A deposit for any permit issued in terms of these bylaws.
 - (b) The Council may differentiate in the levy, charge or fees between the different refuse removal service levels rendered in the respective service areas.
 - (c) In a service area where a compulsory service has been introduced by the Council, the levy or monthly charge shall be payable by the occupier or owner, as the case may be, regardless of whether or not the refuse removal service is actually utilized.

3. CARE OF RECEPTACLES AND THE USE OF DISPOSAL BAGS

- (a) Every owner or occupier, as the case may be, shall, where the services introduced for the service area so requires, provide and maintain, on the premises, a refuse receptacle in such condition as not to cause or constitute a nuisance, and shall cause all commercial and domestic refuse accumulated on such premises to be deposited therein;
- (b) Every owner or occupier, as the case may be, shall, where the service introduced for the service area so requires, utilize standard plastic disposal bags or municipal refuse bags, as the case may be, for refuse removal;
- (c) Every owner or occupier shall keep such bags in such condition as not to cause or constitute a nuisance and shall cause all commercial and domestic refuse accumulated on such premises to be deposited therein.
- (d) Every owner or occupier, as the case may be, shall cause every receptacle to be continuously covered, save when refuse is being deposited in or removed therefrom.
- (e) No person other than an authorized official or employees of the council, shall interfere with or remove, from any premises, any refuse receptacle except to facilitate the removal of such refuse.

4. SEPARATE REFUSE RECEPTACLES REQUIRED FOR EACH TRADE, BUSINESS OR FLAT

- (a) Where more than one trade, business or occupation is carried on in one building, or where a building is divided into separately occupied flats or suites of apartments, the owner or occupier, as the case may be, of each business premise, separate flat or suite of apartments, shall provide and maintain separate refuse receptacles in respect of each such trade or business, flat or suite of apartments.
- (b) The authorized official may waive or vary the requirements of this bylaw by reducing the number of refuse receptacles required in terms of paragraph (a) of this bylaw, provided such waiver or variation shall, in no way, affect the liability of such occupier or owner to pay for the individual services mentioned in paragraph (a).

5. PROVISION OF EXTRA REFUSE RECEPTACLES

In the event of the authorized official being satisfied that the accumulation of refuse on any premises is too large to be dealt with by the normal removal service in the area, the owner or occupier of such premises, as the case may be, shall, if so required by the authorized official, provide and maintain one or more extra receptacles and shall be liable for payment of the prescribed levy or fee proportionate to the number and type of receptacles required by the authorized official.

6. BIN AREA TO BE PROVIDED

- (a) The authorized official may direct the owner of any property on which more than one tenant or owner is accommodated to provide a bin area of a suitable size and construction on the property for the temporary storage of any refuse generated or accumulated on the property and must make suitable arrangements for the removal of all refuse from such bin area as removal therefore as prescribed in these laws.
- (b) The owner of any property on which a bin area has been provided for the temporary storage of refuse of any nature must keep such bin area in a sanitary condition at all times.

7. LOCATION OF REFUSE RECEPTACLES OR BAGS FOR REMOVAL

The owner or occupier, as the case may be, shall-

- (a) in a service where a standard plastic disposal bag(s) or municipal refuse bags are used place them on the street verge or pavement on the collection day;
- (b) in a service area where refuse receptacles or other approved receptacles are used, place such receptacles on the street verge or pavement on the morning of the collection day; and
- (c) if the refuse concerned is bulk refuse, individual or special refuse, it shall be placed in such a position as the authorized official may determine and direct from time to time, in order to facilitate the removal of such refuse.

8. LIQUID WASTE MATTER

No person shall, at any time or under any circumstances, deposit or cause or permit to be deposited any liquid waste matter of any kind in any refuse receptacle or refuse bag.

By-law relating to the removal of refuse

9. REMOVAL OF INDUSTRIAL, SPECIAL AND BULK REFUSE

- (a) The owner or occupier, as the case may be, of any premises on which industrial, special or bulk refuse is produced or accumulated, shall package and deal with such refuse in a manner which the authorized official may determine and direct from time to time.
- (b) Should the owner or occupier fail to deal with such industrial, special bulk refuse as directed, the authorized official may arrange for the removal of such refuse, and recover the costs thus incurred from the occupier or owner as the case may be.

10. PROVISION FOR THE SELF-DISPOSAL OF DOMESTIC REFUSE

- (a) Notwithstanding the foregoing provisions of these bylaws, owners or occupiers of premises whose boundary line is situated more than 100 m from any road traversed by any refuse removal vehicle provided by the Council, may apply to the authorized official for authority to bury their refuse on their premises, on the grounds of inaccessibility, in pits constructed at their expense to the satisfaction of the authorized official. All owners or occupiers, to whom authority is given in terms of this bylaw, shall be exempted from charges levied by the Council in respect of the refuse removal service, save that the Council is empowered to levy a charge for the processing of any application received, and for regular inspections of the pit which shall be stated in the Council's tariff of charges.
- (b) The authorized official may grant or refuse an application in his discretion and in granting such an application may impose such conditions as to the location and the digging of the pit, the disposal of the refuse therein and the measures to be taken to prevent any nuisance or health hazard which may emanate therefrom, as he may deem fit: provided that the authorized official shall not refuse an application unless he has reasonable grounds for believing that the proposed pit will constitute a nuisance or health hazard or a source of pollution of any river, stream or water supply.
- (c) In granting such an application, the authorized official shall issue to the applicant a certificate on which any conditions imposed by him in terms of these bylaws shall be endorsed. The abovementioned certificate shall be valid for such period as the authorised official may determine or until its withdrawal or cancellation, whichever is the earlier.
- (d) The authorized official may, at any time, by notice in writing, alter, amend or vary any condition endorsed on any certificate issued in terms of these bylaws or issue any written instruction to the holder of such a certificate to do or perform any act, matter or thing regarding a pit, the digging of a new pit or the disposal or handling of the refuse therein.
- (e) Should the holder of the certificate issued in terms of these bylaws fail to comply with any of the conditions endorsed thereon or with any written instruction from the authorized official issued in terms of these bylaws, the authorized official may, by notice in writing to the holder, require him to comply with any such conditions within such period as he may determine, upon the failure of such holder to comply with the terms of such notice, the authorized official may cancel or withdraw his certificate in which event such holder shall be obliged to revert to the use of the refuse removal service provided by the Council, subject to the conditions pertaining thereto.
- (f) The continued disposal of refuse in a pit after the cancellation of a certificate issued in terms of these bylaws shall be an offence and render the offender liable to prosecution.

By-law relating to the removal of refuse

- (g) The provision of this section of the bylaws shall not apply to the self-disposal of refuse where such self-disposal forms part of the service introduced by the Council in a service area.

11. GARDEN REFUSE

- (a) No person may place, store or dump any garden refuse or allow any person to do so, on any road, verge, public or private open space without the written approval of the authorized official having been obtained.
- (b) The authorized official may, subject to such conditions as it may deem fit, issue a permit to allow the temporary storage of garden refuse, on the verge or other suitable place for a limited period of time on payment of the deposit laid down in the Council's Tariff of Charges.
- (c) Should any person fail to comply with the conditions of any permit issued in terms of these bylaws for the temporary storage of garden refuse the deposit paid will be forfeited to Council and the authorized official may arrange for the removal of such refuse and the person to whom the permit was issued will be liable for all costs incurred for the removal of all the garden refuse on the spot indicated on the said permit.
- (d) The Council may establish or approve garden refuse, transfer sites where garden refuse may be deposited for removal or landfill purposes subject to such conditions and on such days and during such hours as the Council may determine and displayed by notice on site.
- (f) No person may enter upon a site established or approved by the Council in terms of these bylaws for the disposal of garden refuse at any time other than the days and time indicated on the notice displayed or dispose of any refuse other than organic garden refuse on such site.

12. TARIFF OF CHARGES

The tariff of charges approved by the Council for refuse removal services in effect on the date of publication of these bylaws will remain effective until amended by the Council from time to time.

13. OFFENCES AND PENALTIES

- (a) Any person who-
 - (i) contravenes any provision of these bylaws, which contravention is not expressly stated to be an offence;
 - (ii) contravenes any condition or restriction imposed upon the granting of any application, approval, authority, consent or permission in terms of these bylaws; or
 - (iii) fails to comply with the terms of any notice served upon him or instruction to him in terms of these bylaws, shall be guilty of an offence.
- (b) Any person who contravenes any of these bylaws shall be guilty of an offence and liable, upon conviction, to a fine-

- (i) not exceeding one thousand rands (R1 000) or imprisonment for a period not exceeding one year or both such fine and imprisonment in the case of a first conviction, and
- (ii) in the case of a second or subsequent conviction for the same offence, a fine not exceeding two thousand rands (R2 000) or imprisonment for a period not exceeding two years or both such fine and imprisonment.

14. CONFLICT OF LAWS

If there is any conflict between these bylaws and any other bylaws of the council, these bylaws will prevail.

CEMETERY BYLAWS FOR NYANDENI MUNICIPALITY

CHAPTER 1

1. DEFINITIONS

Unless the context otherwise –

“adult” means any deceased person over the age of 12 years, whose coffin will fit into the grave opening prescribed for adults in section 40(2).

“ashes” means the physical ashes remains of a body after it has been cremated;

“berm” means a concrete strip by the Council along a row of graves;

“caretaker” means the person holding the position of the caretaker or superintendent of any cemetery or acting in such capacity in the service of the Council;

“cemetery” means any piece of land aside by the Council within the Municipal area for the purpose of a public cemetery;

“child” means any deceased person of the age of 12 year or younger whose coffin will fit into grave opening prescribed for children in section 40(2);

“ Chief Executive Office” means the Chief Executive Officer of the Council or any other person acting by virtue of any power delegated to him/her;

“contractor” means the person who has paid any of the tariff of charges, or who has obtained the right to have any memorial work erected or constructed or who has obtained any other rights or interests referred to in these bylaws;

“Council” means the Nyandeni Municipality and its successor in law includes the Council of that Municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any official to whom the Executive Committee has delegated any powers and duties with regard to these bylaws;

“cremation” means the incineration of any human body or remains to ashes;

“foot curb” means the construction on which a memorial works or headstone is attached;

“funerary urn” means an urn containing the cremated remains with size 175 mm x 185 mm 110 mm;

“garden of remembrance” means a section of a society of a cemetery, which has been set aside for the interment or scattering of ashes;

“grave” means any grave in a cemetery in respect of which any person has obtained the right having a single body interred therein;

“medical officer of health” means the Medical Officer of Health for the Council or any other person acting in such capacity of by virtue of any power delegated to him/her

“memorial plate” means a plate of 305 mm x 210 mm x 15 mm manufactured in granite or marble attached to the memorial wall over niche;

“memorial wall” means a wall with Niches set out to preserve the funerary urns against which only memorial plats can be attached;

“memorial work” means tombstone, railing, fence, monument memorial inscription or other work erected on any grave;

“Municipality” means the Municipality of Nyandeni;

“niche” means shallow recess in memorial wall to contain an urn of 385 mm x 185 mm;

“Registrar of Deaths” means any person appointed by the Government of the Republic of South Africa to register deaths;

“resident” means a person who, at the time of death was ordinarily within the area of jurisdiction of the Municipality, excluding inmates in hospitals, institutions, or other persons temporarily resident within the area of jurisdiction of the Municipality; and

“tariff” means fees payable as determined by the Council from time to time.

CHAPTER 2

GENERAL

2. ESTABLISHMENT OF CEMETERIES

The Council may set aside any land for the purpose of a cemetery and no person shall be permitted to enter a body in any other place.

3. HOURS OF ADMISSION FOR VISITORS

Every cemetery shall be open to the public during the following hours: Mondays to Saturdays: 6:30 to 17:00; and Sundays and Public Holidays: 7:00 to 16:00. The Council shall have the power to close to the public any cemetery or part thereof for such period as it may deem fit.

4. RESERVING OF GRAVES

- (1) No person shall, without the written consent to the Council, sell or transfer to any other person any right relating to a grave that has been obtained in terms of these bylaws. Should the Council consent to such transfer, it will be subject to the conditions that every transfer of the rights relating to a reserved grave be registered by the caretaker and the registration fee as determined by the Council be paid to the City Treasurer by the new contractor.
- (2) Any person having reserved a grave and failing to use the grave within a period of 50 years from the date of reservation, or omitting to notify the Council that he/she does not intend to use the grave, thus gives the Council the right to sell the grave. The applicable charges as determined by the Council shall be payable in respect of grave sold.
- (3) The Council shall not be obliged to refund any charges paid in respect of a grave sold in terms of subsection (2).

5. RELIGIOUS CEREMONIES

Subject to the provisions of these Bylaws, the members of any religious denomination may conduct religious ceremonies in connection with any interment or memorial service subject to the written consent of the Council.

6. PLANS OF GRAVES, PLOTS AND NICHES

Plans indicating different graves and niches available are kept at the Council's offices for inspection free of charge.

7. COMPLAINTS

Any person wishing to lodge a complaint concerning the conditions in or management of the cemetery shall lodge the complaint in writing to the Chief Executive Officer.

8. CHARGES/TARIFFS

The tariff of charges as determined by the Council, shall be payable to the Council for the services rendered in terms of these bylaws.

9. CONSENT NOTICE ORDER

Any written consent, notice or order issued by the Council in terms of these bylaws, shall be signed by the Chief Executive Officer or his authorized representative and shall be prima facie evidence thereof.

10. INSTRUCTIONS OF CARETAKER

Every person taking part in any funeral procession or ceremony in the Cemetery shall obey the instruction/s of the caretaker/officer in charge.

11. FLOWERS

The caretaker may remove the flowers and foliage placed on grave when, in his opinion, they have wilted.

CHAPTER 3 PROHIBITION ORDERS

12. CHILDREN

No person under the age of 12 years may enter any cemetery unless under the supervision of an adult.

13. KEEPING TO PATHS/WALKWAYS

Except for the purpose permitted by these Bylaws, all persons shall only use roads, paved walkways and demarcated turf walkways provided in the cemetery.

14. ENTRANCES AND EXITS OF CEMETERIES

No person shall enter or leave a cemetery except through the official entrances provided.

15. PERFORMANCE OF ACTIVITIES

No person shall use any road, path or grass route within the cemetery for the purpose of transporting goods, parcels or any other material except if it is intended for use within cemetery.

16. PROHIBITED ACTIONS WITHIN CEMETERIES

No person shall –

commit any nuisance within any cemetery;

ride on any animal, cycle skateboard or roller skates within the cemetery;

allow any animal to wonder inside any cemetery;

plant, cut, pick or remove an plant, shrub or flower without permission of the caretaker;

hold or take part in any demonstration in any cemetery;

obstruct, resist or oppose the caretaker or any official employed by the Council in the performance of his/her duties, or refuse to comply with any order or request which the caretaker is entitled to make in terms of these bylaws;

mark, draw or scribble objects on walls or erect advertisements on buildings, fences, gates and memorial work or anything within any cemetery/or deface it in anyway,

sit, stand or climb on or over any memorial work, gate, wall fence or building in any cemetery;

be in or remain in any cemetery or part thereof before or after the hours mentioned in sections 3 or during any period when it closed to the public; and

without the written permission of the Council, tout or operate any business, order, exhibit or distribute ant tracts, business card or advertisements within or at the entrance of the cemetery.

17. MISCELLANEOUS

(1) No person shall dispose of a body in any other manner than by interring it in o cemetery or having it cremated in a crematorium approved in terms of these provisions of Eastern Cape Cemeteries and Cremation Act.

(2) No person shall acquire any right to or interest in any ground or grave in any cemetery, other than such rights or interests as may be obtainable in terms of these bylaws.

18. EXPOSURE OF BODIES

No person shall convey a dead body that is not covered, or expose any such body or any part thereof or remove the lid or cover of the coffin wherein such dead body or corpse is placed, in any street, cemetery or public place.

19. MUSIC INSIDE CEMETERY

No loud music shall be played in any cemetery without consent of the Council, except in case of the State, Police or military funerals.

20. OCCUPATION OF CHAPEL OR SHELTER

No person shall for the purpose of a funeral, occupy chapel or shelter in a cemetery for than 45 minutes.

21. HOURS OF INTERMENTS

No interment shall be held before 9:00 or after 16:00 on any day without the prior consent of the Council.

22. NUMBER OF GRAVES

No person shall fix a peg on any grave not properly allocated by the Council and no person shall intern a body in any grave on which a peg-marked number has not been lawfully fixed.

23. RUBBLE AND DAMAGE TO CEMETERY

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

24. INCLEMENT WEATHER

No person shall fix or place any memorial work during inclement weather or while the soil is, in the opinion of the Council, in an unsuitable condition.

25. DISTURBANCE OF HUMAN REMAINS

Subject to the provision of an exhumation order given in terms on the Inquest Act, 1959; or section 20 of the Eastern Cape Cemeteries and Cremation Act; or any other provision of any other act relating to the exhumation of bodies, no person shall disturb any mortal remains or any ground surrounding it in a cemetery.

CHAPTER 4 INTERMENTS

26. APPLICATION FOR AN ACQUISITION OF THE USE OF A GRAVE

- (1) Any person desiring to have a body or human remains interred in a grave shall submit the appropriate form to the caretaker before the time of interment. The next of kin or the closest surviving relative or a person of interest shall sign the application of interment. The next of kin or the closest surviving relative or a person of interest shall sign the application of interment.
- (2) The Council, may on payment of the applicable fees, allocate the use of any grave appropriated for interment to any person who applied for it in terms of subsection (1).

- (3) No body or human remain shall be interred within any cemetery without the permission of the caretaker. This permission will only be granted on submission of a written burial order, signed by the Registrar of Deaths authorizing the interment, and on presentation and submission of such a notice of interment. In all cases where a postmortem has been held, the order of the magistrate shall also be submitted to the caretaker.
- (4) The Council may, upon request, inter any body of chare, or in terms of the provision of any applicable.

27. ALTERATION OF DATE OF INTERMENT

Should any changes to the date, or time previously fixed for an interment be made, notice of such changes shall be given to the caretaker at least 24 hours before such interment. For the purpose of this section, 48 hours should be given if the aforesaid 24 hours includes a Sunday or part thereof.

28. DIMENSIONS OF GRAVE AND GRAVE APERTURES - SIZE

- (1) The standard dimensions of an adult gravesite shall be 2 500 mm x 1 500 mm and that of a child 1 500 mm x 1 000 mm.
- (2) The standard dimensions of the aperture of an adult's grave shall be 2 200 mm in length and 900 mm in width and that of a child's grave 1 200 mm in length and 700 mm in width.
- (3) Anybody requiring a grave for interment of an adult with an aperture large that the standard size, shall, when applying for interment, specify the measurements of the coffin and the mountings. The appropriate fee fro enlargement of the aperture will be payable to the Council as prescribed in the tariff of charges.

29. WHEN A CHILD'S COFFIN IS TOO LARGE

Should a child's coffin be too large aperture of a child's grave, it shall be placed in an adult grave and fees payable for an adult's interment shall apply.

30. DEPTH OF GRAVE

No adult shall be less than 1 800 mm and that of a child less 1 500 mm in depth.

31. COVERING OF EARTH

There shall be at least 1 m of earth between the coffin and surface of the ground. In the instance of successive burials, at least 300 mm of earth shall be left between the coffins.

32. COFFINS IN GRAVES

No person shall place any coffin constructed from any material other than soft wood or other perishable materials approved by the Council, unless otherwise stipulated in other legislation.

33. NUMBER OF BODIES IN ONE GRAVE

No more than two bodies shall be buried in the same grave at the same time, unless prior arrangement has been made.

34. RESERVATION OF GRAVES

Any person wishing to reserve a grave or upon the death of a person to reserve an adjoining grave, if available, shall obtain the right, on payment of the fees prescribed in the tariffs of charges, to use such grave for future burial purpose.

35. SECOND INTERMENTS

- (1) Any person who wishes to apply for a second interment in the same grave may do so only after a period of two years has lapsed since the date of the 1st interment on condition that the grave was deepened prior or during the preparation of the grave for the first interment, Hygiene and Health.
- (2) The applicant who wishes to have a body interred for the purpose of a second interment shall –
 - (a) apply on the prescribe from at least 24 hours before the internment shall take place; and
 - (b) remove any memorial work on such grave at his own cost an comply with requirements made by the caretaker in this regard.

**CHAPTER 5
ASHES**

36. ACQUIRING OF NICHE

Subject to the provisions of these bylaws, a person may acquire a niche in the cemetery, if available, and by paying the prescribed fees.

37. BURIAL OF ASHES

Subject to the provisions of these bylaws, ashes maybe buried in a grave in the cemetery and all prescriptions, provisions and fees applicable in terms of these bylaws pertaining to the burial of a body in a grave are mutatis mutandis applicable instance. The grave aperture may be smaller than the aperture prescribed for the burial of a body.

No ashes shall be buried in a grave without it being to the satisfaction of the Council as being the cremated remains of a human body and the required documentation is submitted to this effect.

Ashes buried in a grave shall be placed in a funeral effect.

There shall be at least 100 mm of earth between the urn containing in the ashes, and the surface of the ground.

Subject to the provisions of these bylaws, the burial of ashes in a grave being used already for a first interment, may take place free of charge.

38. PLACING OF ASHES IN MEMORIAL WALL, GARDEN OR GARDEN OF REMEMBRANCE

- (1) Any person who desires to a place a funerary urn containing cremated remains in the niche in the Memorial Wall, Memorial Garden or Garden of Remembrance shall submit an application, accompanied by the Cremation Certificate, in writing or on the prescribed form, to the caretaker. If the caretaker is satisfied that the signature of the nearest surviving relative cannot be obtained timeously, he may, in his discretion, grant an application signed by any other person.

- (2) Any person applying in terms of subsection (1) shall pay the prescribed fees as determined by the Council.

39. EXHUMATION OF ASHES

No person shall exhume ashes from any grave without the prior written consent or comply with any conditions determined by the Council. Applications for the exhumation of ashes shall be submitted to the Council at least 8 working hours prior to the exhumation.

40. SCATTERING OF ASHES

The scattering of ashes in the Landscape Area or Garden of Remembrance is permitted with prior written consent of the Council.

CHAPTER 6

EXHUMATION OF BODIES AND RE-OPENING OF GRAVES

41. EXHUMATION

- (1) Subject to the provisions of these bylaws and any other legislation, no grave shall be re-opened without a written consent of the Council.
- (2) Subject to the provision of these bylaws, no person shall exhume or cause any body to be exhumed without a written consent of the Medical Officer of Health and the charges for exhumation as determined by the Council shall be paid before the exhumation takes place. Such consent shall be submitted to the caretaker at least two days before the date fixed for the exhumation or removal of the body.

42. CLOSURE DUE TO EXHUMATION

At the time of an exhumation of a body, the cemetery shall be closed to the public.

43. SCREENING OF ACTIVITIES

The grave from which a body is to be removed shall be effectively screened from view during the exhumation and a suitable container shall be supplied for the remains.

44. MEDICAL OFFICERS OF HEALTH SHALL BE PRESENT

No exhumation shall take place unless the Medical Office of Health or his/her authorized representative is present.

45. TRANSFER OF BODY FROM ONE TO ANOTHER BY THE COUNCIL

Subject to the provisions of these bylaws and any applicable legislation, the Council may move a body from one grave to another.

CHAPTER 7
CARE OF GRAVES

46. GENERAL

- (1) No shrub, tree or any other plant may be planted on graves without the consent of the Council and the Council may use its discretion to prune, cut down, dig up or remove any shrub, plant or flower at any time.
- (2) No person shall bring into cemetery, erect, alter, paint, clean, renovate, decorate, remove or otherwise provided for in these bylaws.

47. POSITION OF MEMORIAL WORK

No person shall erect memorials on any grave except such position a position as indicated by the caretaker or as otherwise provided for in these bylaws.

48. REPAIRS TO MEMORIAL WORK

If the contractor allows the memorial work to fall or cause danger to deface the cemetery shall affect work under the supervision and to the satisfaction of the caretaker.

49. DAMAGING OF MEMORIAL WORKS

The Council shall not accept responsibility for any damages caused or may occur which is not due to the negligence of the Council's employees.

50. MOVING OF MEMORIAL WORK

The Council shall may, after due notice, at any time change or alter the position of any memorial work in any cemetery.

51. BRINGING MATERIAL INTO CEMETERY

- (1) No person shall bring any material into the cemetery for the purpose of constructing memorial work on any grave unless –
 - (a) a sketch plan indicating the dimension of the framework, the inscription and position thereof has been submitted approved by the caretaker;
 - (b) all charges due in respect of such grave have been paid; and
 - (c) the Council's written approval has been given to this effect.

52. REMOVAL OF MEMORIAL WORKS BY THE COUNCIL

Any memorial work placed, built, altered, decorated, painted, in contravention of these bylaws or which, in the opinion of the Council, contravenes the good ethics and moral of society, maybe removed by the Council after due notice, without payment of any compensation.

53. REQUIREMENTS FOR ERECTION OF MEMORIAL WORKS

- (1) Any person erecting memorial work shall conform to the following requirements:
- (a) where any part of any memorial work is to be joined to any other part, copper or galvanized iron clamps, pins or dowels of approved thickness and of sufficient length, shall be used for such purpose. The holes into which such clamps, pins or dowels must fit shall not less than 50 mm deep.
 - (b) Any part such work, which rests upon the ground or stone or other foundation, shall be squared and added.
 - (c) The stones referred to in subsection (1) will not be of uneven thickness nor have uneven corners.
 - (d) The underside all memorial work shall be set at least 50 mm below the natural level of the ground.
 - (e) No kerbstones shall be used which protrude more than 230 mm above the surface on the ground or are more than 200 mm thick.
 - (f) All head and kerbstones shall be properly secured from the inside with round copper or galvanized iron pins.
 - (g) All headstones up to 15 mm in thickness shall be securely attached to the base in an approved iron pins.
 - (h) All headstones up to 15 mm in thickness shall be securely attached to the base in an approve manner.
 - (i) All memorial work shall be completed as far as possible before is brought into cemetery.
 - (j) In the case of single graves, foot kerbs shall consist of one solid piece.
 - (k) No person shall do any stonework , chiseling etc. in the cemetery which is not connected with the erection of the memorial work, except, except if the work is expressly permitted for in the bylaw.
 - (l) All memorial work shall do an adequate concrete foundation chiastic with the headstone and where joints occur in the kerbstone, all joints shall be fitted with good cement mortar.
 - (m) Where memorial works has a base on ground level, such base shall not be less 900 mm wide by not less 300 mm x 300 mm.
 - (n) All letters on memorial work shall be engraved thereon and shall not protrude above the surface of the memorial work.
 - (o) With the consent of the contractor, the name of the maker may be affixed to any memorial work; provided that no other particulars be added thereto.

54. VEHICLES AND TOOLS

Any person engaged in any work on any shall provide such vehicles, tools and other appliances of his own as he may require.

**CHAPTER 8
OFFENCES AND PENALTIES****55. PENALTIES**

Any person contravening any provision of these bylaws or failing to comply therewith or failing to comply with the conditions of any notice served on him by the Council in terms of these bylaw shall be guilty of an offence and liable, upon conviction, to a fine or imprisonment not exceeding a period of six months, or to both the fine and the imprisonment.

**CHAPTER 9
CONFLICT OF LAWS****56. CONFLICT OF LAWS**

If there is any conflict between these bylaws and any other bylaws of the Council, these bylaws will prevail.

**PUBLIC ROAD AND MISCELLANEOUS BY-LAWS FOR
NYANDENI MUNICIPALITY**

1. DEFINITIONS

In these Bylaws, any word or expression that has been defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996) has that meaning and, unless the context otherwise indicates –

“authorized official” means any person or official authorized in writing as such by the Council.

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

“trolley” means a push trolley, push cart or any table, stand or basket on wheels;

“municipal store” means the municipal store of the Council.

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

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

“storekeeper” means the person in the service of the Council who holds the position of storekeeper or a person acting in that capacity;

“public road” means a square, road, sidewalk, island in a road, subway, avenue, bridge, public passageway and any thoroughfare shown on the general plan of a township or in respect of which the public has acquired a prescriptive or other right of way which are vested in the Council;

“token” in respect of a trolley, means a sign on which the name and the address of the owner appears;

“watercourse” means a watercourse as defined in section 1 of the National Water Act, 1998 (Act No. 36 of 1998);

CHAPTER 1

PUBLIC ROADS AND MISCELLANEOUS

2. ROPES, WIRES OR POLES ACROSS PUBLIC ROAD

No person may place any rope, wire or pole on, under or across any public road, or hang, or place anything whatsoever thereon without the prior written consent of the Council.

3. DAMAGE TO TREES

No person may climb upon, or break or damage or in any way mark or paint on any tree or any public road within the municipal area of the Council, and no person may, without the prior written consent of the Council, lop, trim, cut down or remove any

such trees unless the person is authorized to do so in terms of these Bylaws or any other law.

4. BARBED WIRE, DANGEROUS AND ELECTRICAL FENCING

- (1) No owner or occupier of land –
 - (a) other than an owner or occupier of an agricultural holding or farm land, may along any public road erect or cause, or permit to be erected, any barbed wire fence or any railing, paling, wall or other barrier which, by reason of the nature of its construction or design, is or may become a danger to any member of the public using such public road or public place;
 - (b) including an owner or occupier of an agricultural holding or farm land, may along any public road erect or cause, or permit to be erected, or after one year from the date of commencement of these By-laws, have along such public road any electrified fence, railing or other electrified barrier unless –
 - (i) the fence, railing or other barrier is erected on top of a wall built of brick, cement, concrete or similar material, which wall may not be less than two meters high; and
 - (ii) the fence, railing, or other barrier is designed and installed in accordance with any relevant specifications determined by the Council and any standard issued in terms of the Standards Act, 1993 (Act No. 29 of 1993);
 - (c) May erect, or cause, or permit to be erected, any electrified fence, railing, wall or other electrified barrier mentioned in paragraph (b) without the prior written permission of the Council, which permission is granted in terms of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977).
2. The full technical details of the proposed electrified fence, railing, wall or other electrified barrier must accompany any application for permission submitted to the Council.

5. PROTECTION OF PUBLIC ROAD

No person may place upon or off-load on a public road any materials or goods which are likely to cause damage to a public road unless the person has taken reasonable precautions to protect the surface of the public road against damage.

6. CLEANLINESS OF PUBLIC ROADS

- (1) No person may spill, drop or place or permit to be spilled, dropped or placed, on any public road any matter or substance that may interfere with the cleanliness of the public road, or cause or is likely to cause annoyance, danger or accident to persons, animals, vehicles or other traffic using such public road, without removing it or causing it to be removed from such public road immediately.
- (2) If the person mentioned in subsection (1) fails to remove the matter or substance, the Council may remove such matter or substance and recover the cost of removal from the person.

7. ARTICLE PLACED IN BUILDING FACING PUBLIC ROAD

No person may place any article likely to cause injury or damage to any person or property if it were to fall, in any building or other part of a building near any public road without taking all reasonable steps against it falling onto the public road.

8. DAMAGING OF COUNCIL'S PROPERTY

Subject to the provisions of section 10, no person may deface, tamper, damage, remove, or in any way interfere with any Council's property or work on or along any public road.

9. CLEANING AND REPAIRING ON PUBLIC ROADS

No person may clean or repair any part of a vehicle or wash, dry or paint any article or object on any public road except in an emergency breakdown of a vehicle.

10. EXCAVATIONS IN PUBLIC ROADS

- (1) No person may make or cause to be made any hole, trench, pit or tunnel on or under any public road or remove any soil, metal or macadam there from without the prior written consent of the Council unless such person is authorized to do so in terms of these Bylaws or any other law.
- (2) A person, who requires the consent referred to in subsection (1), must comply with the requirements prescribed by the Council from time to time.
- (3) The Council may require a person referred to in subsection (2) to pay the prescribed fee.

11. DEFACING, MARKING OR PAINTING PUBLIC ROADS

No person may in any way deface, mark or paint any public road or part of the public road without the prior written consent of the Council.

12. RACES AND SPORTS EVENTS

- (1) An application for consent to hold a race or sports event on any public road in terms of the Nation Road Traffic Act, 1996 (Act No. 93 of 1996), must be submitted in writing to the Council on the prescribed form at least 60 days prior to the envisaged event.
- (2) The applicant must pay the prescribed deposit for the costs to be incurred during the race or sports event, to the Council prior to commencement of the race or sports event and any mutual adjustment must be made after the conclusion of the race or sports event as soon as the Council has determined actual costs incurred by the Council.

13. LOITERING ON PUBLIC ROADS

- (1) No person may –
 - (a) lie or sit so as to obstruct traffic on any public road;

- (b) stand, congregate, loiter or walk, or otherwise act on any public road in any manner that may obstruct traffic; or
 - (c) Jostle or loiter at or within 20m of the entrance of any place of public worship during the time of divine service or during assembly at the place of worship or departure from such place of the congregation so as to obstruct or annoy any persons going to, attending at, or leaving such place of worship.
- (2) Any person performing any of the prohibited acts mentioned in subsection (1) must, upon request by an authorized official, discontinue to do so, failing which the person is guilty of an offence.

14. LOITERING AND TOUTING AT PLACES OF PUBLIC ENTERTAINMENT

- (1) No person may loiter or, except when forming part of a queue, congregate on any public road within 20m of the entrance to any place of public entertainment so as to obstruct traffic or persons proceeding to, attending at, or departing from such place of entertainment.
- (2) No person may, without the prior written consent of the Council tout or solicit drivers of motor vehicles at places of entertainment for the purpose of or under pretext of attending to the motor vehicles during the assembly thereat or the departure there-from.

15. PUBLIC DECENCY

- (1) No person may appear unclothed on any public road.
- (2) No person may on or in view of any public road urinate, excrete, behave in any indecent manner by exposing his or her person or otherwise, make use of any indecent gesture, or commit, solicit or provoke any person to commit any riotous, disorderly or indecent act.
- (3) No person may on any public road sing any obscene or profane song, or use any profane, foul, indecent or obscene language.
- (4) No person may on any public road in any way loiter or solicit or importune any other person for the purpose of begging.
- (5) No person may on a public road use any threatening, abusive or insulting words or gestures or behaviour with intent to cause a breach of the peace is likely to be occasioned.
- (6) Drinking on public roads is prohibited.

16. TROLLEYS

- (1) The owner of a trolley must affix the prescribed token in a conspicuous position on the trolley.
- (2) The owner or the person who controls or has the supervision over a trolley or who offers it to be used by any person, or who uses it for any purpose whatsoever, may not leave or abandon it or permit it to be left or abandoned on any public road.
- (3) Any trolley that has been left or abandoned on any public road, may be removed, or caused to be removed, by any authorized official and be placed under the care of the storekeeper.

- (4) The storekeeper must store any trolley which has been placed under his or her care in terms of subsection (3), at the municipal store and the Council must publish once a month in respect of eleven months of a year calculated from the first day of January, a notice in two newspapers circulating within the municipal area, which states –
 - (a) the name of the owner of the trolley, if known;
 - (b) the number of trolleys being so stored;
 - (c) that the trolley may be claimed by the owner from the Council on payment of the prescribed storage charge;
 - (d) that any trolley that has not been claimed after a period of three months from the date of publication of the said notice, may be sold by the Council by public auction; and
 - (e) that the proceeds of the public auction shall accrue to the Council.
- (5) The Council is not liable for the theft, damage to or loss of any trolley while the trolley is stored in the municipal store or the selling thereof by public auction.

17. PUBLIC ROAD COLLECTORS

- (1) No collection on a public road may be organized or held without the prior written consent of the Council.
- (2) Application for such consent must be made on a form provided for this purpose by the Council.
- (3) Every application must be accompanied by proof that the organization or person intending to hold the public road collection is authorized to collect a contribution in terms of the Nonprofit Organizations Act, 1997 (Act No. 71 of 1997), or the Fund Raising Act, 1978 (Act No. 107 of 1978), as the case may be.
- (4) The Council may give the consent referred to in subsection (1) to an organization or person to hold a collection on a specified public road, date and at a specified time and reserves the right to determine the number of collections which may be held on any one day on the public road so specified.
- (5) Every organization or person, holding a public road collection is entitled to use its or his or her own identifiable collection boxes and if any organization or person does not possess any boxes, the Council's collection boxes may be used upon payment of the prescribed charge.

18. CONTROL OF STORM WATER AND WATERCOURSES ON PUBLIC ROAD

- (1) A person may not, without prior written consent of the Council, which consent may be conditional or unconditional –
- (2) The Council may, subject to any laws which may be applicable and after obtaining consent of the owner and the occupier, if any –
 - (a) deviate any watercourse, stream or river if the deviation is necessary for the protection of a public road or the construction of a structure connected with or belonging to a public road;

- (b) divert storm water from or under any public road onto private property other than land occupied by buildings, other structures or improvements; and
- (c) pay reasonable compensation as agreed between the owner or occupier and the Council, for any damage caused as a result of any action taken under paragraph (a) or (b).

19. OBSTRUCTION ON PUBLIC ROADS

No person may deposit or cause to be deposited or leave or cause to be left any sand, stone, earth, bricks, timber, lime cement or other building or excavated material or whatever nature on any portion of any public road, sidewalk or footway unless it is deposited within an enclosure in respect of which the prior written consent of the Council has been obtained.

20. CONSENT TO HOARD IN FOOTWAY

- (1) Any person who erects, removes, alters, repairs or paints any building or structure or carries out any excavation, on any part of which is within 2m of a public road must, before commencing any such work, enclose or cause to be enclosed a space in front of such part of the building or structure.
- (2) If the enclosure occupies or projects over any portion of a public road, the person must apply for a written permit to the Council and if the person making the application is not the owner of the building or land on which the work is done or is to be done, the owner must countersign the application.
- (3) The Council may determine what portion of the public road is necessary for the purpose of carrying out any building operations and in all cases where it so determines that the public road may be used for such purposes, grant a permit in writing setting forth the portion which may be occupied for such purpose and the conditions under which such permit is granted.
- (4) The Council reserves the right to withhold the issue of the permits required in terms of this section until all prescribed fees have been paid and the acceptance of any such permit by the application without objection, is taken to indicate that all kerbs, gutters and other work were in good order and condition on the date of such permit.
- (5) Every permit granted by the Council for the erection of a hoarding, fence, scaffolding or an enclosure or a planked shed, must specify the area and precise position of that part of the public road where the enclosure, overhanging or covering is permitted and the period for which the permit is granted.

CHAPTER 2

TRAFFIC MATTERS

21. CONTROL OF TRAFFIC

- (1) An authorised officer may direct all traffic by means of visible or audible signals and every person shall obey such signal.
- (2) No person may obstruct, hinder, abuse, or interfere with any authorised officer in the exercise of the powers in terms of these By-laws.

22. CLINGING TO MOVING VEHICLES

No person travelling upon any pedal cycle, motor cycle, coaster, sled, roller-skates, or any other similar device may cling to or attach himself or herself or his or her cycle or device to any other moving vehicle, upon any public road.

23. PROHIBITION OF ANIMAL-DRAWN VEHICLES

No person may, on the public roads within the area prescribed by the Council from time to time, drive or cause to be driven any animal drawn vehicle along or through those portions of such public roads determined by the Council.

24. REMOVAL OF OBSTRUCTIONS

- (1) If any person causes an obstruction on any public road or public place, an authorised officer, may order such person to refrain from causing or to remove the said obstruction.
- (2) Where a person causing an obstruction cannot be found, or fails or neglects to remove, or to cease causing, such obstruction, an authorised officer, may take such steps as may be necessary to remove the obstruction, or to prevent its continuance and the Council may in the case where the person fails or neglects to remove or cease causing the obstruction, recover the cost of the removal of the obstruction from that person.

25. GAMES, THROWING STONES, ON PUBLIC ROADS

- (1) No person may roll any hoop or fly any kite or throw stones or use any bow and arrow, or by any means discharge any missile upon, over or across any public road, or play cricket, football or any other game whatsoever on any public road.
- (2) No person may erect a tent or place chairs or any article on a public road for the purpose of a funeral, party or any other event without the prior written consent of the Council.

26. SHOEING AND CLEANING OF ANIMALS ON PUBLIC ROADS

Public roads and miscellaneous by-laws

No person may shoe or farry any animal, or clean, dress, train, break-in or turn cattle loose on a public road. No person has the right to wash a car in a public road.

27. ANIMALS ON PUBLIC ROADS

- (1) No person may leave any severely injured, feeble, emaciated, diseased or dying animal on any public road except for the purpose of seeking assistance for the removal of such animal.
- (2) Any live stock at large on a public road within the municipal area of the Council may be taken to a place designated by the Council by any authorised officer.
- (3) Any person contravening subsection (1) is liable, in addition to payment of the penalty determined by the Council, to pay to the Council the cost incurred by it in acting in accordance with subsection 2.

28. OFFENCES AND PENALTIES

Any person who -

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

is guilty of an offence and liable on conviction to a fine of R500 or in default of payment to imprisonment for a period not exceeding 6 months or both.

29. CONFLICT OF LAWS

If there is any conflict between these bylaws and any other bylaws of the council, these bylaws will prevail

POUND BY-LAWS FOR NYANDENI MUNICIPALITY**1. Definitions**

In these bylaws, unless inconsistent with the context –

“animal” means any equine or bovine animal or any donkey, sheep, goat, pig or domesticated ostrich, or any hybrid of such animals, or any poultry;

“impounded animal” means any animal received into a pound as contemplated in section 5;

“owner” in relation to any animal includes the agent of the owner or any other person having lawful custody of the animal;

“owner” in relation to any land includes the registered owner, the lessee and any lawful occupier of such animal;

“pound” means any premises on which a pound has been established by or on behalf of the municipality for the impounding of animals under these bylaws; and

“pound manager” means the person appointed from time to time by the municipality to manage a pound established by the municipality and includes such person’s deputy and any other person appointed by such person to act in his stead during his absence from the pound.

Application

1. **Animal Facilities:** An ideal pound facility must be well designed, maintained and regularly inspected to ensure that there is nothing likely to cause injury or distress to the animals.
2. **Gates and Passages:** There must be two gates in each pound for entrance and exit. The passages should be wide enough. Gates should open and move with ease and must be able to be secured in such a manner that the animals cannot open them.
3. **Pens:** The pens must be spacious enough to accommodate the animals kept in them, allowing for animals to move away from more aggressive animals, and to move around comfortably, exercise and undertake normal behavior. There must be a separated pen gate. The pens must have feed/ water containers that are not shared with neighbouring pens to minimize the spread of disease. A shelter must be provided in these pens.
4. **Ramps:** The ramps must be kept well maintained and free of loose objects at all times.
5. **Food and Water Containers:** Food and water containers must be made of suitable, durable and non- toxic material. They must be of such design or secured in such a manner that they cannot be knocked or tipped over.
6. **Nothing prevents any animal detained in terms of these bylaws from being impounded in a pound or any similar facility established by any other municipality, the provincial government or other lawful authority.**

Establishment of pound

3. (1) The municipality may establish a pound at any convenient place within its area of jurisdiction and, whenever the municipality deems it necessary, may disestablish such pound.

¹ Pound by-laws

- (2) The municipality shall give notice of the establishment of a pound, or the disestablishment thereof, by publishing a notice in at least two newspapers circulating in the area of jurisdiction of the municipality.

Detention and removal of animals

4. (1) Any animal -

- (a) found trespassing on land; or
 - (b) straying or wandering unattended in a public road or other public place,
- may be detained and removed to a pound by the owner of such land, an official of the municipality, a member of the South African Police Services or the pound manager.

(2) Any person who has detained an animal for the purpose of impounding shall -

- (a) remove such animals to a pound within 24 hours after seizure; and
- (b) ensure that proper care is taken of the seized animal until the animal is received at the pound.

Receipt of animals

5. (1) Any person removing an animal to the pound shall provide the pound manager with -

- (a) his or her name and permanent residential address;
- (b) the time and place of detention; and
- (c) the capacity in which he or she detained the animal.

(2) The pound manager shall, upon receipt of a detained animal -

- (a) record the particulars furnished in terms of section 5(1) and enter the same in a book maintained for the purpose;
- (b) furnish the person delivering the animal with a receipt reflecting -
 - (i) his or her name;
 - (ii) a description of the animal; and
 - (iii) the date and time of receipt of the animal at the pound; and
- (c) keep a copy of each receipt issued in terms of section 5(2)(b).

(3) No person shall release or attempt to release, otherwise than in accordance with these by-laws, any animal which has been received at a pound.

Care of animals

6. (1) The pound manager shall take proper care of any animal impounded in terms of these bylaws.

(2) The pound manager shall not use or cause or permit to be used any animal impounded in terms of these bylaws.

¹ Pound by-laws

- (3) In the event of the injury or death of any impounded animal, the pound manager shall record the cause of such injury or death and shall retain any veterinary certificate issued.
- (4) The pound manager shall keep records of any expense incurred in respect of an impounded animal.

Release of animals

7. The pound manager shall release an impounded animal to any person who has -
- (1) satisfied the pound manager that he or she is the owner of the impounded animal;
 - (2) paid the conveyance and pound fees prescribed by resolution of the council of the municipality from time to time; and
 - (3) paid any veterinary or other expenses incurred in the impounding of the animal.

Types of Pound Fees

Entrance Fee: There is an entrance fee as set by Nyandeni Local Municipality Tariffs.

Day Charge: means if you impound an animal for example at 12h00 today, a day will be finished at 12h00 another the day so as per approved and applicable tariffs.

Damage fee: This fee is fee that will be paid to any proprietor whose land and animals are found trespassing-by the owner of the stock, not the municipality. The municipality will still charge its separate tariff (as per approved) and owner to pay any liabilities.

Outgoing fee: This fee is charged when they are releasing (as per Nyandeni Local Municipality Tariffs).

Immunization Fee/ Veterinary Surgeon costs: Animals become sick while are impounded up to a stage to call a Veterinary Surgeon will be borne by the owner.

Driving Fee: Any member of the public are paid for impounding which is within the approved Nyandeni Municipal Tariffs.

Commission: As an incentive to the public, a 10% fee to be paid on auctioned stock.

Register of animals

8. (1) The municipality shall keep a register in which is recorded -
- (a) a description, including any distinctive brands or markings, of any animal within its area of jurisdiction; and
 - (b) the name and address of the owner of such animal.
- (2) The owner of an animal kept within the municipality's area of jurisdiction shall-
- (a) ensure that the animal is distinctively branded, where the animal has no existing distinctive brand or marking; and
 - (b) register such animal with the municipality; and
 - (c) inform the municipality of the death of any such animal or any change of address of the owner.

¹ Pound by-laws

Disposal of animals

9. (1) The pound manager may sell by public auction and for cash any impounded animal –
- (a) which is listed in the register of animals referred to in section 8 and whose owner has been given 14 day's notice to remove the impounded animal; and
 - (b) which is not listed in the register of animals, which has not been claimed within 30 days of being impounded, and in respect of which –
 - (i) the municipality has taken all responsible steps to locate and notify the owner;
 - (ii) the owner has not been located or, despite having been given 10 day's notice, has failed to removed the impounded animal; and
 - (iii) 10 day's prior notice of the proposed sale has been given in terms of section 9(2).
- (2) The sale of an impounded animal shall be advertised by placing a notice on a public notice board at a place designated by the municipality for that purpose -
- (a) describing the animal, its sex, its approximate age and any particular brands or marks; and
 - (b) stating that the animal will be sold by public auction not claimed within 14 days.
- (3) The proceeds of any sale shall be applied in defraying the fees and expenses referred to in section 7 and the balance, if any, shall be forfeited to the municipality if not claimed within three months by a person who establishes to the satisfaction of the pound manager that he or she is the owner of the impounded animal.
- (4) If the pound manager is for any reason unable to sell any impounded animal or if, in the opinion of the pound manager the animal is so dangerous, vicious, diseased or severely ill or in such a physical condition that it ought to be destroyed, the pound manager may cause the animal to be destroyed subject to any applicable law relating to the protection of animals or otherwise dispose of the animal in a manner approved by the municipality.
- (5) Any shortfall between the proceeds of sale, if any, and the fees and expenses referred to in section 7, or the costs of destruction as contemplated in clause 9(4), may be claimed by the municipality from the owner.

10. Indemnity

The municipality, the pound manager and any officer, employee, agent or councilor of the municipality shall not be liable for the death of or injury to any animal arising as a result of its detention, impounding or release, or arising during its impoundment.

11. Conflict of laws

If there is any conflict between these by-laws and any other by-laws of the council, these by-laws will prevail.

¹ Pound by-laws

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