



PROVINCE OF THE EASTERN CAPE  
IPHONDO LEMPUMA KOLONI  
PROVINSIE OOS-KAAP

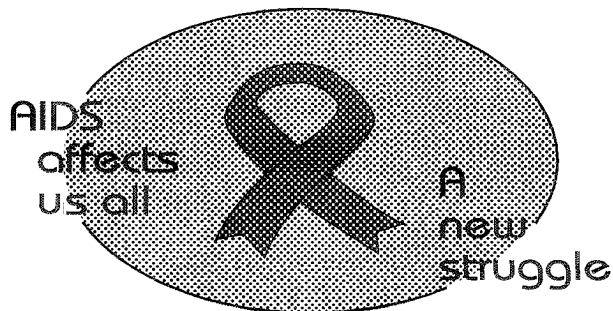
**Provincial Gazette  
Igazethi Yephondo  
Provinsiale Koerant**

Vol. 20

BISHO/  
KING WILLIAM'S TOWN, 19 MARCH 2013

**No. 2913**  
(Extraordinary)

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



**AIDS  
HELPLINE**

**0800 012 322**

DEPARTMENT OF HEALTH

**Prevention is the cure**

*N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes*



**IMPORTANT NOTICE**

**The Government Printing Works will not be held responsible for faxed documents not received due to errors on the fax machine or faxes received which are unclear or incomplete. Please be advised that an "OK" slip, received from a fax machine, will not be accepted as proof that documents were received by the GPW for printing. If documents are faxed to the GPW it will be the sender's responsibility to phone and confirm that the documents were received in good order.**

**Furthermore the Government Printing Works will also not be held responsible for cancellations and amendments which have not been done on original documents received from clients.**

**CONTENTS • INHOUD**

<i>No.</i>		<i>Page No.</i>	<i>Gazette No.</i>
<b>LOCAL AUTHORITY NOTICES</b>			
4	Local Government Municipal Systems Act (32/2000): Mbhashe Local Municipality: Promulgation of prevention of Public Nuisances and nuisances arising out of keeping of animals.....	3	2913
5	do.: do.: Promulgation of Building Control By-laws .....	20	2913
6	do.: do.: Promulgation of Indigent Support By-laws .....	24	2913
7	do.: do.: Promulgation of Liquor Trading Hours By-laws .....	32	2913
8	do.: do.: Promulgation of Property Rates By-laws.....	40	2913
9	do.: do.: Promulgation of Refuse Removal and Littering By-laws .....	47	2913
10	do.: do.: Promulgation of Taxis and Taxi Ranks By-laws.....	57	2913
11	do.: do.: Promulgation of By-laws relating to Unsightly and Neglected Buildings.....	74	2913
12	do.: do.: Promulgation of By-laws relating to Street Trading .....	77	2913

---

## LOCAL AUTHORITY NOTICES

---

**No. 4**

### MBHASHE LOCAL MUNICIPALITY

#### NOTICE

#### PROMULGATION OF PREVENTION OF PUBLIC NUISANCES AND NUISANCES ARISING OUT OF KEEPING OF ANIMALS

The Municipal Manager of Mphashe Municipality, hereby publishes in terms of section 13 of the Local Government Municipal Systems Act, 2000(Act 32 of 2000), as amended, read with sections 156 and 162 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Prevention of Public Nuisances and Nuisances Arising out of Keeping of Animals By-Laws, adopted in terms of Council resolution number 5.2.1 dated 31 October 2012, which shall come into operation on the date of publication hereof

MR S DUMEZWENI

ACTING MUNICIPAL MANAGER

#### BY-LAWS

To provide for the prevention of nuisances and prevention of nuisances arising out of keeping of animals within the jurisdiction of the Municipality and to provide for matters incidental thereto.

BE IT ENACTED by the Council of Mphashe Local Municipality, as follows:

#### Table of contents

1. Definitions
2. Objectives and application of By-Laws

#### CHAPTER 1

##### GENERAL PROVISIONS RELATING TO PUBLIC NUISANCES

3. Behaviour and conduct

#### CHAPTER 2

##### GENERAL PROVISIONS RELATING TO KEEPING OF ANIMALS

4. Permission to keep animals
5. Plans for structures and management
6. Consideration of application and imposition of conditions

7. Visibility of structures on premises
8. Wavering of requirements and withdrawal of authorisations
9. Validity of authorisations
10. Duties of owner or keeper of animal
11. Animals kept in unsatisfactory manner
12. Destruction of animals
13. Hawking of animals

### **CHAPTER 3**

#### **PROVISIONS RELATING TO KEEPING OF DOGS, CATS AND PETS**

##### *Part 1 – General Provisions relating to dogs, cats and pets*

14. Number of dogs and cats
15. Breeders of dogs and cats
16. Breeders of pets
17. Conditions and restrictions
18. Withdrawal of permission
19. Dogs or cats in streets or public places

##### *Part 2 – Specific provisions relating to dogs*

20. Control of dogs

#### **CHAPTER 4: DOG KENNELS, CATTERIES, PET SHOPS AND PET PARLOURS**

21. Permission to operate

### **CHAPTER 5**

#### **CO-OPERATION BETWEEN MUNICIPALITIES**

22. Service delivery agreements
23. Powers of Municipality in case of omission by District Municipality

### **CHAPTER 6**

#### **GENERAL PROVISIONS**

24. Right of entry and inspection
25. Service of documents and process
26. Transitional provisions
27. Appeal
28. Penalties
29. Exemptions

- 30 Liaison forums in Community
- 31. Repeal of By-Laws
- 32. Short title and commencement

## 1. Definitions

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

**“agent”**, in relation to the owner of a property, means a person appointed by the owner of the property-

- (a) to receive rental or other payments in respect of the property on behalf of the owner; or
- (b) to make payments in respect of the property on behalf of the owner;

**“animal”** means any equine, bovine, sheep, goat, poultry, camel, dog, cat, or other domestic animal or bird, or any wild animal or reptile which is in captivity or under the control of a person, or insects such as, but not limited to, bees which is kept or under control of a person, but excluding any pet;

**“bird”** means a pigeon, peafowl, pheasant, partridge, canary, budgerigar, parrot, ostrich and any other domesticated bird or wild bird which is in captivity or under control of a person;

**“cattery”** means any establishment where cats are bred or boarded;

**“Council”** means —

- (a) Municipal Council of Mbhashe Local Municipality exercising its legislative and executive authority through the Municipality;
- (b) its successor in title;
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-Laws has been delegated or sub delegated or an instruction given, as referred to in section 59 of the Act; or
- (d) a service provider fulfilling a responsibility under these By-Laws;

**“District Municipality”** means the Amathole District Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with these By-Laws by virtue of a power vested in the Municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

**“drunk”** means a person who, by reason of the alcohol which he or she has consumed, has lost control of his or her mental or physical faculties, or both, to such an extent as to render him or

her incapable of performing any act in which he or she is engaged, with safety to him- or herself or with that regard to the rights of others which the law demands;

“**kennel**” means any establishment that has as its business the breeding, training or boarding of dogs and includes pounds whether operated by the State or otherwise;

“**Municipality**” means Mbashe Local Municipality and its legal successors, and when referred to as-

- (a) a legal entity, means Mbashe Local Municipality as described in section 2 of the Local Government: Municipal Systems Act, (Act No. 32 of 2000); and
- (b) a geographic area, means the municipal area of Mbashe Local Municipality as determined from time to time in terms of the Local Government : Municipal Demarcation Act, 1998 (Act No 27 of 1998);

“**Municipal Manager**” is the person appointed by the Municipality in terms of Section 82 of the Municipal Structures Act, Act 117 of 1998, and includes a person –

- (a) acting in such position; and
- (b) to whom the Municipal Manager has delegated any power, function or responsibility;

“**owner**” –

- (a) in relation to an animal, includes the person having the possession, charge, custody or control of such animal;
- (b) in relation to property includes an occupier, lessee, servitude holder, trustee, executor, curator or assignee, agent or administrator of such property;

“**pet**” means a tame animal which is kept in a household;

“**pet parlour**” means an establishment where pets are groomed;

“**pet shop**” means an establishment where pets are kept for trading purposes;

“**poultry**” means any fowl, goose, ostrich, duck, pigeon, dove, turkey, muscovy, guinea-fowl, peacock or peahen or bird whether domesticated or wild;

“**premises**” means –

- (a) land or a portion of land, including a public place, whether or not a building or structure has been constructed or erected on such land or portion thereof; or
- (b) a building, structure, tent or caravan and the land on which it is situated and includes any vehicle, carriage, ship or boat;

“**public nuisance**” means any act or omission or condition on any premises or public place, including any building, structure or growth thereon, which is offensive or dangerous, or which materially interferes with the ordinary comfort, convenience, peace or quiet of other people or which adversely affects the safety of people, and “**nuisance**” has a corresponding meaning;

“**public place**” means any land, square, building, park, recreation ground or open space which—

- (a) is vested in the Municipality;
- (b) the public has the right to use; or
- (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General’s office and has been provided for or reserved for the use of the public or the owners of erven in such township;

“**responsible authority**” means the Municipality or any national or provincial department that may in terms of its powers and functions impose conditions or restrictions in respect of the keeping of animals;

“**street**” means any road, street or thoroughfare or any section or part thereof which is commonly used by the public or to which the public has a right of access;

“**structure**” means any container, stable, shed, pigsty, kraal, aviary, paddock, covering structure, poultry house, enclosure, run, loft or building used for human shelter, business purposes or the keeping or enclosing of animals.

### **Objectives and application of By-Laws**

2. (1) The Municipality, aware of the constitutional right of every person to an environment that is not harmful to his or her health or well-being, adopts these By-Laws with the aim of protecting and promoting the health and well-being of all people in the Municipality area of jurisdiction by fostering an environment in which the public in general may enjoy peaceful and harmonious living conditions.

(2) In the implementation of these By-Laws, the Municipality also recognises the infrastructural, social and economical disparities and inequalities resulting from the previous local government dispensation and must strive to overcome such disparities and inequalities by supporting the new goals for local government as laid down in section 152 of the Constitution.

(3) Sections 4(1), 14(1), 15(1), and 21(1) do not apply to –

- (a) premises which are legally used for bona fide agricultural purposes; or
- (b) premises identified by the Municipality where the keeping of animals or the operation of pet parlours, pet shops or catteries and kennels is permitted and

indicated as such in an approved spatial development framework and zoning scheme.

(4) A person who keeps animals on premises contemplated in subsection (3) is not exempt from the provisions relating to the inception or bringing about of a public nuisance.

## CHAPTER 1

### GENERAL PROVISIONS RELATING TO PUBLIC NUISANCES

#### 3. Behaviour and conduct

(1) No person may –

- (a) do work on or use any premises in such a manner that it interferes with the convenience or comfort of other people or that it becomes a source of danger to any person;
- (b) subject to any approval in terms of the relevant Town Planning Scheme Regulations, carry on any trade, business, profession or hobby which causes discomfort or annoyance to other people;
- (c) deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse, building rubble, garden refuse or thing which is offensive or likely to cause annoyance, danger or injury to persons;
- (d) allow the fencing of any premises to fall into a state of disrepair or to become unsightly or dilapidated;
- (e) allow any building or structure or any portion thereof to fall into a dilapidated, neglected or unsightly state;
- (f) use any stoep, verandah or alley of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, displaying or keeping articles or merchandise;
- (g) enclose any stoep or verandah of any shop or business premises by any means otherwise than by such means as approved by the Municipality;
- (h) disturb the comfort, convenience, peace or quiet of other people by the use of electrical appliances or machinery whether malfunctioning or not;
- (i) defoul, misuse or damage public toilets;



- 
- (j) carry or convey in any street or public place, any objectionable material- or thing, which is or may become offensive or dangerous, unless such material or thing is suitably covered;
  - (k) allow any erf to be overgrown to such an extent that it may be used as a shelter by vagrants, wild animals or vermin or may threaten the safety of any member of the community;
  - (l) erect, or allow to be erected or use on any premises any structure in a manner that causes a nuisance to people; or
  - (m) by an action allow that a nuisance be created or continued;
  - (n) bathe or wash him- or herself or any animal, article or clothing in a public stream, pool, water trough, hydrant, fountain or at any place which has not been set aside by the Municipality for such purpose;
  - (o) at any time disturb the public peace by making unseemly noises in any manner whatsoever;
  - (p) cause a nuisance by-
    - (i) loitering in any street or public place;
    - (ii) being drunk or under the influence of drugs;
    - (iii) soliciting any person for the purposes of prostitution or any other immoral act;
    - (iv) continuing to beg from a person or closely follow a person after such person has given a negative response to such begging;
    - (v) playing loud music or the use of music instruments on any premises;
  - (q) advertise wares or services by means of any megaphone, loudspeaker, or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells;
  - (r) in any street or public place use any abusive or threatening language;
  - (s) cleanse or wash any vehicle or part in any street or public place;
  - (t) discharge any fire-arm, airgun or air pistol on any premises except premises or land zoned for agricultural purposes and which does not form part of a general plan for a township.

(2) (a) In the event of a contravention of section 3(1)(a) to (m), the Municipality may issue a notice on the owner, occupier or alleged offender to terminate the action or to abate the nuisance created.

(b) In the event of non-compliance with such order and without prejudice to the Municipality's right to prosecute, the Municipality may take the necessary steps to remove the cause or source of the nuisance and any costs incurred in connection therewith may be recovered from the person responsible for the nuisance or the owner or occupier of the premises whether or not such owner or occupier is responsible therefore.

(c) Where any vacant or developed premises or land in the vicinity of a street is used by unauthorised persons or where any of the materials or things mentioned in subsection (1)(c) are dumped or deposited on such premises, the Municipality may serve a written notice on the owner or occupier requiring him or her to enclose or fence it in to its satisfaction by a date specified in the notice.

(d) Every such enclosure or fence must be so constructed that it will effectively prevent the entry of unauthorized persons and the dumping of materials and things.

(3) For the application of these By-Laws, any action or condition on any premises that endangers the safety of any person or property or which is untidy, annoying, troublesome, offensive or disturbing to the peace of other people, must be considered a public nuisance.

(4) Any person who contravenes or fails to comply with any provisions of this section or fails to comply with any notice lawfully given there under is guilty of an offence.

## **CHAPTER 2**

### **GENERAL PROVISIONS RELATING TO KEEPING OF ANIMALS**

#### **Permission to keep animals**

4.(1) No person may keep or permit to be kept on any premises any animals, excluding pets, without the written permission of the Municipality.

(2) Any person who applies for a permit to keep a wild animal must, when submitting an application contemplated in subsection (1), furnish the Municipality with a captivity permit issued by the Department of Economic Affairs, Environment and Tourism.

(3) The Municipality may determine the number of bee hives, as well as the kind, number and gender of animals that may be kept and the areas within which the keeping of such animals will be prohibited.

(4) In order to consider an application in terms of subsection (1), the Municipality may obtain the input or comments of the owners or occupants of surrounding premises.

(5) A person who contravenes subsection (1) or who fails to comply with a determination in subsection (3) commits an offence.

#### **Plans for structures and management**

5. The Municipality may require from applicants who apply to keep animals that they must submit an application form and a detailed site plan according to specifications set by the Municipality.

#### **Consideration of application and imposition of conditions**

6. (1) The Municipality may, after consideration of –

- (a) the input or comments obtained in terms of section 4(3);
- (b) the location, geographical features or size of the premises in respect of which the application is submitted;
- (c) the documents and site plans submitted in terms of section 5; or
- (d) any other information relating to the application including, but not limited to, grazing, fencing, availability of water, etc. refuse to grant consent or grant consent.

(2) Where consent is refused, the Municipality must furnish the applicant with the reasons for such refusal and at the same time advise him or her of the right of appeal in terms of section 27.

(3) Where consent is granted, the Municipality may impose conditions.

#### **Visibility of structures on premises**

7. (1) All structures in which animals are kept must be suitably screened from any street.

(2) A person who fails to comply with subsection (1) commits an offence.

#### **Wavering of requirements and withdrawal of authorisations**

8. The Municipality may after considering conditions particular to the property and provided that no objection is received from the owners or occupants of surrounding premises, waive any or all of the requirements of this part and impose other conditions and may withdraw any consent granted in terms of section 6(3) if any of the conditions imposed are not adhered to.

#### **Validity of authorisations**

9. All authorisations to keep animals granted in terms of any By-Laws or regulation repealed are deemed to have been granted in terms of these By-Laws.

**Duties of owner or keeper of animal**

10. (1) The owner or keeper of an animal –

- (a) may not cause or allow an animal to interfere with the comfort, convenience, peace or quiet of other people;
- (b) must provide such animal with shelter, water and proper food ;
- (c) must maintain the premises on which an animal is kept in good repair and in a neat condition in order to prevent the occurrence of a public nuisance; and
- (d) must exercise control over his or her animals in order to prevent damage to property or gardens;
- (e) may not leave or allow any animal to be on any section of a public road or leave such animal in a place from where it may stray onto such section of a public road.

(2) A person who contravenes a provision of subsection (1) commits an offence.

**Animals kept in unsatisfactory manner**

11. (1) Whenever animals kept on any premises are a public nuisance, the Municipality may by written notice require the owner or occupier of such premises to remove the cause of and to abate such nuisance.

(2) The Municipality may prescribe the steps that need to be taken or the work that must be done to remove the cause of and to abate any nuisance.

(3) Any activities undertaken by the owner in terms of a notice contemplated in subsection (1) will be for such owner's own account.

(4) If an owner fails to comply with a notice issued in terms of subsection (1), the Municipality may take the steps required and recover the cost thereof from such owner.

(5) A person who fails to comply with a notice contemplated in subsection (1) commits an offence.

**Destruction of animals**

12. (1) The Municipality may order the destruction of an animal which is –

- (a) dangerous or ferocious; or
- (b) injured or diseased to such an extent that it would be humane to do so.

(2) An animal to be destroyed in terms of subsection (1) must be euthanized by a registered veterinary surgeon or destroyed with such instruments or appliances and in such a manner as to inflict as little suffering as possible.

(3) A person who fails to comply with an order contemplated in subsection (1) or who contravenes subsection (2) commits an offence.

### **Hawking of animals**

13. (1) No person may hawk an animal in a street or public place or from a movable structure or vehicle.

(2) A person who contravenes subsection (1) commits an offence.

## **CHAPTER 3**

### **PROVISIONS RELATING TO KEEPING OF DOGS, CATS AND PETS**

#### *Part 1 – General Provisions relating to dogs, cats and pets*

#### **Number of dogs and cats**

14. (1) Subject to the provisions of section 15, no person may, without the permission of the Municipality, keep on any premises –

- (a) more than two dogs; and
- (b) more than two cats.

(2) An application for permission in terms of subsection (1) must be submitted on an application form obtainable from the Municipality and must contain an exposition of the breed, gender and number of dogs or cats applied for.

(3) A restriction imposed under section 17 on the number of animals that may be kept on premises does not apply for a period of 10 weeks after the birth of a litter from an animal kept in terms of a permit.

(4) A person who contravenes subsection (1) commits an offence.

#### **Breeders of dogs and cats**

15. (1) A breeder of dogs or cats who wishes to keep more than two dogs or cats must obtain permission from the Municipality.

(2) The Municipality may require the submission of plans and specifications of structures in which it is proposed to keep the dogs or cats as well as a site plan indicating all existing or proposed structures and fences on the premises.

(3) A person who fails to obtain the permission of the Municipality as required in subsection (1) commits an offence.

### **Breeders of pets**

16. (1) A person who breeds pets must obtain the approval of the Municipality.

(2) The provisions of section 15(2) are with the necessary adjustment applicable to an application in terms subsection (1).

(3) A person who contravenes subsection (1) commits an offence.

### **Conditions and restrictions**

17. The Municipality's consent in terms of sections 4, 14(1), 15(1) and 16(1) may be subject to any conditions that the Municipality, in consultation with another responsible authority, may deem fit to impose.

### **Withdrawal of permission**

18. (1) Where a person contravenes or fails to adhere to a condition or restriction set in terms of section 17, the Municipality may, after hearing that person, withdraw its consent and may order the removal of animals from the premises for care and safekeeping by an animal welfare organisation or pound.

(2) Any costs incurred by the Municipality for the removal and safekeeping of animals in terms of subsection (1), will be recovered from the owner or keeper of such animals.

### **Dogs or cats in streets or public places**

19. (1) Subject to the provisions of the Public Amenities By-Laws, the owner or keeper of a dog or cat may not bring or allow it in a street or public place unless the dog is on a leash or the cat is under physical control.

(2) Except in the event of a blind person being lead by a guide dog, a person in charge of a dog in a street or public place, must remove any faeces left by the dog by wrapping it in paper or plastic and disposing of it in a receptacle provided for litter or refuse.

(3) A person who contravenes any of the provisions of subsection (1) or (2) commits an offence.

***Part 2 – Specific provisions relating to dogs*****Control of dogs**

20. (1) No person who owns or keeps a dog may –

- (a) permit a bitch on heat to be in a street or public place without supervision;
  - (b) urge a dog to attack, worry or frighten any person or animal unless in self-defence;
  - (c) keep a dog if the premises is not adequately fenced to keep such dog inside when it is not on a leash; or
  - (d) permit a dog –
    - (i) to trespass on private property;
    - (ii) to constitute a hazard to traffic using any public road;
    - (iii) to constitute source of danger or injury to a person outside the premises on which such dog is kept; or
    - (iv) to be a source of danger to employees of the Municipality entering such premises for the purpose of carrying out their duties. A notice to the effect that a dog is kept must be displayed in a conspicuous place.
  - (e) keep any dog which interferes materially with the comfort, convenience, peace or quiet of neighbours by–
    - (i) barking, yelping, howling or whining;
    - (ii) charging any vehicles, animals, poultry, pigeons or persons outside any premises where it is kept; or
    - (iii) by behaving in any other manner.
- (2) The Municipality may seize and impound a dog which is found in a street or public place in contravention with the provisions of these By-Laws.
- (3) A dog impounded in terms of subsection (2) may be released to the owner upon payment of a fee determined by the Municipality.
- (4) A person who contravenes a provision of subsection (1) commits an offence.

## CHAPTER 4

### DOG KENNELS, CATTERIES, PET SHOPS AND PET PARLOURS

#### Permission to operate

21. (1) No kennel, cattery, pet shop or pet parlour may be operated without the permission of and subject to conditions imposed by the Municipality.

(2) The person operating a kennel, cattery, pet shop or pet parlour may not conduct the business in such a manner so as to cause any nuisance or annoyance to other people.

(4) A person who contravenes subsection (1) or (2), commits an offence.

## CHAPTER 5

### CO-OPERATION BETWEEN MUNICIPALITIES

#### Service delivery agreements

22. In order to achieve optimal service delivery in terms of these By-Laws, the Municipality may enter into agreements with the District Municipality with which legislative and executive powers is shared.

#### Powers of Municipality in case of omission by District Municipality

23. If the service delivery referred to in section 22 is impeded by the refusal or omission by the district Municipality to execute any of the arrangements envisaged in an agreement in terms of section 22 the Municipality may, subject to the principles of cooperative government as set out in section 41 of the Constitution of the Republic of South Africa, 1996, proceed to give effect to such arrangement and any expenses incurred by the Municipality in giving effect to such an arrangement may be recovered from the district Municipality.

## CHAPTER 6

### GENERAL PROVISIONS

#### Right of entry and inspection

24. (1) Any duly authorised employee of the Municipality is authorised to inspect any premises within the municipal area in order to determine whether there is compliance with the provisions of these By-Laws, but a private dwelling may not be entered for routine inspection purposes.

(2) When entering premises in terms of subsection (1), the employee must on request by any person, identify him- or herself by producing written proof of authorisation.

(3) The authorised employee may be accompanied by a person reasonably required to assist in conducting the inspection.

(4) Any person who fails to give or refuses access to any authorised official, or obstructs or hinders him or her in the execution of his or her duties under these By-Laws, or who fails or



refuses to give information that he or she may lawfully be required to give to such official, or who gives false or misleading information knowing it to be false or misleading, commits an offence.

### **Service of documents and process**

25. (1) Whenever a notice, order, demand or other document is authorised or required to be served on a person in terms of these By-Laws, it is deemed to have been effectively and sufficiently served on such person –

- (a) when it has been delivered to him or her personally;
- (b) when it has been left at his or her place of residence or business in the Republic with a person apparently over the age of sixteen years;
- (c) when it has been posted by registered or certified mail to his or her last known residential or businesses address in the Republic and an acknowledgment of the posting thereof is produced;
- (d) if his or her address in the Republic is unknown, when it has been served on his or her agent or representative in the Republic in the manner provided by paragraph (a), (b) or (c); or
- (e) if his or her address and agent in the Republic are unknown, when it has been posted in a conspicuous place on the immovable property (if any) to which it relates.

(2) When any notice, order, demand or other document is authorised or required to be served on a person, it is not necessary to name him or her but it will be sufficient if he or she is described as the owner, occupier or holder of a right.

### **Transitional provisions**

26. A person who, at the commencement of these By-Laws, owns a larger number of animals than the number contemplated in section 4(2) may not replace animals that die or are disposed of and must gradually reduce the number of animals that may be kept.

### **Appeal**

27. A person whose rights are affected by a decision of the Municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the Municipal Manager within 21 days of the date of the notification of the decision.

**Penalties**

28. A person who has committed an offence in terms of these By-Laws is, on conviction, and subject to penalties prescribed in any other law, liable to a fine or in default of payment, to imprisonment for a period of 12 months

+, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment and a further amount equal to any costs and expenses incurred by the Municipality as result of any contravention.

**Exemptions**

29. Notwithstanding the provisions of these By-Laws, the Municipality may exempt any person and class of persons from any or all of these requirements and may impose any other requirements it deems appropriate.

**Liaison forums in community**

30. (1) The Municipality may establish one or more liaison forums in a community for the purposes of –

- (a) creating conditions for a local community to participate in the affairs of the Municipality; and
- (b) promoting a safe and healthy environment;

(2) A liaison forum may consist of –

- (a) a member or members of an interest group, or an affected person;
- (b) a designated official or officials of the Municipality; and
- (c) a councillor.

(3) (a) the Municipality may, when considering an application for an approval, or exemption certificate in terms of these By-Laws, request the input of a liaison forum.

(b) a liaison forum or any person or persons contemplated in subsection

(2) may, on own initiative submit an input to the Municipality for consideration.

**Repeal of By-Laws**

31. The provisions of any By-Laws previously promulgated by the Municipality are repealed as far as they relate to matters provided for in these By-Laws

**Short title and commencement**

32. These By-Laws are called the Prevention of Public Nuisances and Nuisances Arising out of Keeping of Animals By-Laws, 2012 and will come into operation on the date of publication thereof in the Provincial Gazette.

**No. 5****MBHASHE LOCAL MUNICIPALITY****NOTICE****PROMULGATION OF BUILDING CONTROL BY-LAWS**

The Municipal Manager of Mbhashe Municipality, hereby publishes in terms of section 13 of the Local Government Municipal Systems Act, 2000(Act 32 of 2000), as amended, read with sections 156 and 162 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), Building Control By-Laws adopted in terms of Council resolution number 5.2.1 dated 31 October 2012, which shall come into operation on the date of publication hereof

MR S DUMEZWENI

ACTING MUNICIPAL MANAGER

**BY-LAWS**

To provide for the control of buildings erected on land in the Mbhashe Municipality; and for matters connected therewith.

BE IT ENACTED by Mbhashe Municipality, as follows:-

**TABLE OF CONTENTS**

1. Definitions
2. Building on land to be reflected on plans
3. Application for and issue of statement
4. Failure by the Municipality to act within a certain period
5. Delegation of powers
6. Offences and Penalties
7. Repeal of By-Laws
8. Short title

**Definitions**

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

"Act" means the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), and must include any regulation made in terms of section 17 of the Act;

"building" includes -

- (a) any other structure, whether of a temporary or permanent nature and irrespective of the materials used in the erection thereof, erected or used for or in connection with –
  - (i) the accommodation or convenience of human beings or animals;
  - (ii) the manufacture, processing, storage, display or sale of any goods;
  - (iii) the rendering of any service;
  - (iv) the destruction or treatment of refuse or other waste materials;
  - (v) the cultivation or growing of any plant or crop;
- (b) any wall, swimming bath, swimming pool, reservoir or bridge or any other structure connected therewith;
- (c) any fuel pump or any tank used in connection therewith;
- (d) any part of a building, including a building as defined in paragraph (a), (b) or (4);
- (e) any facilities or system, or part or portion thereof, within or outside but incidental to a building, for the provision of a water supply, drainage, sewerage, storm water disposal, electricity supply or other similar service in respect of the building;

**“Council”** means —

- (a) the Municipal Council of Mbashe Municipality exercising its legislative and executive authority through the Municipality;
- (b) its successor in title; or
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-Laws has been delegated or sub delegated or an instruction given, as referred to in section 59 of the Act; or
- (d) a service provider fulfilling a responsibility under these By-Laws, assigned to it in terms of section 81(2) of the Act, or any other By-law, as the case may be;

**“Municipality”** means Mbashe Local Municipality and its legal successors, and when referred to as-

- (a) a legal entity, means Mbashe Local Municipality as described in section 2 of the Local Government: Municipal Systems Act, (Act No. 32 of 2000); and

- (b) a geographic area, means the municipal area of the Mbhashe Local Municipality as determined from time to time in terms of the Local Government : Municipal Demarcation Act, 1998 (Act No 27 of 1998); and

"**Municipal Manager**" means the person appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).

### **Buildings on land to be reflected on plans**

2. (1) Subject to the provisions of These By-Laws, the Municipality must not issue a certificate referred to in section 118(1) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), regarding land, unless the Municipality is satisfied that -

- (a) any building erected on the land, in respect of which plans and specifications are to be drawn and submitted to the Municipality for approval in terms of the Act, is properly erected and maintained in accordance with such plans and specifications; and
- (b) no building referred to in this paragraph, in respect of which plans and specifications have not been approved by the Municipality, must be erected on the land; and
- (c) any building erected on the land complies with all the requirements of the Act; or
- (d) there is no building on the land, and in writing,

makes a statement to that effect.

(2) An application to the Municipality for the issue of a certificate referred to in section 118(1) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), must, subject to section 4, be accompanied by the statement referred to in subsection (1).

### **Application for and issue of statement**

3. (1) Any application for the issue of a statement referred to in section 2(1) must -

- (a) be directed to the Municipal Manager;
- (b) be in writing on the form made available by the Municipality for that purpose; and
- (c) be accompanied by the prescribed fees.

(2) The Municipal Manager must refer the application to the building control officer, who must do, or cause to be done, an inspection of the land concerned and make a recommendation regarding the application to the Municipality.

(3) After the Municipal Manager has considered the recommendations of the building control officer, he or she must -

- (a) make the statement referred to in section 2(1); or
- (c) refuse to make such statement,

and forthwith, in writing notify the applicant accordingly.

(4) If the Municipal Manager refuses to make the statement, it must provide written reasons for its decision when notifying the applicant of the decision and indicate what steps must be taken before a new application in terms of subsection (1) could again be submitted.

#### **Failure by the Municipality to act within a certain period**

4. Should the Municipality fail to act in accordance with section 3(3) within a period of 30 days after the application was made in terms of section 3(1), it must be deemed that the Municipality has made the statement referred to in section 2(1).

#### **Delegation of powers**

5. The Council may, subject to such conditions as it may determine, delegate any of its powers under These By-Laws to the Municipal Manager.

#### **Offences and Penalties**

6. Any person who contravenes a provision of these By-Laws or allows such a contravention to take place must be guilty of an offence and must upon conviction be liable for a payment of a fine or a period of imprisonment not exceeding twelve months or both.

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

7. All previous Council regulations, policies and arrangements dealing with building control that are in conflict with these By-Laws, are repealed.

#### **Short title and commencement**

8. These By-Laws are called Building Control By-Laws, 2012 and will come into operation on the date of publication in the *Provincial Gazette*.

**No. 6**

**MBHASHE LOCAL MUNICIPALITY  
NOTICE  
PROMULGATION OF INDIGENT SUPPORT BY-LAWS**

The Municipal Manager of Mbhashe Municipality, hereby publishes in terms of section 13 of the Local Government Municipal Systems Act, 2000(Act 32 of 2000), as amended, read with sections 156 and 162 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), Indigent Support By-Laws: adopted in terms of Council resolution number 5.2.1 dated 31 October 2012, which shall come into operation on the date of publication hereof

**MR S DUMEZWENI**  
**ACTING MUNICIPAL MANAGER**

**BY-LAWS**

To provide for support of indigent households within the municipal area of the Municipality and to provide for matters incidental thereto.

BE IT ENACTED by the Council of the Mbhashe Local Municipality, as follows:

**TABLE OF CONTENTS**

1. Definitions
2. Registration and monitoring
3. Applications
4. Registration criteria
5. Power of entry and inspection
6. Re- evaluation
7. Subsidy determination
8. Property rates
9. Water
10. Power to disconnect supply of water
11. Electricity
12. Sewerage
13. Refuse removal
14. Rental housing
15. Debt and credit control
16. Debt management
17. Repeal of By-Laws
18. Offences and Penalties
19. Short title

**DEFINITIONS**

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

“**account holder**” means any person in whose name an account is registered;



“**applicant**” means a member of a private household responsible for the payment of services or rates account

“**basic services**” means the prescribed minimum standard of services provided by Municipality;

“**credit control**” means all functions relating to the collection of monies owed by tax payers of the Municipality and users of municipal services;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

“**Council**” means —

- (a) the Municipal Council of Mbashe Municipality exercising its legislative and executive authority through the Municipality;
- (b) its successor in title; or
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-Laws has been delegated or sub delegated or an instruction given, as referred to in section 59 of the Act; or
- (d) a service provider fulfilling a responsibility under these By-Laws, assigned to it in terms of section 81(2) of the Act, or any other By-law, as the case may be;

“**Councillor**” means a member of a Municipal Council;

“**debtor**” means a person owing the Municipality in respect of taxes or service charges who failed to pay such taxes or service charges upon demand by the municipality;

“**documentary proof of income**” means any document produced to prove financial income and includes but not limited to, letter from an employer, salary advice, pension card, or unemployment Insurance card;

“**Financial officer**” means a person appointed by the Municipality to manage its finances and credit control;

“**household**” means a group of people who live together at least four nights a week, or a single person who lives alone;

“**improved value**” means an amount that is traditionally determined on the annual budget for assessment rates concession to the elderly;

“**indigent household**” includes –

- (a) a private residential household with a total gross monthly income not exceeding R1100,00 per month or such amount which may, from time to time, be determined by the Municipality;
- (b) a household whose member or members do not own any other fixed property other than the one that he or she resides;
- (c) a household whose improved value of its municipal property does not exceed an amount of R150 000,00

**“investigators”** mean the councillors, ward representatives, members of municipal staff or its accredited agents;

**“Municipality”** means Mbhashe Local Municipality and its legal successors, and when referred to as-

- (a) a legal entity, means Mbhashe Local Municipality as described in section 2 of the Local Government: Municipal Systems Act, (Act No. 32 of 2000); and
- (b) a geographic area, means the municipal area of the Mbhashe Local Municipality as determined from time to time in terms of the Local Government : Municipal Demarcation Act, 1998 (Act No 27 of 1998);

**“municipal services”** means services, rates and taxes reflected on the municipal account for which payments is required by Municipality;

**“private residential household”** means a private dwelling which belongs or is occupied by one or more adult persons with or without minor children;

**“SALGA”** means the South African Local Government Association recognised in terms of the Organised Local Government Act, 1997 (Act No. 52 of 1997) at the national organisation representing Municipalities;

**“subsidy”** means a portion of expense paid by the Municipality towards a total amount due by the indigent to the Municipality.

## **REGISTRATION AND MONITORING**

2. The Municipality must keep and monitor a complete register of registered indigent households.

## **APPLICATIONS**

3(1) A member may apply to the nearest municipal office or any other place nominated by the Municipality in its area of jurisdiction, for registration as an indigent.

(2) The Municipality in consultation with chiefs, ward councillors, and community development workers, must evaluate the applications referred to in subsection (1), and approve such applications if it satisfies the evaluation criteria for indigents.

(3) Applications that have been approved must be entered into a register of indigent households.

(4) The Municipality must, in complicated applications consult with the relevant ward Councillors.

### **REGISTRATION CRITERIA**

4. (1) A private residential household to be registered as indigent household-

- (a) must have a total gross monthly income of all its household members not exceeding an amount of two old age social assistance grants and the calculation of income must exclude disability grant and foster care grants; or
- (b) such other amount as may be determined by the Municipality from time to time.

(2) The applicant must not own other immovable property other than the one they reside in, and the improved value of the municipal property they reside in must not exceed an amount of R150 000,00 but the Municipality may wave this requirement if the conditions of the person staying in such house require indigent support.

(3) An application referred to in section 3 must contain –

- (a) written proof of income of each member of the household;
- (b) an affidavit of unemployment; or
- (c) medical certificate that confirms inability to work.

(4) The abovementioned documents must be supported by a sworn statement and such document must have been made less than a month before submission.

### **POWER OF ENTRY AND INSPECTION**

5(1) A duly authorised representative of the Municipality may, for any purpose of verifying information supplied in the application, enter premises, request any information as he or she may deem necessary.

(2) The Municipality may either approve or reject an application made if-

- (a) the living standard of indigent debtor is inconsistent with the information given on the application;

- (b) investigators are refused entry into the premises to verify the information supplied; or
- (c) wrong information is furnished.

### **RE-EVALUATION**

6. (1) Every indigent household registered in terms of these By-Laws is required to reapply to the Municipality for re-evaluation and determination of financial status, after every twelve months.

(2) Failure to comply with the requirement under subsection (1) will result with the indigent status reversed and standardised tariffs or charges implemented.

### **SUBSIDY DETERMINATION**

7 (1). Then Municipality must, from time to time and in terms of the policy principles referred to in the SALGA for indigent, determine all subsidies granted to indigent households.

(2) The amount so determined must include rates, water, sewerage and sewerage availability, refuse removal and VAT.

### **PROPERTY RATES**

8(1) The Municipality will, from time to time determine monthly rates for indigent subsidies.

(2) Different subsidies will be determined if sewerage and refuse removal charges are included in the rates account or in the case where such services are charged for, separately.

(3) Any amount charged in excess of the normal subsidy rates must be paid in terms of the standard procedure laid by the municipality.

(4) If the monthly rates account is less than the amount of subsidy determined in terms of subsection (1), such subsidy will be limited to the value of the monthly rates instalment or payment.

### **WATER**

9 (1) There must be monthly 6kl free basic water for households within the jurisdiction of the Municipality per month.

(2) The indigent households must further receive 4kl free basic water provided by the Municipality monthly.

(3) Any indigent household may, on written notice to that effect, lose its indigent status if, within two months period, it uses more than 20kl basic water.

- (4) A standard tariff will apply in respect of such household.

### **POWER TO DISCONNECT SUPPLY OF WATER**

10 (1) The Municipality may disconnect or limit any water supply to the indigent if the indigent debtor uses more than the total free allocated water and fails to pay for the additional water account that is due until the such account is paid or arrangements made for payment in terms of the Municipality procedures.

- (2) If the water supply is disconnected before an application for indigent support is made, the indigent debtor is required to pay the amount levied by the Municipality before the water is reconnected.

### **ELECTRICITY**

11(1) An amount of 50 Klw free basic electricity plus an amount determined by the Municipality must be given to the indigents within the jurisdiction of the Municipality per month.

- (2) The Municipality may, on approval of application for indigent support, transfer such applicant to a prepaid energy dispenser.
- (3) The transfer will be on such terms and conditions as the Municipality may determine.
- (4) Any municipal arrears in respect of electricity must, if incurred before the transfer referred to in subsection (2), be paid through auxiliary payment system.
- (5) For purposes of subsection (3), the auxiliary payment system must be activated for gradual payment of arrears.
- (6) Such system serves as a percentage of the purchases over and above the free basic electricity supply.
- (7) Consumers must be informed by the Municipality to enable them to understand the effective use of the new system.

### **SEWERAGE**

12(1) The Municipality may, from time to time and subject to availability of funds, determine and grant a monthly amount of sewerage usage by indigent person.

- (2) Any difference in the amount contemplated in subsection (1) and any standard tariff determined by the Municipality must be paid by the indigent debtor.
- (3) If the monthly sewerage charge is less than the value of the indigent subsidy, the subsidy will be limited to the value of the determined monthly sewerage charge.

**REFUSE REMOVAL**

13(1) The indigent person may, on a monthly basis, be granted so much money for refuse removal as may be determined by the Municipality from time to time.

(2) Any difference in the amount referred to in subsection (1) and any standard tariff determined by the Municipality from time to time must be paid by the indigent person.

(3) If the monthly refuse removal charge is less than the amount of the indigent subsidy, such subsidy must be limited to the amount determined for the refuse removal.

**RENTAL HOUSING**

14(1) An indigent debtor is liable to pay a minimum amount of R100,00 per month in respect of a house that he or she rents.

(2) Subject to subsection (1), the indigent debtor may receive an indigent subsidy necessary to reduce his or her monthly rental payment in terms of a table determined by the Municipality from time to time.

**DEBT AND CREDIT CONTROL**

15(1) The Municipality may, on any arrear debt with regard to prepaid electricity, charge interest at a rate to be determined by the Municipality unless arrangements to pay the electricity have been made in terms of the municipality procedures.

(2) Any person registered as indigent must, on monthly basis, pay discounted levies determined in terms of this By-Law.

(3) Failure to comply with the provisions of subsection (2) will result in credit control measures implemented against such person, subject to the Credit Control By-Laws.

**DEBT MANAGEMENT**

16(1) The Chief Financial Officer must collect every debt due to the municipality.

(2) Every household that is in arrears may be evaluated in order to determine the status of that household for registration, re-registration or deregistration as indigent.

**Offences and Penalties**

17. Any person who contravenes a provision of these By-Laws or allows such a contravention to take place must be guilty of an offence and must upon conviction be liable for a payment of a fine or a period of imprisonment not exceeding twelve months or both.

**Repeal of By-Laws**

18.. All previous Council regulations, policies and arrangements dealing with indigent support that are in conflict with these By-laws, are repealed.

**Short title and commencement**

19. These By-Laws are called Indigent Support By-Laws, 2012 and will come into operation on the date of publication in the *Provincial Gazette*.

**No. 7****MBHASHE LOCAL MUNICIPALITY****NOTICE****PROMULGATION OF LIQUOR TRADING HOURS BY-LAWS**

The Municipal Manager of Mbhashe Municipality, hereby publishes in terms of section 13 of the Local Government Municipal Systems Act, 2000(Act 32 of 2000), as amended, read with sections 156 and 162 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), Liquor Trading Hours By-Laws adopted in terms of Council resolution number 5.2.1 dated 31 October 2012, which shall come into operation on the date of publication hereof

MR S DUMEZWENI

ACTING MUNICIPAL MANAGER

**BY-LAWS****PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996 [Act No. 108 of 1996];

AND WHEREAS the Council of the Municipality in the exercise of its functions has an obligation in terms of section 42 of the Eastern Cape Liquor Act, 2003 [Act No. 10 of 2003] to regulate the hours during which liquor may be sold and regulate the operating hours of premises where on-site consumption of liquor takes place in the demarcated municipal area and to provide for incidental matters;

NOW THEREFORE be it enacted by the Council as follows:

**TABLE OF CONTENTS**

- [1] Definitions
- [2] Application of By-Laws
- [3] Report by Ward Committee
- [4] Hours of Trading
- [5] Exemptions
- [6] Enforcement
- [7] Appeal
- [8] Offences
- [9] Penalties
- [10] Repeal of By-Laws



## SCHEDULES

### [1] DEFINITIONS

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

"**Act**" means the Eastern Cape Liquor Act, 2003 [Act No. 10 of 2003];

"**authorized official**" means –

- [a] an official who has been authorized by the Council to administer, implement and enforce the provisions of these By-Laws;
- [b] a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996;
- [c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995; or
- [d] a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977.;

"**Board**" means the Eastern Cape Liquor Board established by section [4] of the Act;

"**Council**" means the Council of the Mbhashe Local Municipality or any other political structure or officer bearer as defined in the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998] or official including the authorized official acting by virtue of powers delegated to it or him by the Council with regard to the application;

"**community**" means those residents, governing body of schools or places of worship occupying premises within a 100m radius from the premises in respect of which an application for registration and/or a license or authorization in terms of the Act is made;

"**Municipal Manager**" means the Municipal Manager of the Municipality appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 and includes any person acting in this position;

"**liquor trading establishment**" means any fixed property from which liquor is sold or supplied to the public for consumption;

"**official**" means an official of the Municipality;

"**premises**" includes any place, land, building or conveyance or any part thereof which is registered or seeking to be registered in order to permit and allow trading in liquor;

**"Regulations"** means the regulations made under the Act and published in Provincial Notice No. 17 of 2004, dated 28 May 2004 as may be amended from time to time;

**"trading hours"** means the time when a liquor trading establishment opens to the time that such establishment ceases to trade and, in the case of on-site consumption establishments, the time when they cease to operate and must close in accordance with **SCHEDULE 1** of these By-Laws;

**"trader"** means a person trading in liquor from a liquor trading establishment ;

**"ward committee"** means a committee as contemplated in the Local Government: Municipal Structures Act, 1998.

## **[2] APPLICATION OF BY-LAWS**

These By-Laws are applicable in respect of all premises situated within the area of jurisdiction of the Municipality where trading in liquor is conducted or is intended or permitted to be conducted in terms of any Town Planning Zoning Scheme of the Municipality or made applicable to the Municipality and/or consent usage granted by the Municipality and/or any title deed conditions applicable to such premises.

## **[3] REPORT BY WARD COMMITTEE**

**[1]** A ward committee must, upon receipt of a notice of application for registration in terms of section 22[2][d][i] of the Act, hold a consultative meeting with the owners of immovable property and businesses and with residents in the immediate vicinity of the premises in respect of which the application applies and record in writing all comments [if any] with regard to such application;

**[2]** The councillor responsible for the ward in respect of which an application contemplated in subsection [1] has been made must submit a report to the Municipality within 30 days of referral of such application to the ward committee concerned and such report must contain:

- [a]** the details of the consultative process with the community, including the –
  - [i]** dates when the consultation took place; and
  - [ii]** names and addresses of persons who were consulted;
- [b]** comments on the application;
- [c]** details of objections received in respect of such application, if any;
- [d]** comments on such application; and
- [e]** a recommendation with regard to such application.

**[3]** The Municipal Manager must report the application and the comments of the ward committee concerned to the Council at its first meeting after receipt of the comments

of such Committee and thereafter expeditiously inform the Board of the resolution of the ward committee and the Council on such application; provided that the Municipal Manager must provide the applicant with reasons within seven days of such referral to the Council if the application and comments of the ward committee could not, for any reason whatsoever, be considered by the Council.

[4] The Council may, when considering an application, appoint an official to conduct further investigation and obtain any further information that it deems necessary from any person deemed necessary by the Council; provided that the Municipal Manager must notify the applicant within seven days of such referral by the Council.

[5] An official appointed in terms of subsection [4] must complete the investigation within such period as Council may have deemed necessary and report his findings to the Council at its next meeting.

[6] The Council must consider the findings contemplated in subsection

[5] and thereafter take the steps contemplated in subsection [3].

#### **[4] HOURS OF TRADING**

[1] The trading hours, as listed in Column 2 of **SCHEDULE 1** to these By-Laws of the different kinds of registrations, as contemplated in section 20 of the Act, as listed in Column 1 of the **SCHEDULE 1**, have been determined by the Municipality and may be reviewed by the Municipality from time to time.

[2] Subject to section 6, no trader may sell liquor to a person at a time other than those hours stipulated as trading hours under subsection [1]; provided that nothing contained in these By-Laws –

- [a] prevents liquor trading premises from remaining open outside liquor trading hours exclusively for the sale of goods other than liquor; and
- [b] permits a trader to sell liquor to a person who is under the age of eighteen years, or to allow a person under the age of eighteen years to consume liquor on liquor trading premises.

[3] A trader who contravenes subsection [2] commits an offence.

#### **[5] EXEMPTIONS**

[1] The Municipality may grant written consent to a trader to sell liquor at hours other than those hours stipulated as trading hours in section and a trader who wishes to sell liquor at such hours must, before he sells such liquor, obtain such written consent of the Municipality.

[2] A trader who wishes to obtain the consent of the Municipality must complete a form similar to the APPLICATION FOR CONSENT TO SELL LIQUOR OUTSIDE TRADING HOURS FORM as contained in **SCHEDULE 2** and submit the form and

other particulars as the Municipality may request, to the Office of the Municipal Manager.

[3] The Municipality may, after consideration of the application, refuse to grant consent or grant consent and should the Municipality grant consent, it may do so subject to any condition or restriction it may deem necessary, which consent and condition or restriction, if imposed, must be entered in item C of the form contained in **SCHEDULE 2**.

[4] A trader who has been granted consent in terms of subsection [3] must display, in a conspicuous place on the premises regarding which the consent has been granted and during those times for which the consent has been granted, a copy of the form on which the consent of the Municipality has been entered.

[5] A trader who contravenes subsection [1] or [4], or who sells liquor in contravention of a condition or restriction imposed in terms of subsection [3], or who displays a forged form, commits an offence.

#### **[6] ENFORCEMENT**

[1] The Municipality may appoint, authorize and mandate such officials as it may deem necessary to implement and enforce these By-Laws.

[2] Each official appointed in terms of subsection [1] must be issued with an identity card containing –

- [a] photograph of that official;
- [b] the date of the Council resolution authorizing his appointment;
- [c] his designation; and
- [d] a brief reference to his duties and obligations in terms of these By-Laws;

[3] An official, acting within the powers vested by these By-Laws must, on demand by a member of the public, produce proof of identity and the capacity in which such official purports to carry out his duties;

[4] An official, acting in terms of the authorization or mandate contemplated in subsection [1] may –

- [a] at all reasonable times, enter upon premises on which a business is being or is intended to be carried on; and
- [b] request any person to provide such reasonable information as the official deems necessary.

[5] For purposes of these By-Laws, an official appointed in terms of this section will be regarded as the authorized official.

**[7] APPEAL**

[1] A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.

[2] The Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

[3] When the appeal is against a decision taken by –

- [a] the authorised official, the Municipal Manager is the appeal authority;
- [b] the Municipal Manager, the Mayor is the appeal authority; or
- [c] a political structure or political officer bearer, or a Council of the Municipality is the appeal authority.

[4] The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

**[8] OFFENCES**

[1] Anyone commits an offence if he –

- [a] hinders or interferes with an authorized official in the execution of his official duties in terms of the Act;
- [b] falsely professes to be an authorized official;
- [c] intentionally furnishes false or misleading information when complying with a request of an authorized official;
- [d] fails to comply with a reasonable request of an authorized official;
- [e] fails, refuses or neglects to comply with the trading hours referred to in **SCHEDULE 1**.

**[9] PENALTIES**

[1] Anyone who commits an offence contemplated in section 6[1] to [5] and 10[a] to [d] of these By-Laws is, upon conviction, liable to –

- [a] a fine or imprisonment for a period not exceeding six months; or
- [b] such imprisonment without the option of a fine; or
- [c] both such fine and such imprisonment.

**[2]** Anyone who is found to be continuously contravening or failing to comply with section 10[a] to [d] of these By-Laws is guilty of an offence and liable to –

- [a]** an additional fine; or
- [b]** an additional period of imprisonment of 10 days; or
- [c]** such additional imprisonment without the option of a fine; or
- [d]** both such additional fine and imprisonment for each day on which such offence is continued.

**[3]** Anyone who commits an offence in terms of section 10[a] to [d] of these By-Laws is liable for a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as a result of such contravention or failure.

**[4]** Anyone who commits an offence in terms section 10[e] of these By-Laws is liable upon conviction, to –

- [a]** a fine or imprisonment for a period not exceeding three years; or
- [b]** imprisonment without the option of a fine; or
- [c]** a fine and imprisonment.

**[5]** Anyone who is found to be continuously contravening or failing to comply with section 10[e] of these By-Laws is, in respect of each day on which that person contravenes or fails to comply, guilty of an offence, including the day of any conviction for an offence in terms of this subsection or any subsequent day and liable on conviction to –

- [a]** a fine; or
- [b]** imprisonment for a period not exceeding three months; or
- [c]** both such fine and imprisonment.

**[3]** Anyone who is convicted of a contravention of section 10[e] of these By-Laws within a period of five years after he was convicted of contravening these By-Laws is liable to –

- [a]** imprisonment for a period of six years; or
- [b]** double the fine for contravening these By-Laws; or
- [c]** to both such fine and imprisonment.

**[10] REPEAL OF BY-LAWS**

[1] Any By-Laws adopted by the Municipality or of a municipality now forming an administrative unit of the Municipality and in conflict with any matter regulated in these By-Laws is hereby repealed.

[2] Anything done under the provisions of the By-Laws repealed by subsection [1] is deemed to have been done under the corresponding provision of these By-Laws and such repeal will not affect the validity of any approval, authority, waiver or other act which at the commencement of these By-Laws is valid under the By-Laws so repealed.

**SHORT TITLE AND COMMENCEMENT**

5. These By-Laws are called Liquor Trading Hours By-Laws, 2012 and will come into operation on the date of publication in the *Provincial Gazette*

**SCHEDULE**

**TYPE OF REGISTRATION**

Section 20[a] - Registration in terms of the Liquor Act for the retail sale of liquor for consumption off the premises where the liquor is being sold. [*bottle store, retail shop, wholesaler, house shop*]

Section 20[b] - Registration in terms of the Liquor Act for the retail sale of liquor for consumption on the premises where liquor is sold. [*restaurant, night club, sports club, pool bar, hotel, pub*]

Section 20[c] - Registration in terms of the Liquor Act for the retail sale of liquor on and off the premises on which the liquor is being sold. [*taverns, shebeens*]

Section 20[d] - Registration in terms of the Liquor Act for the retail sale of liquor and consumption at special events. [*beer festival, fete, fundraising event*]

Section 20[e] - Registration in terms of the Liquor Act for licensed wholesale warehouse.

Section 20[e] - Registration in terms of the Liquor Act for licensed micro-manufacturing

**[2] TRADING HOURS**

Monday to Saturday 08:30 to 18:00  
Sunday 09:00 to 13:00

Sunday to Thursday 10:00 to 24:00  
Friday-Saturday 10:00 to 02:00

Off-consumption  
Monday to Saturday 08:30 to 20:00  
Sunday 09:00 to 13:00

On-consumption  
Sunday to Saturday 08h30 to 20:00  
Trading hours to be determined by resolution of the Council in respect of each application

Monday to Saturday 08:00 to 17:00  
Sunday 09:00 to 13:00

Trading hours to be determined by resolution of the Council in respect of each application

**No. 8****MBHASHE LOCAL MUNICIPALITY****NOTICE****PROMULGATION OF PROPERTY RATES BY-LAWS**

The Municipal Manager of Mbhashe Municipality, hereby publishes in terms of section 13 of the Local Government Municipal Systems Act, 2000(Act 32 of 2000), as amended, read with sections 156 and 162 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), Property Rates By-Laws adopted in terms of Council resolution number 5.2.1 dated 31 October 2012, which shall come into operation on the date of publication hereof

MR S DUMEZWENI

ACTING MUNICIPAL MANAGER

**BY-LAWS**

**To provide for By-Laws to give effect to the rates policy of the Municipality in terms of section 6(1) of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), and to provide for any matters incidental thereto.**

**BE IT THEREFORE ENACTED** by the Mbhashe Local Municipality, as follows:

**TABLE OF CONTENTS**

- Definitions
- Contents of rate policy
- Categories of properties
- Exemption of owners of property
- Categories of owners of property
- Liability for rates
- General valuation
- Repeal of By-Laws
- Short title

**CHAPTER 1****1. Definitions**

In these By-Laws, any word or expression to which a meaning has been assigned in the Local Government: Municipal Property Rates Act, 2004, bears that meaning, and unless the context indicates otherwise –

**“business”** in relation to property, means the use of property for the activity of buying, selling or trading in commodities or services on a property and includes any office or other



accommodation on the same property, the use of which is incidental to such activity, but does not include the business of agriculture, farming, or any other business consisting of the cultivation of soils, the gathering of crops, the rearing of livestock or the propagation and harvesting of fish or other aquatic organisms;

**“category”** means the category in relation to properties for the purpose of levying different rates, and category in relation to owners of properties for the purpose of granting exemptions, rebates and reductions;

**“Constitution”** means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), as amended;

**“Council”** means —

- (a) the Municipal Council of Mbashe Municipality exercising its legislative and executive authority through the Municipality;
- (b) its successor in title; or
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-Laws has been delegated or sub delegated or an instruction given, as referred to in section 59 of the Act; or
- (d) a service provider fulfilling a responsibility under these By-Laws, assigned to it in terms of section 81(2) of the Act, or any other By-law, as the case may be;

**“Credit Control and Debt Collection By-Laws”** means the Municipality’s promulgated Credit Control and Debt Collection By-Laws, as amended from time to time;

**“government property”** means property owned and exclusively used by an organ of state, excluding farm properties used for residential or agricultural purposes or not in use;

**“illegal use”** in relation to property, means any use of a property that is inconsistent with or in contravention with the permitted use of that property in which event and without condoning the illegal use thereof, the property must be valued as if it were used for such illegal purposes only;

**“improvement”** means any building or structure on or under a property, but excludes —

- (a) a structure constructed solely for the purpose of rendering the property suitable for the erection of any immovable structure thereon; and
- (b) any building, structure or equipment or machinery referred to in section 46(3) of the Local Government: Municipal Property Rates Act;

**“indigent”** means any household that is legally resident in the country and reside in Mbashe Municipality’s jurisdictional area, who due to a number of economic and social factors are unable to pay municipal basic services, and is registered by the Municipality as such;

**“industrial”** in relation to property, means the use of a property for a branch of trade or manufacturing, production, assembling or processing of finished or partially finished products from raw materials or fabricated parts on such a large scale that capital and labour are significantly involved, including any office or other accommodation on the property, the use of which is incidental to the use of the factory;

**“municipal property”** means any property rateable or non-rateable, owned by the Municipality;

**“Municipality”** means Mbashe Local Municipality and its legal successors, and when referred to as-

- (a) a legal entity, means Mbashe Local Municipality as described in section 2 of the Local Government: Municipal Systems Act, (Act No. 32 of 2000); and
- (b) a geographic area, means the municipal area of the Mbashe Local Municipality as determined from time to time in terms of the Local Government : Municipal Demarcation Act,1998 (Act No 27 of 1998);

**“Municipal Finance Management Act”** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), as amended;

**“Municipal Property Rates Act”** means the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004);

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

**“municipal valuer”** means a person designated as municipal valuer by the Municipality in terms of section 33 of the Municipal Property Rates Act;

**“multiple purposes”** in relation to property, means property that cannot be assigned to a single category due to the multiple use of such property in which event the property will be valued based on the apportionment of uses in accordance with the applicable category of the property in terms of this policy;

**“owner”** in relation to property means the owner as defined in section 1 of the Municipal Property Rates Act;

**“permitted use”** means the limited purposes for which the property may be used in terms of –

- (a) a condition of title;
- (b) a provision of applicable Town Planning or Land Use Scheme as amended from time to time;
- (c) any legislation applicable to any specific property or properties; or

(d) any alleviation of any such restriction;

**“property”** means –

- (a) immovable property registered in the name of a person, including, in the case of sectional title scheme, a sectional title unit registered in the name of a person;
- (b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;
- (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation; or
- (d) public service infrastructure;

**“residential”** in relation to property, means property having a suite of rooms which forms a living unit that is exclusively used for human habitation purposes, or a multiple number of such units, but does not refer to a hotel, commune, boarding or lodging undertaking, hostel, place of instruction;

**“supplementary valuation roll”** means a valuation roll referred to in section 78 of the Municipal Property Rates Act;

**“vacant land”** in relation to property, means –

- (a) land on which no immovable improvements have been erected; or
- (b) land, where the value added by immovable improvements is less than 10% of the value of the land with no immovable improvements on it, applicable to urban and non-urban land;

**“valuation roll”** means the valuation roll as referred to in section 30 of the Municipal Property Rates Act.

## CHAPTER 2

### Categories

#### Contents of Rates Policy

2. (1) The Municipality must in terms of section 3(3) of the Act, determine or provide criteria for the determination of categories of properties for the purpose of levying different rates and categories of owners of properties, or categories of properties, for the purpose of granting exemptions, rebates and reductions.

(2) Categories of rateable property may be determined according to the actual use of the property, and if the property is not in use, the permitted use or zoning of the property, or the geographical area in which the property is situated.

(3) The Municipal council must annually review, and if necessary, amend its rates policy, and any amendments to a rates policy must accompany the Municipality's annual budget when it is tabled in the council in terms of section 16(2) of the Municipal Finance Management Act.

### **Categories of properties**

3. Categories of rateable property for purposes of levying differential rates are in terms of section 8(2) of the Municipal Property Rates Act, determined as follows:

- (a) Residential properties;
- (b) Business and Commercial properties;
- (c) Industrial properties;
- (d) Municipal property (rateable);
- (e) Municipal property (not rateable);
- (f) State-owned properties;
- (g) Public Service Infrastructure;
- (h) Agricultural;
- (i) Agricultural vacant land;
- (j) Illegal use;
- (k) Multiple use properties;
- (l) Vacant land;
- (m) State Trust land;

### **Exemption of owners of properties**

4. (1) A Municipality may in terms of the criteria as set out in its rates policy-

- (a) exempt a specific category of owners of properties, or the owners of a specific category of properties, from payment of a rate levied on their property; or
- (b) grant to a specific category of owners of properties, or the owners of a specific category of properties, a rebate on or a reduction in the rates payable in respect of their properties.

### **Categories of owners of properties**

5. Mphashe Municipality has determined in its rates policy, the following categories of owners of property:

- (a) Indigents;
- (b) Pensioners, physically and mentally disabled;
- (c) Owners temporarily without income;
- (d) Owners of residential properties;
- (e) Land Reform beneficiaries;
- (f) Sporting Bodies;
- (g) Public Benefit Organisations.

### **CHAPTER 3**

#### **Liability for Rates**

6. (1) The levying of rates on property will be effected in terms of the Municipality's Rates Policy as amended from time to time.
- (2) The Municipality will, as part of each annual operating budget process, determine a rate to be levied on the market value of the property in every category of properties.
- (3) Rates will be recovered monthly.
- (4) If an amount due for rates on a property is unpaid by the owner of the property, the Municipality may recover the amount from the tenant, occupier of the property or, the agent of the owner.
- (5) Where the rates levied on a property are based on a supplementary valuation made in terms of section 78(1) of the Municipal Property Rates Act, 2004, such rate will be payable from the date contemplated in section 78(4) of the Municipal Property Rates Act, 2004.
- (6) Recovery of rates due will be in accordance with the Municipality's Credit Control and Debt Collection policy read together with the Credit Control and Debt Collection By-Laws.

### **CHAPTER 4**

#### **General Valuation**

7. (1) The Municipality will undertake a general valuation of all rateable properties in its area of jurisdiction and a valuation roll must be compiled triennially.
- (2) The Municipality will undertake supplementary valuations on an ongoing basis and prepare a supplementary valuation roll once during each financial year.
- (3) The Municipality will in accordance with section 79 of the Municipal Property Rates Act, make amendments regularly to the particulars on the valuation roll, only the electronic copy

of the valuation roll is updated to incorporate such amendments, except those changes to the roll in circumstances where section 78 applies, which may only be effected through a supplementary valuation in accordance with the section.

## CHAPTER 5

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

8. All previous Council regulations, policies and arrangements are dealing with property rates that are in conflict with these By-laws are repealed.

### **Short title and commencement**

9. These By-Laws are called Mbashe Municipality Property Rates By-Laws, 2012 and will come into operation on the date of publication in the *Provincial Gazette*.

**No. 9****MBHASHE LOCAL MUNICIPALITY****NOTICE****PROMULGATION OF REFUSE REMOVAL AND LITTERING BY-LAWS**

The Municipal Manager of Mbhashe Municipality, hereby publishes in terms of section 13 of the Local Government Municipal Systems Act, 2000(Act 32 of 2000), as amended, read with sections 156 and 162 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), Refuse Removal and Littering By-Laws adopted in terms of Council resolution number 5.2.1 dated 31 October 2012, which shall come into operation on the date of publication hereof

MR S DUMEZWENI

ACTING MUNICIPAL MANAGER

**BY-LAWS****Purpose of By-Laws**

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

**Definitions**

1. In these By-Laws, any word or expression to which a meaning has been assigned will bear that meaning and unless the context otherwise indicates: -

"**bin-liner**" means a plastic bag, as prescribed by the Municipality, which must be placed inside the container;

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

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

**"charge"** means the charge prescribed by the Municipality by special resolution;

**"Council"** means —

- (a) the Municipal Council of Mbhashe Municipality exercising its legislative and executive authority through the Municipality;
- (b) its successor in title; or
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-Laws has been delegated or sub delegated or an instruction given, as referred to in section 59 of the Act; or
- (d) a service provider fulfilling a responsibility under these By-Laws, assigned to it in terms of section 81(2) of the Act, or any other By-law, as the case may be;

**"container"** means a standard type of refuse container as approved by the Municipality.

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

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



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

"**Municipality**" means Mbhashe Local Municipality and its legal successors, and when referred to as-

- (a) a legal entity, means Mbhashe Local Municipality as described in section 2 of the Local Government: Municipal Systems Act, (Act No. 32 of 2000); and
- (b) a geographic area, means the municipal area of the Mbhashe Local Municipality as determined from time to time in terms of the Local Government : Municipal Demarcation Act,1998 (Act No 27 of 1998);

"**municipal service**" means, unless otherwise stated, the provision or supply of water-, sewerage or electricity services;

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

"**owner**" means and includes:

- (a) the person or persons with whom the legal proprietary of any fixed property is vested;
- (b) the person administering an estate as curator, executor, proxy, trustee or administrator of a person with whom the legal title is vested and who is insolvent or dead or of his mind;
- (c) the agent or persons receiving the rental of a property in cases where the owner as described above is away;

- (d) the usufruct of fixed property, or
- (e) the fiduciaries of fixed property;

"**trade refuse**" means any trade material or trade waste as determined by the Municipality and agreed to by the owner or occupier.

#### **Domestic refuse removal**

2. The Municipality must provide a service for the removal and disposal of domestic refuse subject to such conditions as it may determine.

#### **Use of service compulsory**

3. Every occupier of a property must make use of the service for the removal and disposal of domestic refuse provided by the Municipality in respect of all domestic refuse which emanates from such property.

#### **Municipality to remove refuse**

4. No person other than the Municipality or person authorised thereto by the Municipality must remove domestic refuse from any property or dispose of it.

#### **Accumulation and removal of domestic refuse**

5. (1) Subject to the provisions of subsection (6) hereunder the Municipality may provide on such property a container with a capacity of not less than 85 litres, constructed of a material approved by the Municipality and with a closefitting lid and two handles for die accumulation of domestic refuse.

(2) If the Municipality is of the opinion that more than one container for the accumulation of domestic refuse is essential on a particular property, it may, according to the quantity of domestic refuse normally accumulated on such property,

require the occupier or occupiers thereof to provide as many containers as it may determine on such property.

(3) If a container used by an occupier does not comply with the requirements the Municipality, it may instruct such occupier to obtain and use some other suitable container.

(4) The Municipality may, where it considers it necessary or desirable, of its own accord supply containers to particular classes of occupiers, or on particular classes of properties, or in particular areas, in which event the cost of such container must be recovered from the owners of the properties.

(5) All containers must be equipped with bin liners, unless the Municipality determines otherwise.

(6) The Municipality may, generally or in particular, issue instructions to occupiers on the manner in which or the arrangements according to which refuse or refuse bags must be placed in containers, be removed therefrom, be tied and thereafter be placed for removal, and any disregard of such instructions must be considered to be a contravention in terms of these By-Laws.

(7) No material, including any liquid which, by reason of its mass or other property is likely to render such bin liners or containers too difficult for the Municipality's employees to handle or carry, must be placed in such bin liners or containers.

(8) The containers or bin liners, or both, must be removed by the Municipality at such intervals as the Municipality may deem necessary, only if such containers or bin liners, or both, have been put at the prescribed places as provided by the Municipality.

(9) The Municipality is not be liable for the loss of or for any damage to a container or bin liner.

(10) In any case where the occupier of a property is not also the owner, the Municipality may hold the owner himself or herself, instead of the occupier, liable for compliance with the provisions of these By-Laws.

(11) The Municipality may, in specific cases, impose different directions, other than the use of an 85 litre container.

(13) The Municipality may lay down policy with regard to the reclamation of refuse in which case directions may be issued in terms of which certain types of refuse must be separated and disposed of.

#### **Accumulation of domestic refuse**

6. The owner or occupier of any property must ensure that all domestic refuse generated on such property must be accumulated only in a container, as determined by section 5, and in no other manner.

#### **Littering**

7. No person must -

(a) throw, drop, deposit or spill any refuse into or onto a public place, street, vacant stand, vacant erf, stream or water-course, or

(b) sweep any refuse into a gutter on a public place or into any public street.

#### **Pavements**

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

**Garden refuse**

9. (1) Garden refuse may be removed from property where it accumulates according to any arrangements which the owner or occupier of such property desires to make, provided that, should any accumulation of garden refuse not be removed and should such accumulation in the opinion of the Municipality constitute a nuisance or danger to public health or an unnecessary fire hazard to nearby property, the Municipality may order such owner or occupier by written notice to cause such accumulation to be removed within a specified period.

(2) If it has sufficient facilities available, the Municipality may in its discretion and on application from the owner or occupier of property remove garden refuse therefrom at the cost of the owner or occupier in which case the Municipality may impose certain rules.

(3) No garden refuse may be dumped, kept or stored on any sidewalk or vacant ground.

**Removal of bulky and industrial refuse**

10. (1) The occupier or, in the case of premises occupied by more than one person, the owner of premises in which bulky or industrial refuse is generated, must ensure that such refuse is disposed of in terms of this By-Laws within a reasonable period after the generation thereof.

(2) Bulky and industrial refuse must, once it has been removed from the premises on which it was generated, be deposited on a site designated by the Municipality as a disposal site.

(3) The Municipality does not accept any responsibility for the removal of bulky or industrial refuse.

**Builder's refuse**

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

**Trade refuse**

12. The Municipality may enter into an agreement with the owner or occupier of any premises for the removal of trade refuse by the Municipality at a charge fixed by the Municipality.

**Disposal sites for domestic, garden and builder's refuse**

13. (1) The Municipality periodically sets aside and maintains a place or places where domestic, garden and builder's refuse must be dumped.

(2) Any person dumping domestic, garden and builder's refuse in any other place is guilty of an offence.

(3) The Municipality may, from time to time, determine tariffs for the dumping of certain types of refuse.

**Ownership of refuse**

9. All refuse removed by the Municipality and all refuse on disposal sites controlled by the Municipality must be the property of the Municipality, and no person who is not duly authorised by the Municipality to do so must remove or interfere with such refuse.

**Abandoned objects**

10. Anything other than a vehicle deemed to have been left or abandoned anywhere in terms of the National Road Traffic Act, 1996 (Act 93 of 1996), which is, in the light of such factors as the place where it is found, the period it has been lying at such place and the nature and condition thereof, reasonably regarded by the Municipality as having been abandoned, may be removed and disposed of by the Municipality as it may deem fit.

**Liability**

16 (1) Where anything has been removed and disposed of by the Municipality in terms of section 15, the person responsible must be liable to pay the Municipality the charge fixed by it for such removal, disposal or custody.

- (2) For the purposes of subsection (1), the person responsible must be-
- (a) the owner of the object, including any person who is entitled to be in possession of the object by virtue of a hire-purchase agreement or an agreement of lease at the time when it was abandoned or put in the place from which it was so removed, unless he can prove that he was not concerned in and did not know of its being put in such place, or
  - (b) any person by whom the object was put in the place aforesaid, or
  - (c) any person who knowingly permitted the object to be put in the said place.

**Charges and deposit**

17. The charges payable to the Municipality for the establishment, provision and maintenance of a refuse removal service and the amount a person making use of such service must deposit with the Municipality must be determined by the Municipality.

**Penalty**

18. Any person who contravenes or fails to comply with any provision of these By-Laws is guilty of an offence and liable upon conviction to—

- (a) a fine or imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment;
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment of 10 days or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued; and
- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as result of such contravention or failure.

**Repeal of By-Laws**

19. All previous Council regulations, policies and arrangements are dealing with refuse removal and littering that are in conflict with these By-Laws are repealed.

**Short title and commencement**

20. These By-Laws are called Refuse Removal and Littering By-Laws, 2012 and will come into operation on the date of publication in the *Provincial Gazette*.



**No. 10****MBHASHE LOCAL MUNICIPALITY****NOTICE****PROMULGATION OF TAXIS AND TAXI RANKS BY-LAWS**

The Municipal Manager of Mbhashe Municipality, hereby publishes in terms of section 13 of the Local Government Municipal Systems Act, 2000(Act 32 of 2000), as amended, read with sections 156 and 162 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), Taxis and Taxi Ranks By-Laws adopted in terms of Council resolution number 5.2.1 dated 31 October 2012, which shall come into operation on the date of publication hereof

MR S DUMEZWENI

ACTING MUNICIPAL MANAGER

**BY-LAWS**

To provide for the control of taxis and taxi ranks within the municipal area of the Municipality and to provide for matters incidental thereto.

BE IT ENACTED by the Council of Mbhashe Local Municipality, as follows:

**TABLE OF CONTENTS**

1. The establishment of special parking places.
2. Application for a rank permit.
3. Issuing of a rank permit.
4. Period of validity.
5. Refusal to grant rank permit.
6. Renewal of a rank permit.
7. Temporary substitution of vehicle.
8. Transfer of rank permit.
9. Issuance, display and duplication of rank permit.
10. Payment of fees for rank permit.
11. Amendment of the particulars of a rank permit.
12. Rank permit issued in the name of a partnership.
13. Dishonoured cheques.
14. Taxi Associations.
15. Designations of taxi facilities.
16. Parking of taxis.
17. Parking of taxis at shopping places
18. Utilisation of taxi ranks.
19. Regulation and control of taxi facilities.
20. Servicing and washing of taxis at taxi facilities.
21. Entering and alighting of taxis.

22. Queues at facilities.
23. Payment of taxi fares.
24. Rights and duties of passengers when a taxi becomes defective.
25. Dangerous or offensive articles.
26. Animals.
27. Actions prohibited on a taxi.
28. Riotous or indecent behaviour.
29. Contagious disease.
32. Permit to be produced on demand.
31. Right of entry.
33. Presumptions.
34. Suspension or withdrawal of rank permit.
35. Procedure for withdrawal of a rank permit.
36. Change of address.
37. Amendment of the particulars on a rank permit.
38. Offences and Penalties
39. Repeal of Laws
40. Short Title and Commencement

### **Definitions**

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

“**animal**” includes any horse, mare, gelding, foal, bull, ox, cow, bullock, steer, heifer, calf, mule, ass, lamb, sheep, goat, swine, ostrich, cat or dog;

“**authorised officer**” means-

- (a) Municipal Police Officer appointed under the South African Police Services Act, Act 68 of 1995;
- (b) A peace officer as contemplated in section 334 of the Criminal Procedure Act, Act 51 of 1977; or
- (c) Any member of the South African Police Services as contemplated in the South African Police Services Act, Act 68 of 1995;

“**Council**” means —

- (a) Municipal Council of Mbashe Local Municipality exercising its legislative and executive authority through the Municipality;
- (b) its successor in title;
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-Laws has been delegated or sub delegated or an instruction given, as referred to in section 59 of the Act; or
- (d) a service provider fulfilling a responsibility under these By-Laws;

“**demarcated parking place**” means a place referred to in Section 80A of the National Road Traffic Act, 1996 (Act 93 of 1996), as amended and means a space laid out and marked in a public place, the time of occupation by which a vehicle is intended to be recorded by a parking meter;

“**direction sign**” means a type of guidance sign provided under the South African Road Traffic Sign System and used to indicate to the road user the direction to be taken in order that they may reach their intended destination;

“**Director**” means the head of the Municipality’s Directorate Public Safety or any person authorised by the Municipality to act on his behalf;

“**driver**” must have the meaning assigned to it by the National Road Traffic Act, Act 93 of 1996, as amended;

“**Examiner of vehicles**” means an examiner of vehicles registered and appointed in terms of Chapter II of the National Road Traffic Act, Act 93 of 1996, as amended;

“**Inspector of licences**” must have the meaning as contemplated in the National Road Traffic Act, Act 93 of 1996, as amended;

“**intersection**” means an intersection as defined in Section 1 of the National Road Traffic Act, Act 93 of 1996, as amended;

“**kerb line**” must mean the boundary between the roadway and the footpath, usually indicated by means of a raised kerb;

“**month**” must mean a calendar month;

“**motor vehicle**” means a motor vehicle as defined in Section 1 of the National Road Traffic Act, Act 93 of 1996, as amended;

“**MPS**” means the Municipal Police Services as established in terms of Section 64, Chapter 12 of the South African Police Services Act, (Act 68 of 1995);

“**Municipality**” means Mbashe Local Municipality and its legal successors, and when referred to as-

- (a) “**a legal entity**”, means Mbashe Local Municipality as described in section 2 of the Local Government: Municipal Systems Act, (Act No. 32 of 2000); and
- (b) “**a geographic area**”, means the municipal area of the Mbashe Local Municipality as determined from time to time in terms of the Local Government : Municipal Demarcation Act, 1998 (Act No 27 of 1998);

“**night**” means the period between sunset and sunrise;

**“NRTA”** means the National Road Traffic Act, Act 93 of 1996 as amended;

**“operate on a public road”** or any like expression, in relation to a vehicle, means to use or drive a vehicle or to permit a vehicle to be used or driven on a public road, or to have or to permit a vehicle to be on a public road;

**“owner”** in relation to a vehicle, means-

- (a) The person who has the right to the use and enjoyment of a vehicle in terms of common laws or a contractual agreement with the titleholder of such vehicle;
- (b) Any person referred to in paragraph (a), for any period during which such person has failed to return that vehicle to the titleholder in accordance with the contractual agreement referred to in paragraph (a); or
- (c) Any person who is registered as such in accordance with Section 14 of the NRTA;

**“passenger carrying motor vehicle”** means a taxi or a bus used or designed to convey passengers for reward;

**“Passenger Transport Working Group”** means the Passenger Transport Working Group contemplated in Chapter III of these By-Laws;

**“passenger”** means any person in or on a vehicle but must not include the “driver” or the “conductor”;

**“pavement”** means a sidewalk as defined in Section 1 of the NRTA;

**“Province”** means the Province of the Eastern Cape established in terms of Section 103 of the Constitution of the Republic of South Africa, 1996;

**“public road”** means a public road as defined in Section 1 of the NRTA;

**“public place”** means any foot pavement, footpath, sidewalk, lane, square, open space, garden, park or enclosed space and includes any public road;

**“rank”** in relation to a taxi means a place upon a public road where a taxi may stand to ply for hire or to pick up passengers for their conveyance for reward;

**“rank permit”** in relation to these By-Laws means a rank permit granted by the Municipality in terms of these By-Laws;

**“Registering Authority”** means a registering authority appointed under Section 3 of the NRTA;

**“road traffic sign”** means any road traffic sign as prescribed in Section 56, NRTA, the detailed dimensions and applications of which are controlled by the South Africa Road Traffic Sign Manual;

“**roadway**” means a roadway as defined in Section 1 of the NRTA (*see infra*);

“**stop**” in relation to a taxi stopping on a public road, means to keep a taxi, whether occupied or not, stationary for a period of time not longer that is reasonably necessary for the actual loading or unloading of persons or goods, but does not include any such stopping by reason of a cause beyond the control of the driver of such taxi;

“**street**” means any street, road or thoroughfare shown on the general plan of a township, agricultural holding or any other division of land or in respect of which the public have acquired a prescriptive or other right of way and which vests in the Municipality;

“**taxi facility**” means a holding area, special parking place, stopping place, rank, terminal and any other facility that is specifically identified and designated by the Municipality for the exclusive use of taxis;

“**taxi association**” means a taxi association recognised as such by the Municipality and the Province;

“**taxi operator**” means the person responsible for the use of the taxi provided that in terms of Chapter VI of the NRTA, it must mean the person who has been registered as the operator of such vehicle;

“**taxi rank**” means a taxi facility identified by the Municipality as a place where taxis stand to await passengers;

“**taxi route**” means a route determined by the Municipality from time to time;

“**vehicle**” means a vehicle as defined in Section 1 NRTA;

“**waiting area**” means a place where vehicles, or vehicles of a particular class or description, for public transport may wait or stand;

### **The establishment of Special parking places**

2.(1) The Municipality must establish special parking places within the municipal area for the use of or parking of a taxi belonging to a person to whom a permit as contemplated in section 48 has been issued authorizing him or her to do so.

(2) A permit may be issued allocating special parking places to particular persons or motor vehicles for their exclusive use only.

(3) No person must, except by virtue of a permit, use or cause or permit a taxi to be used on any special parking place within the Municipal area, regardless whether such person has obtained a similar permit from any other Local authority or Municipality.

(4) Should there be no space available in a special parking place or a stopping place at any given time, for the parking of a taxi that is authorised to do so, in terms of a valid rank permit, the taxi concerned must be parked at a taxi holding area specified by a duly appointed marshal as contemplated in Section 19(1) until such time that the marshal or any other duly

appointed marshal, summons and permits the taxi to park at the special parking place or stopping place.

### **Application for a rank permit**

3. (1) An application for the granting of a rank permit must be lodged with the Municipality on the form prescribed by the Municipality from time to time.

(2) The applicant must furnish clear answers to all questions contained in the application form and must in all other respects fully comply with all the requirements thereof.

### **Issuing of a rank permit**

4. (1) No permit must be issued until the applicant produces-

- (a) a valid Certificate of Road Worthiness in respect of the motor vehicle concerned as required in terms of Regulation 138 of the Regulations in terms of the NRTA;
- (b) a valid public road carrier permit issued under the Road Transportation Act, Act 74 of 1977, authorising the road transportation proposed to be undertaken;
- (c) proof of registration and licensing of the motor vehicle concerned in terms of Section 14 of the NRTA;
- (d) a valid identification document or a valid temporary identity document issued by the Department of Home Affairs, of the owner or the operator thereof, but in the event of a temporary identification document, it must be accompanied with a passport photo of the owner or the operator thereof; and
- (e) a letter of recommendation from the relevant taxi association.

(2) Where an application for a permit has been granted, it must be issued on the prescribed form, but the prescribed tariffs have been paid.

(3) Such permit must be issued in terms of the conditions determined by the Municipality.

(4) The Municipality may, from time to time, by special resolution, determine the tariffs for the issue of a rank permit and such tariffs may be different for different facilities.

(5) A rank permit not collected within 3 (three) months lapses, unless a written extension of time has been requested and granted by the Municipality.

(6) No permit must be issued unless the provisions of this section have been complied with.

(7) Any permit issued contrary to the provisions of these By-Laws in an unlawful manner with or without the knowledge of the applicant, must be void and the holder thereof must on demand by the Municipality forthwith deliver such permit to the Municipality.

**Period of validity**

5. A rank permit issued in terms of these By-Laws is valid for a period of 12 months from the date of issue thereof subject to the provisions of Section 48.

**Refusal to grant rank permit**

6. The Municipality may refuse a rank permit, subject to Section 88 (6) of the NRTA and the provisions of these By-Laws, on the grounds that there is insufficient ranking space in the municipal area.

**Renewal of rank permit**

7. (1) A permit issued in terms of these By-Laws must be valid from the date of issuance thereof and must be renewed annually.

(2) An application for the renewal of a permit must be made at least 30 days, but not later than 14 days, prior to the date of the expiry thereof.

(3) The applicant for the renewal of a permit must submit a duly completed and legible application form to the office of the Municipality, together with the documents referred to in section 4 in respect of the motor vehicle and must, on payment of the prescribed tariff and subject to the good conduct of the applicant be renewed.

(4) The Municipality must issue an acknowledgement of receipt to the applicant upon receipt of the application for the renewal of the rank permit.

**Temporary substitution of vehicle**

8. (1) Subject to subsection (2), a rank permit issued to the holder thereof, must in terms of these By-Laws, only apply to a motor vehicle in respect of which it was issued.

(2) (a) The holder of a rank permit may, in terms of these By-Laws substitute the motor vehicle in respect of which such rank permit has been issued with another vehicle for a fixed period not exceeding 21 days, after the date of substitution thereof.

(b) Should the motor vehicle in respect of which the rank permit has been issued, becomes defective or, due to an accident, is temporarily withdrawn from service, the holder of the permit must apply in writing for temporary approval of the substitution of the motor vehicle to the Municipality which will answer in writing, once approved.

(3) The holder of the permit must at all times while taxi facilities are being utilised by the substitute vehicle, ensure that the relevant permit is kept in and the decal displayed on the substitute vehicle as required by these By-Laws.

**Transfer of permit**

(1) No rank permit issued in terms of these By-Laws, must be transferable from the holder to another person.

(2) In the event that the permit holder -

- (a) dies;
- (b) if his or her estate is provisionally or finally sequestrated;
- (c) where the holder is a company or a close corporation which is in the course of liquidation;
- (d) if the holder becomes in any way incapable in law of carrying on business,

the executor, trustee, liquidator or *curator bonis* as the case may be, may on payment of a prescribed transfer tariff, carry on business not exceeding one year to enable recommencement of the relevant services.

**Issuance, display and duplication of rank permit**

9. (1) A decal must be issued simultaneously with every permit, incorporating the particulars of the permit in accordance with the prescribed form and must immediately be affixed to the taxi concerned.

(2) The holder of a rank permit may apply for the use of additional taxi facilities, which must be determined by the Municipality.

(3) One or more additional decals may be issued to the permit holder to denote additional taxi facilities allotted to that holder, as the case may be.

(4) Additional denoting referred to in subsection (3) may be added to the decal in print.

(5) If the holder of a permit or decal-

- (a) satisfies the Municipality by affidavit that it has been lost or destroyed;
- (b) produces a permit or decal that has been damaged to the extent, that the letters and figures thereon are no longer clearly legible,

the Municipality must, on application by such holder in the prescribed form, and on payment of the prescribed tariff, issue him or her with a clearly endorsed duplicate.

(6) The holder must affix the duplicate decal forthwith to the vehicle concerned.

(7) In the event of a taxi being operated without a decal or a valid decal, it must be presumed that the holder is not in possession of a valid permit, until such time that the holder proves to



an authorised official of the Municipality that he or she is in possession of a valid permit or that he or she has reapplied for a permit or a duplicate decal.

(8) No person must, during the period of validity of a permit issued in respect of any taxi, use or cause or allow such taxi to be used if the permit issued in respect thereof has been defaced, concealed or removed.

(9) No person must display a permit of which the period of validity has expired on a taxi or display a permit which does not correlate to such taxi

#### **Payment of tariffs in respect of rank permits**

10. (1) The tariff payable in respect of a permit issued for a period less than one full year must be reduced on a pro rata basis, for every month out of 12 months of its validity.

(2) The payment of any tariff in terms of these By-Laws must not absolve any person from criminal liability arising from his or her failure to obtain a permit nor must the fact that a person has been convicted of an offence under these By-Laws relieve him or her from the liability to pay the appropriate tariffs in terms of these By-Laws.

(3) Any amount due by a person in terms of the provisions of these By-Laws, must be a debt due and payable to the Municipality and may be recovered by the Municipality in any competent Court of Law.

(4) All tariffs and monies must be paid at the Municipality or at such other places as may be determined by the Municipality, from time to time.

#### **Amendment of the particulars of a rank permit**

11. (1) In the event where the information contained in a permit or decal is incorrect, the Municipality may, despite anything to the contrary herein contained, notify the holder concerned and require him or her to give a satisfactory explanation and return such permit or decal for amendment not later than 10 working days after the date of such notification.

(2) Where it comes to the notice of the holder of a permit or decal that the particulars contained thereon, are incorrect by virtue of a change in such particulars or for any other reason, such holder must submit the permit or decal to the Municipality within 10 working days of such fact coming to his or her notice for the amendment thereof, but a holder must, subject to section 7, not substitute a different motor vehicle for the motor vehicle to which the permit relates.

(3) Where a permit or decal has been surrendered, so as to be amended in terms of this section, the Municipality must provide the holder with a temporary permit or decal, as the case may be, which must be valid until the amended permit or decal has been returned to the holder.

**Rank permit issued in the name of a partnership**

12. (1) Any permit issued to a partnership must specify the full name of each of the partners and the style under which the business is being carried on.

(2) If a change in the composition of a partnership is occasioned by the admission or by the death or withdrawal of a partner, the current rank permit granted to such partnership must continue for the unexpired period thereof.

**Dishonoured cheques**

13. Where an applicant for a rank permit pays the prescribed tariffs by cheque and the cheque is dishonoured on presentation, the applicant must be notified and be requested to pay the said amount with interest and if he or she fails to do so within the time specified in the notice, the such permit must be void from the date on which it was issued, and the applicant must on demand of the Municipality forthwith deliver such permit and any decals which relate thereto.

**Taxi Associations**

14. Taxi Associations, which are recognised by the Municipality in terms of guidelines, laid down by the Province, may become members of the local body (Taxi Liaison Committee) that was established by the Municipality to make recommendations to it concerning matters relevant to the taxi industry in general.

**Designation of taxi facilities**

15. (1) The Municipality may designate any taxi facility or area on a public road as-

- (a) a special parking place; or
- (b) a taxi stopping place.

(2) A taxi holding area, in accordance with the procedure prescribed as amended.

(3) The Municipality must prominently display at the offices of the Municipality a list and description of all the designated taxi facilities.

(4) The Municipality may after consultation with the local Taxi Liaison Committee set aside any taxi facility for the exclusive use of taxi operators which operate on a certain route or in a certain area between certain points, or for the exclusive use of members of a particular association.

**The parking of taxis**

16. (1) No driver must, subject to subsection (2)-

- (a) park a taxi, except at a special parking place or holding area, or
- (b) ply for hire, load or offload passengers, except at a special parking place or a taxi stopping place.

(2) In emergency situations or at recreational and other similar functions the Municipality may set aside temporary taxi facilities suitably identified by the Municipality.

#### **The parking of taxis at Shopping places**

17. No driver of any taxi is allowed to park and ply for hire such taxi at a shopping place.

#### **Utilisation of Taxi Ranks**

18. (1) Subject to subsection (3), a driver may park at the taxi rank specified on the permit concerned, if there is space available.

(2) If there is no space available, the driver must remove and park the taxi at a taxi holding area.

(3) The driver when plying for hire at a taxi rank must do so in a queue and -

- (a) place his or her taxi in the first vacant place available in such queue immediately behind any other taxi already in a front position,
- (b) move his or her taxi forward in such queue if a vacancy occurs.

(4) No driver must when plying for hire at a taxi rank-

- (a) place his or her taxi ahead of any taxi in such queue that has taken up position in the front of the queue, before he or she did;
- (b) if his or her taxi is the first taxi in the front of such queue and any person calls for a taxi, respond to such call unless the person clearly indicates his or her preference for a taxi not in front of the queue;
- (c) no person must park or stop a taxi, which is not in good working order as required by the NRTA, or the regulations framed there under, in a taxi rank or cause or permit such taxi to remain in a rank; or
- (d) no person must park or stop in a taxi rank any vehicle other than a taxi in respect of which a permit and decal specifying such rank has been issued for the current year in terms of these By-Laws.

#### **Regulation and control of taxi facilities**

19. (1) Subject to the provisions of subsections (2), (3) and (4), the Municipality or a recognised taxi association may appoint marshals to perform the functions as set out in subsection (4) and (5), but where a taxi facility or portion thereof has been allocated exclusively to a particular taxi association, that association or the Municipality only may appoint marshals in respect of that particular taxi facility, or portion thereof.

(2) In the case of a dispute as to which taxi association is entitled to appoint a marshal or marshals at a particular taxi facility, the Municipality must decide the issue, and its decision must be final.

(3) No person must act as a marshal at any taxi facility, unless his or her appointment has been made in writing by the taxi association concerned or the Municipality.

(4) The duties of a marshal in relation to passengers must be-

- (a) to regulate the queuing of passengers according to the appropriate priority and route destination systems;
- (b) to ensure the orderly loading of passengers into appropriate vehicles;
- (c) to control the number of passengers per vehicle to prevent overloading and to ensure a higher level of service to passengers and equal opportunities to drivers;
- (d) to direct passengers and to provide information related to the operation of the taxis operating at that or other taxi facilities; and
- (e) to inform drivers about expected passenger demand and any other related matters.

(5) The duties of a marshal in relation to taxis, must be-

- (a) to control the arrival of taxis at taxi facilities, especially at loading areas and in accordance with the provisions of Sections 15 and 17;
- (b) to allow only permit holders to enter and exit such facilities;
- (c) to communicate and coordinate taxi movements between loading and holding areas;
- (d) to control taxi departures according to loading patterns; and
- (e) to direct a taxi to a holding area and to redirect such taxi to a rank.

### **Servicing and washing of taxis at taxi facilities**

20. (1) No person must repair or maintain any motor vehicle in any way whatsoever at any taxi facility, except where provision is made for this purpose.

(2) No person must wash any motor vehicle at any taxi facility, except at a wash bay specially constructed thereat for this purpose.

**Entering and alighting of taxis**

21. (1) No person must enter a taxi until all persons desiring to alight from the taxi have done so.
- (2) No person must insist on entering a taxi, which contains the total number of passengers, which it is authorised to carry.
- (3) No person must enter or alight or attempt to enter or alight from any taxi whilst in motion.

**Queues at facilities**

22. (1) At any established taxi rank facility, the Municipality may erect or cause to be erected queue signs that consists of a notice board indicating the location and the manner in which persons waiting to enter a taxi, must stop and form a queue and such sign may be supplemented by queuing barriers in the form of rails or lines marked on the surface of the area to be demarcated for the purpose of queuing.
- (2) All passengers intending to enter any taxi at an established ranking facility or stopping place must queue from the point at which it is indicated that such vehicle will leave.
- (3) Where no queue sign has been erected, passengers waiting to enter a taxi, must form themselves into a queue not exceeding two abreast, or in a single file, when required to so by an approved taxi marshal or authorised official of the Municipality.
- (4) A passenger may only enter a taxi when he/she gets to the front of the queue.
- (5) Every passenger queuing must comply with all the instructions given by an approved taxi marshal, authorised officer or authorised official when on duty.

**Payment of fares**

23. Every passenger must pay the determined fare for the journey on request.

**Rights and duties of passengers when a taxi becomes defective**

24. (1) If a taxi becomes defective or for any reason whatsoever, is unable to proceed, the passenger must at the request of the driver, alight from the defective taxi and should the passengers have already paid their fares and is entitled to a refund to the amount of their fares so paid.
- (2) On agreement with the driver of the defective taxi, passengers must be allowed to travel with the next available taxi for the remainder of the distance in respect of there paid fares, at the cost of the defective taxis owner.

**Dangerous or offensive articles**

25. An authorised officer may remove any person, in possession of any article, instrument or implement, which may be considered dangerous or offensive by the passengers, driver, conductor, authorised officer, travelling in or on any taxi.

**Animals**

26. No passenger may enter a taxi with any animal other than a guide dog assisting a blind person.

**Actions prohibited on a taxi**

28. (1) The following actions are prohibited on a taxi-

- (a) smoking;
- (b) playing offensive or excessively loud music;
- (c) using obscene or offensive language;
- (d) committing an offensive act;
- (e) interfering with the comfort of any passenger;
- (f) damaging any taxi or the fittings thereof;
- (g) interfering with the equipment of the taxi in any way;
- (h) forcibly cause the driver to deviate from his or her route;
- (i) endangering the lives of other people; or
- (j) interfering with the actions of the driver.

(2) Any person committing any of the mentioned actions or another offence stipulated in any other legislation, must in addition to incurring the penalty provided for in these By-Laws, forfeit his or her fare and be immediately removed from the taxi.

**Riotous or indecent behaviour**

29. Any person causing a disturbance or behaving in a riotous or indecent manner is guilty of an offence in terms of these By-Laws and may be removed from a taxi, a queue or the vicinity of a ranking facility by any authorised officer or authorised official of the Municipality.

**Contagious disease**

30. No person suffering from a contagious disease must enter any taxi.

**Permit to be produced on demand**

31. (1) The holder of a permit in terms of these By-Laws must-

- (a) maintain such permit in a good and legible condition; and
- (b) keep it in the motor vehicle to which it relates at all relevant times when such vehicle is being operated as a taxi.

(2) Any authorised official of the Municipality may call upon the driver of any taxi to stop and may demand from him or her-

- (a) to produce the permit required under the provisions of these By-Laws; and
- (b) to supply his or her full name and address and also the name and address of the owner or operator of such taxi.

(4) No driver referred to in subsection (3) may, when called upon to do so by any authorised officer-

- (a) refuse to stop;
- (b) refuse to supply his or her full name and address;
- (c) refuse to supply the correct name and address of the owner or operator of the vehicle in his or her charge;
- (d) refuse to produce a permit; or
- (e) give a false name or address.

**Right of entry**

32. (1) Any authorised official of the Municipality may for the purpose of enforcement of these By-Laws, at any reasonable time and without previous notice, enter upon any taxi facility and make such inspection and enquiry, as he or she may deem necessary.

(2) Such official, if so requested by the owner or occupier of the premises, must submit proof of his or her identity and authority to make the inspection and enquiry.

**Presumptions**

33. (1) Any motor vehicle which is found on a taxi facility or which has stopped at a taxi facility must be presumed to be plying for hire, unless the contrary is proved.

(2) Any person, who by means of any motor vehicle, which corresponds to the definition of a taxi, conveys passengers, must be presumed to have conveyed such passengers for hire or reward and such vehicle must be presumed to be a taxi unless the contrary is proved.

(3) Any person who does not display a decal as prescribed, is presumed to be in contravention of Section 9, unless the contrary is proved.

(4) A document which purports to be a receipt of prepaid registered post, a telefax transmission report, or a signed acknowledgement of hand delivery, must on submission by a person being prosecuted under these By-Laws, be admissible in evidence and *prima facie* proof that it is such receipt, transmission report or acknowledgement.

### **Suspension or withdrawal of permit**

34. (1) Where the owner, operator, holder or person in charge of a taxi has been convicted for a contravention of any of these By-Laws, or any other law relating to the operation of such taxi, and notwithstanding the imposition of any other penalty by a Court of Law, the Municipality may, suspend, for a period determined by the Municipality, or withdraw the permit in respect of any such taxi.

(2) No owner or driver must use, cause or allow to be used as a taxi at a taxi facility any vehicle of which the permit has been suspended or withdrawn.

### **Procedure for the withdrawal of a rank permit**

35. (1) A permit must not be withdrawn or suspended unless, at least 14 days written notice of the intention to do so has been given by the Municipality by registered or certified post, telefax or hand delivery to the holder of the permit concerned at his last known address and which notice must give -

- (a) the reasons for, and disclosure of the nature of the intended action;
- (b) the gist of the information which may be prejudicial to such holder together with an invitation to reply thereto;
- (c) an address for the submission of written representations;
- (d) the date, time, venue and address not less than 30 days from the date on, or at which a hearing will be held to consider the withdrawal or suspension in question, and draw the attention of the holder to the fact that he may submit representations and appear at the hearing;
- (e) such holder is given an opportunity, either personally or through his or her duly authorised representative, to appear at a hearing before the Municipality or a committee thereof, for the purpose of making representations;

(2) Where the holder of a permit who has received a notice referred to in subsection (1)(a), wishes to appear and to oppose the proposed action, he or she must within 14 workdays, or any extended period as the Municipality may allow, of receipt of the notice submit representations in writing and submit such representations by hand or by certified post to the address indicated in the relevant notice.



(3) After the hearing referred to herein, the Municipality must decide whether or not to withdraw or suspend the permit in question, and must furnish the holder with its written reasons therefore not later than fourteen (14) workdays after the date of conclusion of such hearing.

#### **Change of address**

36. The holder of a rank permit must give notice to the Municipality in writing of any change of address within 14 working days thereof by prepaid registered post, telefax or hand delivery.

#### **Amendment of the particulars on a rank permit**

37. If the particulars reflected on a rank permit are incorrect by virtue of a change in such particulars or for any other reason, the holder of such permit must submit the permit to the Municipality for the amendment thereof, within 14 working days of such amendment coming to his or her notice.

#### **Offences and Penalties**

38. Any person who contravenes a provision of these By-Laws or allows such a contravention to take place must be guilty of an offence and must upon conviction be liable for a payment of a fine or a period of imprisonment not exceeding 12 months or both.

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

39. All previous Council regulations, policies and arrangements are dealing with taxis and taxi ranks are repealed.

#### **Short title and commencement**

40. These By-Laws are called Taxis and Taxi Ranks By-laws 2012, and will come into operation on the date of publication in the *Provincial Gazette*.

**No. 11****MBHASHE LOCAL MUNICIPALITY****NOTICE****PROMULGATION OF BY-LAWS RELATING TO UNSIGHTLY AND NEGLECTED BUILDINGS**

The Municipal Manager of Mbhashe Municipality, hereby publishes in terms of section 13 of the Local Government Municipal Systems Act, 2000(Act 32 of 2000), as amended, read with sections 156 and 162 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), By-Laws Relating to Unsightly and Neglected Buildings adopted in terms of Council resolution number 5.2.1 dated 31 October 2012, which shall come into operation on the date of publication hereof

MR S DUMEZWENI

ACTING MUNICIPAL MANAGER

**BY-LAWS**

To provide for the prevention of neglected and unsightly buildings and premises within the municipal area of the Municipality and to provide for matters incidental thereto.

BE IT ENACTED by the Council of Mbhashe Local Municipality, as follows:

**Definitions**

1. In these By-Laws –

**“building”** has the meaning assigned thereto in section 1 of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977) and includes fencing;

**“Council”** means —

- (a) Municipal Council of Mbhashe Local Municipality exercising its legislative and executive authority through the Municipality;
- (b) its successor in title;
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-Laws has been delegated or sub delegated or an instruction given, as referred to in section 59 of the Act; or
- (d) a service provider fulfilling a responsibility under these By-Laws;

**“Municipality”** means Mbhashe Local Municipality and its legal successors, and when referred to as-

- (a) **“a legal entity”**, means Mbhashe Local Municipality as described in section 2 of the Local Government: Municipal Systems Act, (Act No. 32 of 2000); and
- (b) **“ a geographic area”**, means the municipal area of the Mbhashe Local Municipality as determined from time to time in terms of the Local Government : Municipal Demarcation Act, 1998 (Act No 27 of 1998);

**“municipal area”** means the area under the jurisdiction and control of Mbhashe Municipality;

**"nuisance"** means any conduct or condition which brings about or may bring about a state of affairs or condition which is obnoxious and, or constitutes a health risk or a source of danger to human lives or property or which interferes or may interfere with the ordinary comfort, convenience, peace or quiet of persons;

**“Premises”** means any land, whether vacant, occupied or with buildings thereon, situated within the municipal area.

### **Control of neglected and unsightly buildings and premises**

2. Where any building or premises, in the opinion of the Municipality, –

- (a) is unsightly, neglected or offensive and which causes the value of surrounding properties to be detrimentally affected;
- (b) is neglected and over-grown;
- (c) is a nuisance;
- (d) has an unsightly accumulation of papers, cartons, garden refuse, rubble and/or other waste material thereon, and
- (e) has an accumulation of motor wrecks or used motor parts thereon which –
  - (i) detracts from the amenity or appearance of surrounding properties, or
  - (ii) is offensive to the owners or occupiers of adjacent premises,

the Municipality may give notice in writing to the owner or occupier of such premises requiring him or her to improve such building or the condition of such premises within a period prescribed in such notice so that the appearance or condition of such building or premises will comply with the standards required by the Municipality.

**Offences and penalties**

3. (1) If the owner fails to comply with the requirements of the notice served in terms of section 2 within the period specified in such notice, such owner is guilty of an offence and, on conviction, be liable to a fine as determined by a competent court.

(2) The Municipality may, instead of instituting a prosecution and unless written objection from such owner has been received before the expiry date of the period specified on the notice served on him or her, assume that such owner has no objection and tacitly agrees that the Municipality may, without further notice, enter upon such premises and through its officials or a contractor whose tender the Municipality has accepted, and at the cost of such owner execute the work necessary to comply with the requirements of the said notice.

**4. Repeal of By-Laws**

All Municipal By-Laws, and amendments thereto, relating to Unightly and Neglected Buildings and Premises are repealed.

**Short Title and Commencement**

5. By-laws Relating to Unightly and Neglected Buildings and Premises, 2012 and will come into operation on the date of publication in the *Provincial Gazette*.

**No. 12****MBHASHE LOCAL MUNICIPALITY****NOTICE****PROMULGATION OF BY-LAWS RELATING TO STREET TRADING**

The Municipal Manager of Mbhashe Municipality, hereby publishes in terms of section 13 of the Local Government Municipal Systems Act, 2000(Act 32 of 2000), as amended, read with sections 156 and 162 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), By-Laws Relating to Street Trading adopted in terms of Council resolution number 5.2.1 dated 31 October 2012, which shall come into operation on the date of publication hereof

MR S DUMEZWENI

ACTING MUNICIPAL MANAGER

**BY-LAWS**

To provide for the regulation of street trading within the municipal area of the Municipality and to provide for matters incidental thereto.

BE IT ENACTED by the Council of the Mbhashe Local Municipality, as follows:

**TABLE OF CONTENTS****CHAPTER 1****INTERPRETATION**

1. Definitions

**CHAPTER 2****STREET TRADING IN THE BUSINESS AREA**

2. Street Trading
3. Street Trading Site and Identity Card
4. Cancellation of Street Trading Identity Card
5. Street Trading Structures
6. Exemption
7. Prohibited Goods

## 8. Prohibited Areas

### **CHAPTER 3**

#### **STREET TRADING IN THE RESIDENTIAL AREA**

- 9. Street Trading
- 10. Prohibited Goods
- 11. Prohibited Areas

### **CHAPTER 4**

#### **STREET TRADING IN THE RURAL AREA**

- 12. Street Trading
- 13. Prohibited Goods
- 14. Prohibited Areas

### **CHAPTER 5**

#### **MISCELLANEOUS**

- 15. Control measures
- 16. Removal and impoundment
- 17. Display of approval
- 18. Delegation
- 19. Offences and penalties
- 20. Repeal of By-Laws
- 21. Short title and commencement

### **CHAPTER 1**

#### **INTERPRETATION**

##### **1. Definitions**

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

“**business area**” means those areas at Elliotdale, willowvale and Dutywa where most of the businesses are situated, including those areas where businesses are situated in residential areas as indicated by the Municipality;

**“Council”** means —

- (a) Municipal Council of Mbhashe Local Municipality exercising its legislative and executive authority through the Municipality;
- (b) its successor in title;
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-Laws has been delegated or sub delegated or an instruction given, as referred to in section 59 of the Act; or
- (d) a service provider fulfilling a responsibility under these By-Laws;

**“foodstuffs”** means any foodstuffs which are prepared elsewhere or at the street trading site and which are sold as meals or snacks and excludes all fresh fruits and vegetables;

**“Municipality”** means Mbhashe Local Municipality and its legal successors, and when referred to as-

- (a) a legal entity, means Mbhashe Local Municipality as described in section 2 of the Local Government: Municipal Systems Act, (Act No. 32 of 2000); and
- (b) a geographic area, means the municipal area of the Mbhashe Local Municipality as determined from time to time in terms of the Local Government : Municipal Demarcation Act, 1998 (Act No 27 of 1998);

**"nuisance"** means any conduct or condition which brings about or may bring about a state of affairs or condition which is obnoxious and, or constitutes a health risk or a source of danger to human lives or property or which interferes or may interfere with the ordinary comfort, convenience, peace or quiet of persons;

**"officer"** means -

- (a) a traffic officer appointed under section 3 of the National Road Traffic Act, 1996 (Act No.93 of 1996);

- (b) a member of the South-African Police Services as defined in the South African Police Service Act (Act No. 68 of 1995);
- (c) a peace officer contemplated by section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), or
- (d) a security officer employed by the Municipality;

**“prescribed fees”** means the fees as determined from time to time by the Municipality by means of resolution;

**"public place"** includes any public road, sanitary passage, square or open space shown on a general plan of a township or settlement, filed in any deeds' registry or surveyor-general's office, and all land (other than erven shown on the general plan) the control whereof is vested, to the entire exclusion of the owner, in the Municipality or to which the owners of erven in the township have a common right, and all property belonging to an organ of state;

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

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

**“residential area”** means those areas at Dutywa, Willowvale and Elliotdale used mainly for residential purposes;

**“rural area”** means all areas in the Municipality excluding the business and residential areas;

**"sell"** includes to exchange, barter or hire out by a street trader and includes the preparing, processing, storing, offering and, or displaying for sale any goods or services by a street trader and **“selling”** has a corresponding meaning;



**"sidewalk"** means that portion of a public road intended for the use of pedestrians;

**"street trader"** means any person carrying on business, whether as principal, employee or agent, by selling, supplying or offering any goods or the supplying or offering to supply any service for reward, in or from a public road or public place in the Municipality;

**"street trading"** means conducting of the business of a street trader;

**"street trading identity card"** means a card issued by the Municipality to a street trader selling in the business area, identifying him or her and the street trading site from where he may conduct street trading;

**"street trading site"** means a site in a public place, determined and approved by the Municipality, from where street trading may be conducted;

## **CHAPTER 2**

### **STREET TRADING IN THE BUSINESS AREA**

#### **Street Trading**

2. Street trading is allowed within the business area, subject to the provisions of these By-Laws and other applicable legislation.

#### **Street Trading Site and Identity Card**

3. (1) No person may conduct the business of a street trader in the business area without being in possession of a valid street trading identity card issued by the Municipality.

(2) A person who wants to do street trading in the business area must apply to the Municipality on a prescribed form for the allocation of a street trading site to him or her.

(3) On allocation of such a site to the applicant, a street trading identity card will be issued to him or her after payments of the prescribed fees, if any.

(4) All street trading sites will be leased to the street traders at a fee as determined by the Municipality from time to time;

(5) No street trading identity card will be issued to a street trader selling foodstuffs before he or she obtained a license from the Environmental Health-sub-directorate of the Municipality.

(6) Such street trading identity card issued by the Municipality must, on demand, be provided to an officer or an employee of the Municipality.

(7) The Municipality may reduce, extend and or disestablish any street trading site. At least 30 days written notice will be given to a street trader to vacate a site that will be disestablished.

### **Cancellation of Street Trading Identity Card**

4. (1) The Municipality may withdraw and cancel a street trading identity card if:

- (a) a street trader fails to pay any prescribed fees as determined in these By-Laws to the Municipality within a period of 60 days, and
- (b) a street trader is found guilty of a contravention of any of these By-Laws.

### **Street Trading Structures**

5. (1) The Municipality may erect structures on street trading sites in the business area, which structures must be leased on a monthly basis to the street trader to whom the site has been allocated in terms of section 3.

(2) A street trader must on demand, produce a proof of payment of the lease for the structure to an officer or an employee of the Municipality.

### **Exemption**

6. The Municipality may exempt any person, organisation, group or committee from obtaining a street trading identity card for a specific event or function and for a specific period. Such exemption must be in writing, and must on demand be provided to an officer or employee of the Municipality.

### **Prohibited Goods**

7. (1) The following goods may not be sold by street traders in the business area:

- (a) live-stock, pets, reptiles, birds, rabbits, wild animals and, or poultry except with the prior written approval of the Municipality;
- (b) raw meat or raw fish;
- (c) milk;
- (d) any form of alcohol or alcoholic drinks;
- (e) vehicles, trailers or caravans;
- (f) any noxious or smelly substance or article that may cause a nuisance;
- (g) pesticides, insecticides, poisonous and, or hazardous substances;
- (h) any counterfeit goods or articles and any goods prohibited by legislation;

### **Prohibited Areas**

8. (1) Street trading in the business area may only be conducted from a street trading site allocated by the Municipality in terms of section 3, and it is prohibited to sell from any site :

- (a) in any garden or park which is zoned as a public or private open space and to which the public has a right of access;
- (b) on a sidewalk adjacent to :
  - (i) a building belonging to or occupied solely by the Municipality or an organ of state;
  - (ii) a church or other place of worship;
  - (iii) a building declared to be a national heritage resource in terms of the National Heritage Resources Act, 1999 (Act No 25 of 1999);
  - (iv) an automated teller machine or at any entrance to any bank or other financial institutions;

- (c) at a place where:
  - (i) it causes or may cause an obstruction in front of a fire hydrant or an entrance to or exit from a building;
  - (ii) it causes an obstruction to vehicle traffic;
  - (iii) it substantially obstructs or may obstruct pedestrians or persons in wheelchairs or other disabled persons in their use of and access to a sidewalk;
- (d) on a sidewalk adjacent to a building in which business is being carried on by any person who sells goods of the same nature as or of a similar nature to goods being sold by the street trader concerned, without the consent of that person;
- (e) on that half of a public road adjacent to a building used for residential purposes, if the owner or person in control or any occupier of the building objects thereto;
- (f) within 5 metres of any signalised intersection of two or more streets, measured from the nearest end of the curve in the kerb line, with no part of any structure nearer than two metres from the edge of the road and not within 20 metres from any priority controlled (unsignalised) intersection of two or more streets, measured from the nearest end of the curve in the kerb line and with no part of any structure nearer than two metres from the edge of the road;
- (g) at any place where the selling of goods limits or may limit access to parking- or loading-bays or any other facilities for vehicular traffic;
- (h) within the reserve of any road;

### **CHAPTER 3**

#### **STREET TRADING IN THE RESIDENTIAL AREA**

##### **Street Trading**

9. Street trading is allowed within the residential area, subject to the provisions of these By-Laws and other applicable legislation.

## **Prohibited Goods**

10 (1) The following goods may not be sold by street traders in the residential area:

- (a) live-stock, pets, reptiles, birds, rabbits, wild animals and, or poultry, except with the prior written approval of the Municipality;
- (b) raw meat or raw fish;
- (c) milk;
- (d) any form of alcohol or alcoholic drinks;
- (e) vehicles, trailers or caravans;
- (f) any noxious or smelly substance or article that may cause a nuisance;
- (g) pesticides, insecticides, poisonous and, or hazardous substances;
- (h) any counterfeit goods or articles and any goods prohibited by legislation;

## **Prohibited Areas**

11. (1) Street trading in the residential area may not be conducted:

- (a) in any garden or park which is zoned as a public or private open space and to which the public has a right of access;
- (b) on a sidewalk adjacent to :
  - (i) a building belonging to or occupied solely by the Municipality or an organ of state;
  - (ii) a church or other place of worship;

- (iii) a building declared to be a national heritage resource in terms of the National Heritage Resources Act, 1999 (Act No 25 of 1999);
- (c) at a place where :
  - (i) it causes or may cause an obstruction in front of a fire hydrant or an entrance to or exit from a building;
  - (ii) it causes an obstruction to vehicle traffic;
  - (iii) it substantially obstructs or may obstruct pedestrians or persons in wheelchairs or other disabled persons in their use of and access to a sidewalk;
- (d) on that half of a public road adjacent to a building used for residential purposes, if the owner or person in control or any occupier of the building objects thereto;
- (e) within five metres of any signalised intersection of two or more streets, measured from the nearest end of the curve in the kerb line, with no part of any structure nearer than two metres from the edge of the road and not within 20 metres from any priority controlled intersection of two or more streets, measured from the nearest end of the curve in the kerb line and with no part of any structure nearer than two metres from the edge of the road;
- (f) at any place where the selling of goods limits or may limit access to parking- or loading-bays or any other facilities for vehicular traffic;
- (g) within the reserve of any road.

## **CHAPTER 4**

### **STREET TRADING IN THE RURAL AREA**

#### **Street Trading**

12. Street trading is allowed within the rural area, subject to the provisions of these By-Laws and other applicable legislation.

## **Prohibited Goods**

13. (1) The following goods may not be sold by street traders in the rural area,

- (a) raw meat or raw fish;
- (b) milk;
- (c) any form of alcohol or alcoholic drinks;
- (d) vehicles, trailers or caravans;
- (e) any noxious or smelly substance or article that may cause a nuisance;
- (f) pesticides, insecticides, poisonous and, or hazardous substances;
- (g) any counterfeit goods or articles and any goods prohibited by legislation;

## **Prohibited Areas**

14. Street trading in the rural area may not be conducted from any place where it causes any traffic hazard or an obstruction to a vehicular entrance.

## **CHAPTER 5**

### **MISCELLANEOUS**

#### **Control Measures**

15. (1) A street trader must not-

- (a) sleep overnight at his or her place of selling;
- (b) erect any structure at his or her place of selling, except a device or structure for which written approval has been obtained from the Municipality on the prescribed form;
- (c) carry on his or her business in such a manner as to -

- (i) create a nuisance;
- (ii) damage or deface the surface of any public road or public place or any other property of the Municipality;
- (iii) create a traffic hazard;
- (d) litter, accumulate, dump, store or deposit or cause or permit to be accumulated, dumped, stored or deposited any refuse, scrap or waste material on any land or premises or on any public road or public place or waterway, other than in a refuse receptacle approved by the Municipality.
- (e) burn any goods, materials or refuse or start a fire for any reason other than preparing foodstuffs for which the street trader has the necessary approval;
- (f) permit or cause any goods, receptacles or refuse to be placed outside the demarcated confines of the approved street trading-stand;
- (g) sell his or her goods or services in or at a building or property without the consent of the owner, lawful occupier or person in control of such building or property;
- (h) take up position or place his or her goods or property on a public place in contravention of a notice or sign erected or displayed by the Municipality for purposes of these By-Laws; or
- (i) commence selling before 07h00 or sell after 20h00.

(2) A street trader must -

- (a) remove every day from any public road or public place at the conclusion of selling, all waste, packaging material, stock and equipment of whatever nature which are utilised in connection with such business, unless prior written approval exempting him or her from this provision, has been given by the Municipality;
- (b) conduct street trading in such a manner as not to be a danger or threat to public health or public safety;



- (c) at the instruction of an officer or an employee of the Municipality, move or remove any goods, receptacle, vehicle or structure used for his or her business, or any litter and refuse on or adjacent to his or her stand .

### **Removal and impoundment**

16. (1) An officer may remove and impound any goods, receptacle, vehicle or structure which he reasonably suspects are being used or are intended to be used or have been used in or in connection with street trading -

- (a) which are prohibited goods in terms of sections 6,9 or 12;
- (b) which he finds at a place where street trading is prohibited;
- (c) which a street trader has failed or refused to remove from the place after having been instructed to do so by an officer or an employee of the Municipality, or which have been left there or abandoned.

(2) An officer acting in terms of subsection (1)-

- (a) must issue to a street trader a written proof of impoundment for any goods, receptacle, vehicle or structure so removed and impounded, but the officer may attach the written proof to an approved structure if no person is available to receive the written proof and where no structure is available the written proof of impoundment must be kept in the Municipality's records;
- (b) must forthwith deliver any such goods, receptacle, vehicle or structure to the Municipality;
- (c) may, and must on instruction of an Environmental Health Officer destroy all perishable and prohibited goods after 24 hours after impounding the said goods.

(3) Goods, excluding prohibited goods, receptacles, vehicles or structures can be returned to a street trader after payment of the determined fines and prescribed fees levied for impounding and storing, except if a magistrate makes another ruling.

(4) The Municipality may discard with, sell or give away any goods, receptacles, vehicles or structures that have not been collected from the

Municipality in terms of subsection (3), within 14 days after the date of impoundment.

(5) An officer, the Municipality or an employee of the Municipality must not be liable for any loss or theft of or damage to any goods, receptacle, vehicle or structure removed and impounded and, or destroyed in terms of these By-Laws.

### **Display of approval**

17. A street trader must carry on his or her person a valid street trading identity card or any other written approval issued to him or her by the Municipality in terms of these By-Laws and must on demand show such identity card or written approval to an officer or an employee of the Municipality.

### **Delegation**

18. Subject to the provisions of any other legislation, the Municipality may delegate or assign in writing any power, duty or function imposed by or under these By-Laws, to any person in its employ subject further to such conditions as it may deem necessary.

### **Offences and penalties**

19. (1) A person who -

- (a) contravenes any provision of these By-Laws or fails to comply therewith or with any condition imposed in terms thereof;
- (b) threatens, resists, interferes with or obstructs any officer or any employee of the Municipality in the performance of his or her duties or functions in terms of or under these By-Laws, or
- (c) deliberately furnishes false or misleading information to an officer or an employee of the Municipality;
- (d) fails to comply with an instruction from an officer to move or remove his or her goods, receptacles structures, litter or refuse;
- (e) fails to comply with any condition granted or imposed in terms of these By-Laws;

(f) ignores, disregards or disobey any notice, sign or marking displayed or erected for purposes of these By-Laws, is guilty of an offence and must upon conviction by a court be liable to a fine, or imprisonment for a period not exceeding one year or both a fine as well as period of imprisonment, or such other fine or period of imprisonment which the Minister of Justice may from time to time determine in terms of the provisions of section 92 of the Magistrate's Courts Act, 1944 (Act No 32 of 1944)

(2) Any person who, after conviction in terms of these By-Laws, persists in the conduct or neglect which caused the offence, must be guilty of a continuing offence and liable to a fine of at least R100.00 per day for each ensuing day that the contravention persists.

(3) Any expense incurred by the Municipality as a result of a contravention of these By-Laws or in the doing of anything which a person was directed to do under these By-Laws and which he failed to do, may be recovered by the Municipality from the person who committed the contravention or who failed to do such thing.

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

20. All previous Council regulations, policies and arrangements dealing with street trading are repealed.

### **Short title and commencement**

21. These By-Laws are called Street Trading By-Laws, 2012 and will come into operation on the date of publication in the *Provincial Gazette*.

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001.

Tel: (012) 334-4507, 334-4511, 334-4509, 334-4515

Also available at the Legal Advisory Services, **Province of the Eastern Cape**, Private Bag X0047, Bisho, 5605. Tel. (040) 635-0052