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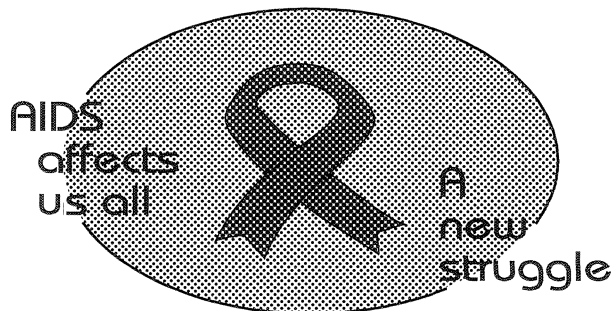
# Provincial Gazette Igazethi Yephondo Provinsiale Koerant

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BISHO/  
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**No. 3019**  
(Extraordinary)

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DEPARTMENT OF HEALTH

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**CONTENTS • INHOUD***No.**Page  
No.      Gazette  
No.***LOCAL AUTHORITY NOTICE**

37	Local Government: Municipal Systems Act (32/2000): Ingquza Hill Local Municipality: By-Law related to the Street Trading .....	3	3019
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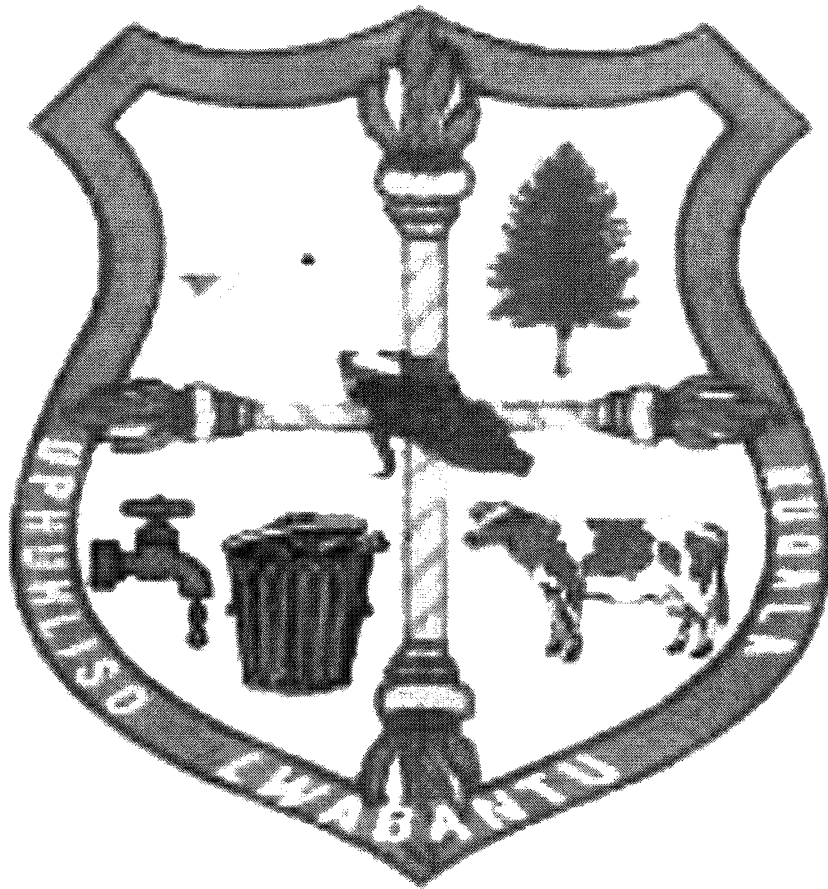
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## LOCAL AUTHORITY NOTICE

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**No. 37**

# INGQUZA HILL LOCAL MUNICIPALITY BY LAWS



## CONTENTS

## PAGE

1. BY-LAW RELATING TO STREET TRADING .....	3
2. BY LAW RELATING TO USE OF CONTAINERS/CARAVANS.....	22
3. BY -LAW RELATING TO NUISANCE .....	30
4. BY RELATING TO ESTABLISHMENT AND CONTROL OVER COMMONAGES ....	40
5. BYLAW RELATING TO FOOD HANDLING .....	48
6. BY LAW RELATING TO REMOVAL OF REFUSE.....	69
7. BY LAW RELATED TO CEMETRY MANAGEMENT .....	79

***BY- LAW RELATED TO THE STREET TRADING*****LOCAL GOVERNMENT NOTICE****INGQUZA HILL LOCAL MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996] the By-law Relating to the Street trading which by-law come into operation on the date of publication thereof

**Preamble**

WHEREAS the municipality acknowledges the high level of unemployment rate and that people are permitted to employ themselves as street traders provided that they have obtained trading permits from the municipality and such trading is done designated area.

ANDWHEREAS no one may trade in a street and with trading items or products that are not contained in a trading permit.

ANDWHEREAS the street trading license shall be issued by the municipality only.

BE IT THEREFORE ENACTED BY THE COUNCIL AS FOLLOWS:-

## STREET TRADING

### CHAPTER 1

#### INTERPRETATION

	Page
1. Definitions.....	6

### CHAPTER 2

#### LEGAL NATURE, ASSIGNMENT OF POWERS OF COUNCIL, PROHIBITED AND RESTRICTED CONDUCTS.

2. Assigning of powers of a Council to employees of a Service provider where a service provider has been appointed.....	9
3. Prohibited conduct.....	9
4. Restricted conduct.....	10

### CHAPTER 3

#### CLEANLINES, SIGNS INDICATING RESTRICTED AND PROHIBITED AREAS, PROVISIONS OF LAND LEASE VERGES AND STANDS AREAS FOR PURPOSE OF STREET TRADING.

5. Cleanliness.....	12
6. Signs indicating restricted and prohibited areas.....	15
7. Provisions of land lease of verges and stands areas For purpose of street trading.....	15

## CHAPTER 4

REMOVAL AND IMPOUNDMENT, VICARIOUS LIABILITY AND  
WAIVER PROVISIONS

8. Removal & impoundment.....	14
9. Storage.....	16
10. Vicarious liability of person carrying on business.....	16
11. Waiver provisions.....	17

## CHAPTER 5

COMPLIANCE NOTICE, PROHIBITION NOTICE, WITHDRAWAL NOTICE  
& DELIVERY NOTICE.

12. Compliance notice.....	17
13. Prohibition Notice.....	18
14. Withdrawal Notice.....	19

## CHAPTER 6

## APPEAL, PENALTIES AND REPEALED BY-LAWS

15. Appeal .....	19
16. Offences & Penalties.....	20
17. Repealed by-laws.....	21

## 1. DEFINITIONS

In these by-laws any word or expression to which a meaning has been assigned in the Business Act, [Act 71 of 1991], has the meaning so assigned and words used in masculine gender include the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates-

**“Approval”** Means approved by the municipality and ‘approved’ has a corresponding meaning;

**“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

**“Foodstuff”** means any article or substance, except an drug as defined in the Drugs and Drug Trafficking human consumption and includes-

[A] Any part or ingredient of any such article or substance; or

[b] Any substance used or intended or destined to be used as part or ingredient of any such article or substance.

**“Garden or park”** means a garden or park where the public has a right of access;

**“Goods”** means any movable property and includes a living thing;

**“Intersection”** means an intersection as defined in the regulation promulgated in terms of the national Road Traffic Act, 1996;

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

**“Litter”** includes any receptacle, container or other matter which has been discarded, abandoned or left by street traders or by their customers;

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



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

**“Municipal services works”** means all property or works of whatever nature necessary for or incidental to any municipal services;

**“municipality”** means the Ingquza Hill Local Municipality established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 and includes any political structure or political office bearers defined in the said Act, Councilor, duly authorized agent there or any employee thereof acting in connection with by-laws by virtue of a power vested in the municipality and delegated to such political structure, political office bearer, councilor, agent and employee.

**“Prescribed”** means determined from time to time, by resolution of the municipality;

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

**“Public building”** means a building belonging to or occupied solely by an organ of the state including the municipality and also includes municipal services works;

**“Public monument”** means any one of the “public monuments and memorials” as defined in the National Heritage Resources Act, 1999 or any similar legislation;

**“public place”** means any square, park, recreation ground or open space that is vested in the municipality or to which the public has the right to use or is shown on a general plan of a township filed in deeds registry or a Surveyor-General’s office and has been provided for the use of the public or the owners of even in such township;

**“Public road”** means a public road as defined in section 1 of the National Road Traffic Act, 1999

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

**“Sell”** and **“sale”** have a corresponding meaning and includes-

[A] Barter, exchange or hire out

[b] Display, expose offer or prepare for sale

[c] Storing in a [public road or public place with intention to sell; or

[d] Providing a service for reward

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

**“Street furniture”** any furniture installed by the council on a street for public use;

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

**“The Act”** means the Business Act, 1991[Act No 71 of 1991] and includes the regulations promulgated in terms thereof; and

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

## **SINGLE ACT CONSTITUTES STREET TRADING**

For the purpose of these by-laws, a single act of selling or offering or rendering of services in a public road or public place constitute street trading.

## **CHAPTER 2**

### **2. ASSIGNING POWERS OF A COUNCIL TO EMPLOYEE OF A SERVICE PROVIDER, WHERE A SERVICE PROVIDER HAS BEEN APPOINTED**

If any provision in these by-laws vests or imposes any power, function or duty of the Municipality in or on an employee of the Municipality and such power, function or duty has in terms of section 81[2] of the Local Government: Municipal Systems Act, 2000, or any other law, been assigned to a service provider, the reference in that provision to that employee must be read as a reference to the service provider, the reference in that provision to that employee of the service provider, where applicable, an employee of the service authorized by it.

### 3. PROHIBITED CONDUCT

- [1] [a] No person may carry on the business of a street trader-
  - At a place or area in which street trading is prohibited;
- [b] In an garden or a park to which the public has a right of access;
- [c] On a verge near-
  - [I] a building belonging to or occupied solely by an organ of state including the Municipality
  - [ii] In a church, mosque, synagogue or other place of worship;
  - [iii] A building declared a public monument;
  - [iv] An automatic banking machine;
- [d] At a place where it causes an obstruction to-
  - [I] a fire hydrant;
  - [ii] An entrance to or exit from a building
- [e] At a place where it could obstruct vehicular traffic;
- [f] At a place it could cause significantly obstruct pedestrian use of the sidewalk;
- [g] On that half of a public road near building used for residential purposes, if-
  - [I] the owner or person in control or any occupier of that building objects thereto; and
  - [ii] An authorized official has informed the street trader accordingly;
- [h] On a stand or in any area demarcated by the Municipality in terms of section 6A [3] [b] of the Act, if the street trader is not in possession of written proof that the stand or area he has hired the stand or area from the Municipality, or that the stand or area has otherwise been allocated to him;
  - [i] Within 5metre of any intersection
- [J] On a side walk near to a building in which business is being carried on by any person who sells goods of the same or of a similar nature to the goods being sold on such side walk by the street trader, if-
  - [I] the goods are sold without a prior consent of such person; and

[ii] An authorized official has informed the street trader that such consent does not exist,

- [2] Any person who has hired a stand from, or been allocated a stand by the Municipality in terms of subsection [1] [h] may not trade in contravention of the terms and conditions of such lease or allocation.

#### **4 RESTRICTED CONDUCT**

- [1] No person carrying on the business of a street trader may-

- [a] sleep overnight at the place of such business;
- [b] Erect any structure for the purpose of providing shelter, other than a device approved by the Municipality
- [c] Place property on a public road or public place, with the exception of a motor vehicle or trailer does not obstruct pedestrian and vehicular traffic movement and complies with the provisions of the National Road Traffic Act, 1996
- [d] Trade on a sidewalk where the width of such sidewalk is less than 3m;
- [e] Place or stack property in such a manner that it constitutes a danger to any person or property or is likely to injure any person or cause damage to any property
- [f] Display goods or other property on or in a building, without the consent of the owner, lawful occupier or person in control of such building or property;
- [g] Attach any property by any means to any building, structure, pavement, tree, parking meter, lamp, pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or public road or public place.
- [h] Carry on business in such a manner as to –
  - [i] Create a nuisance
  - [ii] Damage or deface the surface of any public road or public place or any

## Public or private property;

- [iii] Create a traffic and/ or health hazard, or health risk, or both.
- [i] make an open fire on a public road or public place;
- [j] Interfere with the ability of a person using a sidewalk to view the goods displayed behind a shop display window or obscure such goods from view.
- [k] Obstruct access to a pedestrian crossing, a parking or loading bay or other facility for vehicular or pedestrian traffic;
- [l] Obstruct access to, or the use of, street furniture and any other facility designed for the use of the general public;
- [m] obscure any road traffic sign displayed in terms of the National Road Traffic Act, 1996, or any marking , notice or sign displayed or made in terms of these by-laws;
- [n] Carry on business, or take up a position, or place his property on a portion of a sidewalk or public place, in contravention of a notice or sign erected or displayed by the municipality for the purposes of these by-laws;
- [o] other than in a refuse receptacle approved or supplied by the Municipality, accumulate, dump, store, or deposit, or cause or permit to be accumulated, dumped, stored or deposited, any litter on any land or premises or any public road or public place or on any public property;
- [p] place on a public road or public place property that is not capable of being easily removed to a storage place away from such public road or public place at the end of the day's business;
- [q] Store properly in a manhole, storm-water drain, public toilet, bus shelter or in a tree;
- [r] Handle any food stuffs including meat in a manner contrary to applicable law;
- [s] Carry on such business in a place or area in contravention of any prohibition or restriction approved by the council in terms of section 6A [2] [a] of the Act.

- 2 Any person carrying on the business of a street trader must ensure that their property or area of activity –
- [a] does not cover an area of a public road or a public place which is greater than 6m<sup>2</sup> with a maximum length of 3m in extent, unless otherwise approved by the municipality; and
  - [b] In respect of any sidewalk, leaves an unobstructed space for pedestrian traffic, being not less than 1.5m wide when measured from the kerb line to the property or area of activity;
- 3 Any person carrying on the business of the street trader must-
- [a] upon request by an authorized official or supplier of telecommunication or electricity or other Municipal services, move his property as to permit the carrying out of any work in relation to a public road, public place or any such service; and
  - [b] On concluding business for the day, remove his property, except any structure permitted by the Municipality, to a place which is not part of a public road or a public place.

## **CHAPTERS 3**

### **5. CLEANLINESS**

(1) Any person carrying on the business of a street trader must-

- [a] keep the area or site occupied by him for the purpose of such business in a clean and sanitary condition;
- [b] Keep his property in a clean, sanitary and well maintained condition;
- [c] Dispose of litter generated by his business in whatever receptacle is provided by the Municipality for the public or at a dumping site of the municipality;
- [d] Not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter;

- [e] Ensure that, on completion of business for the day, the area or site occupied by him for the purpose of trade is free of litter;
- [f] take such precautions in the course of conducting his business as may be necessary to prevent the spilling of any fat, oil or grease onto a public road or public place or into a storm water drain;
- [g] Ensure that no smoke, fumes or other substances odours or noise emanating from his activities cause pollution of any kind; and
- [h] On request by an authorized official of the Municipality, move his property as to permit the cleansing of the space of the area or site where he is trading or the effecting of Municipal services.

## **6 SIGNS INDICATING RESTRICTED AND PROHIBITED AREAS**

- [1] The Municipality may, by resolution and in terms of section 6A[2] of the Act, declare any place in its area of jurisdiction to be an area in which street trading is restricted or prohibited and must, to enable compliance therewith, prescribe or make signs, markings, or other devices indicating-
  - [a] specified hours, places, goods or services in respect of which street trading is restricted or prohibited;
  - [b] The allocation of boundaries of restricted or prohibited;
  - [c] The boundaries of a stand or area set apart for the purposes of the carrying on of the business of street trading;
  - [e] Any other restriction or prohibition against street trading in terms of these by-laws;
- [2] The Municipality must display any such sign, including a pictograph marking or device in such a position and manner as will indicate any restriction or prohibition and/or the location or boundaries of the area or stand concerned;
- [3] Any sign erected in terms of these by-laws or any other law serve as sufficient notice to a street trader of the prohibition or restriction of the area concerned;

- [4] Any sign may be amended from time to time and displayed by the Municipality for the purpose of these by-laws and any such sign has the same effect as a road sign in terms of the National Road Traffic Act, 1996

## **7. PROVISIONS OF LAND LEASE OF VERGES AND STANDS OR AREAS FOR THE PURPOSE OF STREET TRADING**

- [1] The municipality may, by resolution, in terms of section 6A [3] [a] to [c] of the Act-

- [a] lease any municipal land, including any verge or any portion of a verge, to the owner or occupier of contiguous land on condition that such owner or occupier must admit a specified number of street trader to trade on stands or places on such land designated by such owner or occupier for informal trading;
  - [b] Set apart municipal land in the Municipality and demarcate stands or areas on such land for the purpose of informal trading;
  - [c] Let or otherwise allocate any stand or area; and
  - [d] Extend, reduce or disestablish any stand or area referred to in the previous subsection.
- [2] Any land leased by or allocated by the Municipality aforesaid for informal trading must be so let on an economic rental basis;
- [3] The Municipality may, in addition to setting aside land in its municipal area for informal trading, also make available to informal traders, subject to such conditions as it may determine suitable structures, shelters and devices for the conduct of the business of informal trading.

## **CHAPTER 4**

## **8. REMOVAL AND IMPOUNDMENT**

- [1] An authorized official may remove and impound any property of a street trader –



- [a] reasonably suspected of being used or intended to be used or that has been used in or in connection with street trading; and
  - [b] that is found at a place where street trading is restricted or prohibited and that constitutes an infringement of any such restriction or prohibition, regardless of whether or not such property is in a possession under the control of any person at the time of such removal or impoundment.
- [2] The removal and impoundment of property in terms of subsection [1] may be effected irrespective of whether or such property is in possession or under the control of any third party at the time.
- [3] Any unauthorized official acting in terms of section [1] must, except where goods have been left or abandoned, issue to the person carrying on the business of a street trader, a receipt for any property so removed and impounded , which receipt must –
  - [a] itemized the property to be removed and impounded
  - [b] Provide the address where the impounded property will be kept and the period of such impoundment;
  - [c] State the conditions for the release of the impounded property;
  - [d] State the terms and conditions related to the sale of unclaimed property by public auction; and
  - [f] Provide the name and address of a municipal official to whom any representation regarding the impoundment may be made and the date and time by which this must be done.
- [4] If any property about to be impounded is attached to any immovable or a structure, and such property is under the apparent control of a person present threat, any authorized official of the Municipality may order such person to remove the property referred to, and any such person who refuses or fails to comply is guilty of an offence.
- [5] When any person fails to comply with an order to remove the property referred to in subsection [4], any authorized official of the Municipality may take any necessary steps to remove such property.
- [6] The Municipality must provide sufficient and adequate storage facilities for the storage of any property impounded in terms of this section.

- [7] In the event that an authorized official removes and impound any property in terms of the preceding subsections, all reasonable steps must be taken to ensure that such property is not damaged or lost
- [8] The Municipality is not liable for any damage or loss caused to any such property that is removed and impounded unless such damage or loss is caused as a result of the negligence of the Municipality.

## **9 STORAGE**

- (1) Municipality is not responsible for any loss/ damage that occurred to the compounded items/ products.
- (2) (a) (i) Street trader is liable to pay an amount of R500.00 for storage of livestock (sheep, goats and cattle between the number of one (1) to nine (9) per day and such amount shall be payable at the time when the owner collect his/her livestock back.
- (ii) If live stock is between the number from ten (10) to twenty (20) and above, street trader is liable to pay an amount in the sum of R 1000.00 per day.
- (b) If live stock is chicken, the street trader is liable to pay an amount in the sum of R300.00 for storage and for returning of seized or confiscated products per day.
- (c) If it is fruit, the street trader is liable to pay an amount of R20.00 per day
- (3) Should (3) three business working days passed without any arrangements made by the owner of the confiscated products, such products shall be forfeited to the municipality.

## **10. VICARIOUS RESPONSIBILITY OF PERSONS CARRYING ON BUSINESS**

- [a] when an employee or agent of a street trader contravenes a provision of these by-laws, the street trade is deemed to have personally committed such contravention unless he satisfies the

court that reasonable steps were taken to prevent such contravention.

- [b] The fact that a street trader issued instructions to the employee or agent mentioned in subsection [1] to prevent a contravention is not in itself sufficient proof of reasonable steps to prevent a contravention.

## 11. WAIVER PROVISIONS

- [a] The Municipality may, if it deems it desirable to do so in the public interest, waive compliance with or relax the provisions of these by-laws; provided that any person whose rights are adversely affected by such waiver or relaxation will not be bound thereby.
- [b] ] In each case such waiver or relaxation has been granted to any person, the Municipality must serve a written notice upon such person citing the relevant provision waived or relaxed and the extent to which such provision has been waived and, in addition, the Municipality must keep a record containing an identical copy of such notice, which record must be available for inspection by members of the public at the offices of the Municipality.

## 12. COMPLIANCE NOTICE

- [1] If an authorized official reasonably believes that a provision of these by-laws is being contravened, he may serve a compliance notice on an offender, or any one or more of the following persons:
  - [a] the owner of any premises;
  - [b] The occupier of any premises;
  - [c] Any person apparently in charge of undertaking the aforesaid use of the premises.
- [2] A compliance notice must state-
  - [a] why the authorized official believes that these by-laws are being contravened;

- [b] The measures that must be taken to ensure compliance with these by-laws;
  - [c] The time period within which the measures must be taken;
  - [d] The possible consequences of failing to comply with the notice; and
  - [e] How to appeal against the notice.
- [3] If a person fails to comply with a Compliance Notice that requires a particular action to be taken, the Municipality may-
- [a] take the required action specified in the compliance; and
  - [b] Recover, as a debt, from the person to whom the notice was given, the costs and expenses reasonably incurred in taking the required action; or
  - [C] Direct that a prohibition notice be served on such person in terms of section 13 of these by-laws

### **13. PROHIBITION NOTICE**

- [1] An authorized official may, after inspecting any premises, thing or any place contemplated in section 12 of these by-laws, serve a prohibition notice on the owner, occupier or user of such place, premises or thing.
- [2] The authorized official must the person on whom he intends serving a prohibition notice a reasonably opportunity to make representation before serving the notice.
- [3] A prohibition notice must state-
- [a] the reasons for serving the notice;
  - [b] Whether or not the Municipality will withdraw the notice if certain measures are taken, and if so, the measures must be taken;
  - [c] The possible consequences of failing to comply with the notice; and
  - [d] How to appeal against the notice.

- [4] Unless a prohibition notice provides otherwise, it come to effect when it is served subsection [1] and remains in force until it is withdrawn.
- [5] The authorized official must as soon as possible affix copy of the notice in a conspicuous position on the premises
- [6] It is a defence for any person charged with failing to comply with a prohibition notice you prove that-
  - [a] He did not know of the existence of the prohibition order and could not reasonably be expected to have known of its existence; and
  - [b] He had complied with the prohibition notice within 48 hours of the time that the notice was affixed to the premises in terms of subsection [5]

#### **14 WITHDRAWAL OF PROHIBITION NOTICE**

- [1] The authorized official must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a prohibition notice, carry out investigation of the premises.
- [2] After completing the investigation, the authorized official must, inform the person on whom the prohibition notice was served or that persons agent in writing, whether or not the prohibition has been removed or withdrawn.
- [3] The Municipality may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection [1], a fee as prescribed in the applicable tariff policy for undertaking the investigation.

#### **15 DELIVERY NOTICE**

- [1] A notice, order or other document is to be regarded as having been properly served if-
  - [a] it has been delivered to that person personally;
  - [b] Sent by a registered post to the person to whom it is addressed at his last known address
  - [c] It is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;

- [d] if that person's address in the republic is unknown , when it has been served on that person's agent or representative in the Republic in the manner provided for in subsection [1][a],[b] or [c]; or
- [e] If that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the premises to which it relates.

[2] A notice, order or other document that may in terms of these by-laws be served on the

Owner or occupier of premises-

- [A] May be addressed to the owner or occupier of the specified premises and need not name the owner or occupier; and
- [b] If the Municipality does not know the address of the owner or occupier of the premises and cannot easily obtain it, the notice, order or other document is to be regarded as having been properly served if it is affixed to a conspicuous place on the premises.

## **16. APPEAL**

- [1] A person whose rights are affected by a decision of an official may appeal against that decision by giving 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] a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
  - [b] The Municipal Manager, the Executive Committee is the appeal authority; or
  - [c] a political structure or political officer bearer, or a councilor is the appeal authority.
- [4] The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

## 17. OFFENCES AND PENALTIES

- [1] Any person is guilty of an offence who, in respect of these by-laws-
- [a] contravenes or fails to comply with any provision;
  - [b] Fails to comply with any notice; or
  - [c] fails to comply with any lawful instructions;
  - [d] Fails to comply with any condition imposed by the municipality in any authorization or permit; or
  - [e] Obstructs or hinders any authorized official of the Municipality in the execution of his duties.
- [2] Any person guilty of an offence in terms of subsection [1] is liable on conviction-
- [A] To a fine of R800-00 and such amount may be deferred for 30 business working days; or
  - [b] In default of payment of a fine mentioned in subsection [2] [a], to imprisonment for a period not exceeding six months; and
  - [c] In the case of a previous conviction of the same offence, to a further fine not exceeding R1500; or
  - [d] in default of payment of the amount mentioned in subsection [2] [c], to imprisonment not exceeding one day for every day during the continuance of such offence after a written notice has been issued
- By the Municipality and served on the person concerned requesting the discontinuance of such offence.
- [3] A court sentencing a street trader who is found guilty of a contravention of these by laws may also order the convicted street trader to pay Municipality the reasonable costs it may have incurred in impounding and storing any goods impounded under these by-laws.

- [4] An admission of guilt fine as contemplated in terms of section 56 and 57 of the Criminal Procedure Act, 1977 may be paid in respect of a summons or written notice issued for any contravention of these by-laws.

#### **18. REPEALED BY-LAWS**

- [1] Any by-law adopted by the Municipality now forming an administrative unit of the Municipality and regulating to any matter regulated by these by-laws are, from date of promulgation of these by-laws, hereby repealed.
- [2] Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law is deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by laws, as the case may be.

#### **SHORT TITLE AND COMMENCEMENT**

This by-law shall be called street trading and shall commence on the day of publication.



**BY-LAW RELATING TO USE OF CARAVANS/CONTAINERS****Preamble**

Whereas there are numerous people who put containers as shelters for business purposes. Congestions and inexistence of by-laws regulating the use of containers has caused nuisance and inability to plan and control access of these very containers.

And whereas it has been noted that there is a need to regulate and provide procedures to be followed when putting a container as well as applying for a permit to use a container.

AND WHEREAS the Council in the exercise of its functions has the right to control use of containers in the jurisdiction of the Municipality and matters connected therewith;

NOW THEREFORE be it enacted by the Council as follows:

**TABLE OF CONTENT**

CHAPTER I	PAGE
1. INTERPRETATION .....	24
2. CHAPTER 2	
2.1 GUIDELINES FOR USAGE OF CONTAINERS.....	26
3. LOCATION OF CONTAINERS.....	26
4. LEASE OF LAND FOR SITTING OF CONTAINERS.....	27
CHAPTER 3	
5 PROCEEDURE FOR APPLICATION OF SITTING OF CONTAINERS.....	28
6 INFORMATION TO BE INCLUDED DURING APPLICATION..	28
7 PROCEEDURE FOR REMOVING ILLEGAL CONTAINERS....	29
8 STORAGE OF CONFISCATED CONTAINERS.....	30
9 OFFENCES AND PENALTIES.....	30

In these by-laws any word or expression to which a meaning has been assigned in the Business Act, [Act 71 of 1991], has the meaning so assigned and words used in masculine gender include the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates-

**“Approval”** Means approved by the municipality and ‘approved’ has a corresponding meaning;

**“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

**“Foodstuff”** means any article or substance, except an drug as defined in the Drugs and Drug Trafficking human consumption and includes-

[A] Any part or ingredient of any such article or substance; or

[b] Any substance used or intended or destined to be used as part or ingredient of any such article or substance.

**“Garden or park”** means a garden or park where the public has a right of access;

**“Goods”** means any movable property and includes a living thing;

**“Intersection”** means an intersection as defined in the regulation promulgated in terms of the national Road Traffic Act, 1996;

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

**“Litter”** includes any receptacle, container or other matter which has been discarded, abandoned or left by street traders or by their customers;

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

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

**“Municipal services works”** means all property or works of whatever nature necessary for or incidental to any municipal services;

**“municipality”** means the Ingquza Hill Local Municipality established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 and includes any political structure or political office bearers defined in the said Act, Councilor, duly authorized agent there or any employee thereof acting in connection with by-laws by virtue of a power vested in the municipality and delegated to such political structure, political office bearer, councilor, agent and employee.

**“Prescribed”** means determined from time to time, by resolution of the municipality;

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

**“Public building”** means a building belonging to or occupied solely by an organ of the state including the municipality and also includes municipal services works;

**“Public monument”** means any one of the “public monuments and memorials” as defined in the National Heritage Resources Act, 1999 or any similar legislation;

**“public place”** means any square, park, recreation ground or open space that is vested in the municipality or to which the public has the right to use or is shown on a general plan of a township filed in deeds registry or a Surveyor-General’s office and has been provided for the use of the public or the owners of even in such township;

**“Public road”** means a public road as defined in section 1 of the National Road Traffic Act, 1999

**“Public land”** means land that owns by the public and which all the members of the public has access to it.

**“Private land”** means land that belong to a private person or juristic person and which that person or juristic person has right to use or dispose it for his personal gain.

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

## **CHAPTER 2**

### **2.1 GUIDELINES FOR USAGE OF CONTAINERS/CARAVANS**

- a) Container may not be used for accommodation / housing
- b) Containers may not be used for industrial purposes where noise, get emission, fluid or liquid waste is created.
- c) If food is to be prepared, it shall comply strictly with the requirements of the Health Departments waste water must be disposed of into the Municipality Sewerage reticulation system and not into storm water.
- d) In instances where containers are used as business premises where people are employed and / or accommodation during the hours of business suitable toilet and wash hand basin must be available either on site or within a reasonable distance. The container must also be adequately ventilated, where deemed necessary by the Health Department and in the interest of the Health of the occupants; the containers must adequately thermally insulated.
- e) This by-law does override the conditions of existing trading by-laws.

## **3 LOCATION OF CONTAINERS/CARAVANS**

**3.1** Application for the sitting of containers will be considered on both public and private land

### **(a) ON PRIVATE LAND**

- (i) No containers will be permitted in area where it could detrimentally affect Municipality services.

- (ii) Letters of no objection shall be obtained from all adjoining property owners
- (iii) Strictly no containers shall be permitted within the central business District (CBD) area.

#### **(b) ON PUBLIC LAND**

- (i) Containers will only be permitted on public land in cases where it is considered that the sitting thereof will have not detrimental effect on the surrounding area.
- (ii) The merits of each application will be investigated
- (iii) No placement where traffic safety is affected e.g. where lines of sight are obstructed or where traffic signs are obscured.
- (iv) Placement of containers near roads or intersection to be done to the satisfaction of the town engineers.
- (v) Strictly no containers shall be permitted within the Central Business District ( CBD)
- (vi) In case where an application is subject to the approval of the Department of Nature Conversation Act 73 of 1989, the application will be submitted to the said Department for their consideration. CBD area must be defined and preferably be shown.

#### **4 LEASE OF LAND FOR THE SITTING OF CONTAINERS/CARAVANS**

- (1) When application approved, the applicant shall enter into a contract agreement which will prepare by the attorneys designated by the Municipality.
- (2) GENERAL CONDITIONS TO BE COMPLIED WITH
  - a) Approval is granted for the sitting of a container on an exact location as indicated in the application, and shall not be removed from this location by the applicant.
  - b) The containers shall be maintained in satisfactory condition at all times.
  - c) Containers shall stay mobile and shall not be attached to the ground in any way.
  - d) The area around the container shall be kept in clean and sanitary condition and free of litter at all times.
  - e) The applicant shall avail himself/ herself of a refuse collection service, the type frequency of service and applicable tariff to be determined by cleansing Section.
  - f) The Containers shall be placed in such a manner that it is not over or within two (2) meters of either side of a water main or any other service including sewerage and electricity.

- g) Any container shall be placed in such a way that it does not cover or obstruct any gutted/s or storm water manholes or intakes.
- h) In case where container are placed on a pavement there shall be at least three (3) meters available space ( after the placement of the container) on the pavement to allow unhindering pedestrian flow.
- i) The sight distance motorist shall in no way be reduced by the placement of containers on the side walk.
- j) Upon expiry of any contractual agreement, the tenant shall ensure that the area used is brought back to the original state or as agreed upon by the Council.
- k) Location shall not hamper access to other premises /roads or fire protection equipment.
- l) Advertising would only be followed if affixed to the container, meet with the approval of the Municipal Manager.
- m) All costs in making the land available shall be borne by the applicant
- n) The municipality shall have the right at all reasonable times to inspect the land on which the container is situated as well as the container itself
- o) Should the applicant not adhere to the above regulation, the approval shall be withdrawn.

### **CHAPTER 3**

#### **5 PROCEDURES FOR APPLICATION OF SITTING OF CONTAINERS**

- (a) Application is to be made to the Municipal Managers office. After receipt by the Town Planning Section the application will be circulated to the relevant department of section
- (b) If applicable, the application will be circulated to the Department of Nature Conversation for their consideration.
- (c) Approval is only granted if no valid objection has been received from any municipal department, Adjoining property owner or the Department of Nature Conversation.
- (d) The applicant is informed of the decision and the fact that he /she must sign the sundry lease agreement as administered by the Director of legal and property services.

## 6 INFORMATION TO BE INCLUDED DURING THE APPLICATION PROCESS

(1) Application for the sitting of containers should include the following:

- (a) A covering letter including
- (b) The physical address
- (c) Postal address
- (d) Telephone number
- (e) I.D. No of applicant
- (f) Short Motivation
- (g) Street address and/ or erf number of the relevant site
- (h) Location of the nearest toilet facilities / sewer connection point
- (i) Letters of no objection from all the adjoining property owners
- (j) The payment of an application fee
- (k) A map showing the exact location of the container on the site

notes

- a) Council reserves the right not to allow the sitting of a container should it be considered that the specific sitting has a negative impact on the surrounding area
- b) The Council does not in terms of the policy, provide funds to assist in the provision of containers in any way to the public or to organization
- c) Council reserved the right to remove any container without further notice, in cases where it does not comply with the regulations of this policy.
- d) No compensation will be paid for any loss due to a Municipal Service Department needing to access or work on a service line.

## 7 PROCEDURE FOR REMOVING OF ILLEGAL CONTAINERS/CARAVAN

- (1) (a) The Municipality is not liable for any loss/ damage that may have occurred during the removal of illegal containers.
- (c) The Municipality is not liable for any loss or damage of the product or items inside the illegal container/caravan during the removal.
- (2) (a) If the Municipal official notice that there are illegal containers/caravans they shall be entitled to:
  - (1) issue a notice to the owner or possessor of the illegal container/caravan to remove it within 72 hours,
  - (2) if the container/caravan has not been removed after 72 hours' notice, it shall be ceased or confiscated by the Municipal official and be kept in custody of the Municipality.

- (3) The owner or possessor of the container/caravan is liable for any expenses that the Municipality has incurred during the removal of the container/caravan.

## **8. STORAGE FOR CONFISCATED CONTAINERS/CARAVANS**

- 8.1. The owner or possessor of the container/caravan shall liable to pay a sum of R500.00 for returning of the container/caravan.
- 8.2. The owner or possessor of the container/caravan shall be liable to pay a sum R200.00 for storage each day.
- 8.3. Should the owner/possessor of the container/caravan fail to pay the aforementioned amount and that the container/caravan has been kept in the Municipal custody for more than a week without a notice from the owner/possessor of the container/caravan, such container/or caravan shall be forfeited to the municipality.

## **9. OFFENCES AND PENALTIES**

(1) Any person who-

- (a) Contravenes or fails to comply with any provisions of these by-Laws;
- (b) Fails to comply with any notice in terms of these by Laws or ;
- (c) Fails to comply with any lawful instruction given in terms of these by-laws;
- (d) Who obstructs or hinders any authorized representative of the Council in the execution of his or her duties under these by-laws:

Is guilty of an offence and liable on conviction to a fine not exceeding R1500-00 or in default of payment to undergo imprisonment not exceeding 6 months, and in case of a continuing offence, to further fine not exceeding R 150-00.



**BY-LAW RELATING TO CONTROL OF NUISANCE****Preamble**

WHEREAS there has been a need to promote the achievement of a safe, peaceful and healthy environment for the benefit of residents within the area of jurisdiction of Municipality

AND WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996;

AND WHEREAS the Council in the exercise of its functions has the right to control nuisance in the jurisdiction of the Municipality and matters connected therewith;

NOW THEREFORE be it enacted by the Council as follows:

**TABLE OF CONTENT****CHAPTER 1****PAGE**

INTERPRETATION ..... 31

Definitions

**CHAPTER 2**

ENFORCEMENT, COMPLIANCE, SANITARY FACILITIES AT

CONSTRUCTION SITES, UNLAWFUL OCCUPATION AND PENALTIES.

2. ENFORCEMENT ..... 33

3. BEHAVIOUR AND CONDUCT ..... 33

**CHAPTER 3**

4. FAILER TO COMPLY WITH PROVISIONS ..... 37

5. SANITARY FACILITIES AT CONSTRUCTION SITES..... 38

6. UNLAWFUL OCCUPATION ..... 39

**CHAPTER 4.**

7. PENALTIES ..... 39

8. REPEAL OF BY-LAWS ..... 39

## CHAPTER 1

- [1] 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: -

**“council”** means the council of Ingquza Hill Local Municipality or any political structure, political office bearer, councillor, or any staff member acting under council’s delegated or sub-delegated authority;

**“erf”** means any land, whether vacant, occupied or with buildings thereon;

**“municipal area”** means the municipal area of Ingquza Hill Local Municipality;

**“Municipality”** means the Municipality of Ingquza Hill Local Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998;

**“objectionable material”** means garden litter, rubbish, waste material, rubble, scrap metal, article or thing, disused motor cars, machinery or other vehicles, as well as the disused parts thereof, refuse from any building operations, or any refuse capable of being dumped on any land or premises, including new or used building materials not necessarily required in connection with bona fide building operations actually in progress on any land, and includes any solid, liquid or gas which is or may become offensive or dangerous or injurious to health or which materially interferes with the ordinary comfort or convenience of the public;

**“public nuisance”** means any act, omission or condition which is offensive and/or injurious and/or dangerous to health and/or which materially interferes with the ordinary comfort, convenience, peace or quiet of the public and/or which adversely effects the safety of the public;

**“Public place”** means any 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;

**“Public road”** means any road, street or thoroughfare or any other place [whether a thoroughfare or not] which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes:-

- [a] the verge of any such road, street or thoroughfare;
- [b] any bridge, ferry or drift traversed by any such road, street or Thoroughfare, and
- [c] Any other work or object forming part of or connected with or belonging  
To such road, street or thoroughfare;

## CHAPTER 2

### 1 Enforcement

The council may, whenever it regards it necessary to do so, enter any premises at any reasonable time to ensure compliance with these by-laws.

### 2 Behaviour and conduct

Notwithstanding the provisions of any other by-law, no person shall:

- [1] dump, accumulate or place or cause or permit to be dumped, accumulated or placed objectionable material in or on any erf, street, drain, water furrow, sewer, thoroughfare, public square or commonage except at such place or places as the council may from time to time set aside or approve for such purposes, provided however that the council may permit public garages, workshops and other trades, subject to such conditions as may be imposed in each case, to keep, store, repair, dismantle or re-assemble any motor vehicle or other vehicle or apparatus on premises approved by the council;
- [2] do work on any erf or use any building or land for purposes calculated, in the opinion of the council, to depreciate or to disfigure such erf or to interfere with the convenience or comfort of the neighbours thereof or to become a source of danger to any person;
- [3] carry on any trade, business or profession on any erf in the municipal area which may in the opinion of the council be a source or become a source of discomfort or annoyance to the neighborhood;
- [4] deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse or any objectionable material or thing which is offensive or likely to cause annoyance, danger or injury to persons in or upon any erf, street or public place;
- [5] allow any erf to be overgrown with bush, weeds or grass or other vegetation except cultivated trees, shrubs and grass to such extent that, in the opinion of the council or any duly authorized employee of the council it may be used as a shelter by vagrants, wild animals or vermin or may threaten the public health or the safety of any member of the community or may promote the spread of fires;
- [6] allow any erf to be dirty, neglected or infested with rodents, snakes, mosquitoes, flies, ticks, bugs or other insects harmful to health, or allow any offensive odours or gasses to emanate from such erf;
- [7] Allow the fencing of any erf to fall into a state of disrepair or to become unsightly or dilapidated;

- [8]** allow any building or structure or any portion thereof on any erf to fall into a dilapidated, neglected or unsightly state, or fail to maintain the roof-water disposal system, pipes, sewers, drains, water fittings, waste water fittings, water closet fittings and all other appurtenances forming part of or attached to any building or structure in good and sound repair, or fail to maintain the walls of any building or structure free from dampness;
- [9]** use or cause or permit to be used any stoep and/or verandah of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, displaying, keeping, selling or offering for sale any goods, articles or merchandise;
- [10]** use or cause or permit any shop or business premises or vacant land adjoining such shop or business premises or any portion thereof which is open or visible to the public for the purpose of storing, stacking, dumping, disposing, or keeping any waste material, refuse, cartons, crates, containers or other articles of a like nature;
- [11]** enclose or cause or permit the enclosing of any stoep or verandah of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the council may approve;
- [12]** Keep on his premises any animal or bird which creates a disturbance or a nuisance to the neighbours by making frequent and excessive noise;
- [13]** Deposit or keep or cause or suffer to be deposited or kept any night soil on any premises, except in a proper sanitary convenience approved by the council and in accordance with any by-law of the council;
- [14]** Keep or cause or suffer to be kept upon his premises any sanitary convenience of such nature that it is a nuisance or is offensive or injurious or dangerous to health;
- [15]** Befoul, misuse or damage any public convenience or any convenience provided in any public building or place of public entertainment;

- [16] carry or convey, or cause or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become offensive or dangerous or injurious to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any nuisance;
- [17] Bury or dispose of any dead body in any unauthorized place;
- [18] Permit the carcass of any animal, being his property or of which he is in charge, and which has died on his premises or elsewhere in the municipal area, to remain unburied;
- [19] cause or permit any stream, pool, ditch, drain, gutter, watercourse, sink, bath, cistern, water closet, privy or urinal on any land or premises owned or occupied by him or of which he is in charge to be or become so foul or in such a state or to be so situated or constructed as to be offensive or dangerous or injurious to health;
- [20] cause or permit any foul or polluted water or any foul liquid or objectionable material to run or flow from any premises owned or occupied by him, whether occupied for trade, business, manufacturing, dwelling or any other purpose, into any street or on any land;
- [21] commit or cause or permit to be committed, any act which may pollute any water which inhabitants of the municipality have the right to use or which is provided or deserved for the use of such inhabitants;
- [22] bath or wash himself or any animal or article or clothing or any other article or thing in any public stream, pool or water trough or at any public hydrant or fountain or at any place which has not been set aside by the council for any purpose;
- [23] disturb the public peace in any street or public place by making unseemly noises or by shouting, insistent hooting, wrangling or quarrelling, or by collecting a crowd or by organizing any demonstration or by fighting or challenging to fight, or by striking with or brandishing or using in a threatening manner any stick or other weapon or by any other riotous, violent or unseemly behavior at any time of the

day or night, or by loitering in any street or public place or by gathering in crowds on pavements;

- [24] advertise wares or services in any street or public place by means of any megaphone, loudspeaker, or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells in such manner as to constitute a public nuisance in the neighborhood;
- [25] in or upon any property or premises disturb the public peace in the neighborhood of such premises by making therein or thereon any unseemly noises, or by shouting, wrangling, quarrelling and singing or by playing therein or thereon a musical instrument or use or permit to be used any musical instruments, radios, television sets or the like or any loudspeaker or other device for the reproduction or amplification of sound, in such manner or at such a time or in such circumstances that the sound thereof is audible beyond the boundaries of such property or premises and materially interferes with the ordinary comfort, convenience, peace or quiet of the occupiers of surrounding properties;
- [26] In any street or public place use any abusive or threatening language or commit any act which may or is calculated to cause a breach of the peace;
- [26a] solicit alms in any street or public place or endeavour by the exposure of wounds, sores, injuries or deformities or the production of begging letters to obtain alms, or
- [26b] cleanse or wash any vehicle or part in any street or public place.

### CHAPTER 3

#### 4. Failure to comply with provisions

- [1] Where any material, article or thing of whatsoever nature has been accumulated, dumped, stored or deposited on any erf, or where there is an overgrowth of bush, weeds, grass or vegetation on any erf in contravention of section 3[a], [d] and [e] the council may serve a notice on -

- [a]** the person directly or indirectly responsible for such accumulation, dumping, storing or depositing;
- [b]** The owner of such material, article or thing, whether or not he is responsible for such accumulation, dumping, storage or depositing;
- [c]** the owner of the erf on which such accumulation, dumping, storage or depositing takes place, whether or not he is responsible therefore, or
- [d]** The owner of the erf on which there is an overgrowth of bush, weeds, grass or vegetation -

Requiring such persons or owners to dispose of, destroy or remove such  
Material, article or thing or to clear such overgrowth to the satisfaction  
Of the council.

- [2]** Should any person or owner fail to comply with the requirements of a notice in terms of subsection [1] within the period stipulated by the council, the council may itself dispose of or destroy or remove such material, article or thing, or clear the overgrowth from any erf at the cost of any one or more of the persons or owners mentioned in subsection [1] [a], [b], [c] and [d].
- [3]** Where on any erf there is a contravention of section 3[b], [f], [g], [h] and [i] the council may at its discretion serve a notice on either the owner or the occupier to abate the nuisance within a defined period to be stated in such notice.

## **5 Sanitary facilities at construction sites**

Every person engaged in building operations, road construction or construction work of any nature shall, when required to do so by the council, provide adequate sanitary accommodation for himself and his employees to the satisfaction of and in accordance with any requirements specified by the council.



## **6 Unlawful occupation**

- [1]** No person shall, without the permission of the council, occupy or permit to be occupied for human habitation any caravan, tent or other similar shelter of any description except on an authorised camping or caravan site controlled by the council or any other camping or caravan site which conforms with the provisions of the by-laws relating to such caravan parks or camping sites.
- [2]** The council may serve notice on any person who occupies a caravan, tent or shelter in contravention of subsection [1] to vacate such caravan, tent or shelter within 3 days after the service of such notice upon him, failing which, such person shall be guilty of an offence.

## **CHAPTER 4**

### **7 Penalties**

Any person who contravenes or fails to comply with any provision of these by-laws or any notice served in terms thereof shall be guilty of an offence and be liable upon conviction to -

- [i]** a fine of R800, 00 or imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment and,
- [ii]** in the case of someone who has a previous conviction of the same or similar offence, an additional fine of R 1500, 00 or an additional period of imprisonment for 10 months and,
- [iii]** A further amount equal to any costs and expenses incurred by the municipality as a result of such contravention or failure.

### **8 Repeal of By-Law**

Any by-law relating to the prevention of nuisances adopted by the municipality or any municipality now comprising an administrative unit of the municipality is repealed from the date of promulgation of these by-laws.

**BY-LAW RELATING TO ESTABLISHMENT AND CONTROL OF COMMONAGES**

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996] the By-laws Relating to the Establishment and Control over Commonages which by-laws come into operation on the date of publication thereof.

**Preamble**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996;

AND WHEREAS the Council in the exercise of its functions has the right to control commonages in the jurisdiction of the Municipality and matters connected therewith;

NOW THEREFORE be it enacted by the Council as follows:

**TABLE OF CONTENTS**

<b>CHAPTER 1</b>	<b>PAGE</b>
1. INTERPRETATION	
Defination .....	40
 Chapter 2	
2. Reservation of land as common pastures .....	41
3. Office of commonage manager.....	42
4. Grazing permit required stock on common pastures.....	43

## CHAPTER 3

5	Appeal for issues of grazing permit .....	44
6	Refusal to renew, withdrawal and transfer of grazing.....	45

## CHAPTER 4.

7.	Duties of commonage manager.....	46
8.	Prescripts.....	46
9.	Waiver of provisions.....	47
10.	Appeal.....	47

## CHAPTER 5

11.	Penalty Claws.....	48
12.	Repeal of by-laws.....	48

**[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 indicates otherwise –

**"Administrative unit"**, for the purpose of these by-laws, means a former municipality contemplated in section 14[3] of the Local Government: Municipal Structures Act, 1998 [Act No. 177 of 1998];

**"Municipality"** means the Ingquza Hill Local Municipality, a local municipality established in terms of section 12 of the Local Government: Municipal Structures Act, 1998;

**"Municipal land"** means land situated inside the area of jurisdiction of the Municipality, but outside the boundaries of any township of which the Municipality is the owner, or of which the control, to the entire exclusion of the owner, is vested in the Municipality;

**"Municipal Manager"** means the person appointed as such in terms of section 82 of the Local Government: Municipal Structures Act, 1998;

**"these by-laws"** includes the prescripts issued in terms of section [7]; and

**"Township"** means a township as defined in section 1 of the Land Survey Act, 1997 [Act No. 8 of 1997] or any similar legislation.

## **2 RESERVATION OF LAND AS COMMON PASTURE**

- [1] The Municipality may, in respect of land owned by the Municipality and subject to the provisions of any law or any restriction regarding the use of land in the title deed of that land, by notice in the Provincial Gazette and with effect from a date mentioned in such notice –
- [a] reserve such land as common pasture;
  - [b] At any time add any additional defined piece or pieces of municipal land to the common pasture so reserved; and
  - [c] At any time withdraw partly or wholly any land which forms part of the common pasture from the reservation thereof as a pasture.
- [2] [1] The Municipality may not alienate or deal with the land referred to in subsection, except after notice in the Provincial Gazette –
- [a] stipulating which piece or pieces of land it intends to withdraw or alienate;
  - [b] Calling on interested persons to attend a meeting at a venue and on a date mentioned in the notice, to discuss the intended withdrawal or alienation; and
  - [c] Stating –
    - [i] the intended date or dates of withdrawal or alienation of any such piece or pieces of land has been published; and
    - [ii] The Municipality has considered all representations received in response to such notice;
- [3] The alienation or dealing in land and the public notice referred to in subsection [2] may occur only after the lapse of any permit for grazing of stock on the piece or pieces of land that the Municipality intends to withdraw or alienate.

## **3 OFFICE OF THE COMMONAGE MANAGER**

- [1] The Municipality must appoint a person as commonage manager, who must report to a manager designated by the Municipal Manager.
- [2] The commonage manager must be responsible for the proper management and maintenance of all land forming part of the commonage.
- [3] In the office of the commonage manager, the Municipality must appoint –

- [a] for each piece of land forming part of the commonage, a ranger who must deal with the day-to-day administration of that piece of land;
  - [b] such persons as may be necessary to maintain proper records regarding land forming part of the commonage, maps, camps, allocation of stock, movement of stock, holders of grazing permits on the commonage, marking of stock, stock disease, payments and other matters regarding the administration of the commonage;
  - [c] a veterinary surgeon on a full-time or part time basis, to fulfill the functions prescribed by or under any law relating to stock.
- [4] A single ranger may be appointed for more than one piece of land if the pieces of land are so situated that it is practically possible for one ranger to maintain proper control over each of the pieces of land.
- [5] A ranger must visit the land for which he is appointed on a regular basis and must be present on the land for at least one full working day during each week of the year.
- [6] On a regular basis, but at least once every three months, the veterinary surgeon appointed by the Municipality must do an inspection on, report on and make recommendations to the commonage manager regarding the state of health of each animal on the commonage.

#### **4 GRAZING PERMIT REQUIRED TO GRAZE STOCK ON COMMON PASTURE**

No person may graze stock on the common pasture of the Municipality, unless –

- [a] he is the holder of a grazing permit issued by the Municipality and subject to the conditions of such permit;
- [b] The animal is the progeny of a female animal grazed in terms of a grazing permit contemplated in subsection [1] [a] and is not older than 6 months; and
- [c] He has paid the commonage fees, determined by the Municipality, in respect of the period for which the grazing permit was issued; provided that a permit holder may partly or wholly be exempted of such payment in terms of the Indigent Policy of the Municipality.

**CHAPTER 3****5 APPLICATION FOR AND ISSUE OF GRAZING PERMIT**

- [1] An application for a grazing permit must –
- [a] be directed to the Municipal Manager;
  - [b] Be in writing on the form made available by the Municipality for that purpose;
  - [c] Contain adequate proof that the applicant is a permanent resident within the area of jurisdiction of the Municipality; and
  - [d] Contain such further particulars as the Municipality may require.
- [2] On receipt of an application for a grazing permit, the Municipal Manager must refer it to the commonage manager, who must verify the particulars contained in the application and report thereon to the Municipal Manager.
- [3] When considering the application, the Municipal Manager must take into account :-
- [a] the report of the commonage manager;
  - [b] The availability and condition of land in the common pasture of the Municipality to accommodate the required number of stock for which application is made;
  - [c] the criteria for categories of preference that applicants must take as set out in a notice published by the Municipality in a newspaper circulating in its area of jurisdiction and by such other means as the Municipal Manager may determine.
- [4] After consideration of the application, the Municipal Manager must –
- [a] issue the permit as applied for by the applicant;
  - [b] issue a permit for a lesser number of stock than applied for; or
  - [c] in writing notify the applicant that his application was not successful with stated reasons.
- [5] A person whose rights are affected may appeal to the Municipality against a finding of the Municipal Manager and, in respect of such appeal, the provisions of section 62 of the Local Government: Municipal Systems Act, 2000 are applicable.
- [6] A permit for the grazing of stock on the municipal common pasture is issued –
- [a] for a period of one year or less and will lapse on the last day of June of each year;
  - [b] subject to the conditions set out in the permit;

- [c] subject to prior payment of the fees determined by the Municipality in accordance with the applicable schedule of tariffs;
- [7] A permit for the grazing of stock on the municipal common pasture may be renewed twice without the submission of a new application provided that the permit holder has paid –
  - [a] all fees due to the Municipality under these by-laws; and
  - [b] a permit renewal fee as determined by the Municipality no later than the last day of May of the year in which the permit lapses;

## **6 REFUSAL TO RENEW, WITHDRAWAL AND TRANSFER OF GRAZING PERMITS**

- [1] The Municipal Manager may refuse to renew the permit referred to in subsection [5] [6] if he is of the opinion that –
  - [a] due to the condition of the land to which the permit holder's stock is allocated, the permit should not be renewed; or
  - [b] there is sufficient evidence that the circumstances of the permit holder have changed to such an extent that the application of any new applicant must take preference in terms of a notice referred to in subsection [5] [3] [c].
- [2] A permit for the grazing of stock on the municipal common pasture may be withdrawn by the Municipality if the holder of the permit contravenes or fails to comply with –
  - [a] a condition subject to which the permit was issued;
  - [b] any provision of these by-laws; or
  - [c] a lawful direction by –
    - [i] the ranger in charge of the land on which his stock is grazed; or
    - [ii] the veterinary surgeon appointed by the Municipality.
  - [iii] A permit to graze stock on the common pasture of the Municipality may not be transferred.

## **CHAPTER 4**

## **7 DUTIES OF THE COMMONAGE MANAGER**

The commonage manager must –

- [a]** divide each piece of land reserved as common pasture in terms of section 2[2] [a] in camps suitable for the grazing of stock and allocate a number to each camp;
- [b]** provide, in each camp, such facilities as may be necessary for the maintenance of stock in that camp;
- [c]** draft, or cause to be drafted, proper maps of each piece of land reserved as part of the common pasture, indicating at least the boundaries of camps, gates and waterholes;
- [d]** allocate the stock of each permit holder to a specific camp or camps and notify such permit holder accordingly;
- [e]** develop, implement and adjust according to changing circumstances, a proper program of rotation of grazing on land reserved as common pasture by the Municipality; and
- [f]** keep proper records, open for inspection by any person who has an interest therein, regarding –
  - [i]** all permit holders;
  - [ii]** dates of expiry of all permits;
  - [iii]** payments or exemptions of payment of all permit holders; and
  - [iv]** any other matter which, in his opinion, needs to be recorded.

## **8      PRESCRIPTS**

- [1]** The Municipality may issue prescripts relating to the control, management and use of the municipal common pasture, including –
  - [a]** the construction and maintenance of dipping tanks, the monies payable in connection with the use thereof, and the persons responsible for the payment thereof;
  - [b]** the marking of stock kept thereon;
  - [c]** the prohibition of the keeping of dangerous and undesirable animals thereon, and the definition of such animals;
  - [d]** the prevention and treatment of stock diseases in respect of stock kept thereon, and the exclusion of stock which in the opinion of the veterinary surgeon appointed by the municipality may spread such diseases;
  - [e]** the destruction of carcasses of animals;



- [f] the impounding of animals trespassing thereon or grazed thereon without a permit;
  - [g] the planting, care and protection, and the destruction, chopping or cutting off of grass, trees, shrubs or any other plants or crop, and the sale thereof;
  - [h] the burning of grass and the eradication of noxious weeds;
  - [i] the hunting of game thereon by any means, including the use of firearms or dogs;
  - [j] the duties and functions of rangers;
  - [k] the prohibition to put out poison; and
  - [l] generally, any matter which the Municipality deems necessary or expedient in connection with the control, management or use of the common pasture or the achievement of the objects of these by-laws.
- [2] A prescript issued in terms of subsection [1] must be –
- [a] published in a newspaper circulating in the area of jurisdiction of the Municipality;
  - [b] placed on the official notice board of the Municipality; and
  - [c] filed in the municipal code of the Municipality.
- [3] If the Municipal Manager is of the opinion that it is in the public interest, he may, for such period and subject to such conditions he may deem fit, exempt any person, group or category of persons in writing from compliance with any prescripts issued in terms of subsection [1].

## 9 WAIVER OF PROVISIONS

- [1] The Municipality may, if it deems it desirable to do so in the public interest, waive compliance with or relax the provisions of these by-laws; provided that any person whose rights are adversely affected by such waiver or relaxation will not be bound thereby.
- [2] In each case in which such waiver or relaxation has been granted to any person, the Municipality must serve a written notice upon such person citing the relevant provision waived or relaxed and the extent to which such provision has been waived and, in addition, the Municipality must keep a record containing an identical copy of each such notice, which record must be available for inspection by members of the public at the offices of the Municipality.

## **10 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]** a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
  - [b]** the Municipal Manager, the Executive Committee is the appeal authority; or
  - [c]** a political structure or political officer bearer, or a Councilor Council is the appeal authority.
- [4]** The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

## **CHAPTER 5**

### **11 PENALTY CLAUSE**

- [1]** Any person who contravenes or fails to comply with any provision of these by-laws or any requirement or condition there-under is guilty of an offence.
- [2]** Any person convicted of an offence in terms of Section 11[1] is liable to a fine R800,00 or to imprisonment for a period not exceeding one year, or to both a fine and such imprisonment.

### **12 REPEAL OF BY-LAW**

- [1]** All by-laws relating to a matter regulated in these by-laws proclaimed by an administrative unit now forming part of the Municipality are, with effect from the date of promulgation of these by-laws, hereby repealed.
- [2]** Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, are deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

**BY-LAWS RELATING TO THE FOOD HANDLING****PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996;

AND WHEREAS the Council in the exercise of its functions has the right to control food handling in the jurisdiction of the Municipality and matters connected therewith;

NOW THEREFORE be it enacted by the Council as follows:

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

	PAGE
1. INTERPRETATION .....	50
CHAPTER 2	
2. APPLICATION .....	52
3. CERTIFICATE OF ACCEPTABILITY.....	52
4. PROHIBITION ON HANDLING AND TRANSPORTATION OF FOOD.	

**CHAPTER 3.**

5. STANDARD AND REQUIREMENTS FOR FOOD PREMISES.....	54
6. STANDARD AND REQUIREMENTS FOR FACILITY AND FOOD PREMISES .....	55
7. STANDARD AND REQUIREMENTS FOR FOOD CONTAINERS....	56
8. STANDARD AND REQUIREMENTS FOR DISPLAY, STORAGE AND TEMPERATURE FOOD.....	57

9. STANDARD AND REQUIREMENTS FOR PROTECTIVE CLOTHING CHAPTER 4	58
10. DUTIES OF PERSON IN CHARGE OF FOOD PREMISES .....	60
11. DUTIES OF A FOOD HANDLER .....	62
12. STANDARD AND REQUIREMENTS FOR HANDLING OF MEAT.....	63
13. STANDARD AND REQUIREMENTS FOR TRANSPORTATION OF FOOD.....	64
14. PROVISIONS CONCERNING UNPROCESSED PRODUCTS.....	65
15. EXEMPTION, ADDITIONAL REQUIREMENTS AND RESERVATION.....	65
CHAPTER 5	
16. REPEAL OF MUNICIPAL BYLAW ON FOOD HANDLING.....	67
17. OFFENCES .....	67
18. ANEXURES.....	67

## Definition

1. In these By-Laws any word or expression to which a meaning has been assigned in the Act must have such meaning and, unless the context otherwise indicates-

“**available**” include available elsewhere than on the food premise in question;

“**best available method** “means a method which is practicable and necessary for the protection of food against contamination of spoilage, having due regard to local conditions and circumstances whether at or on food premise or elsewhere, the prevailing extent of established practice and financial implication thereof;

“**certificate of acceptability**” means a certificate of acceptability referred to in section3;

“**clean**” means free of any direct, impurity, objectionable matter or contamination to the extent that state of hygiene is attained, and “Keep clean” has a similar meaning;

“**container**” or “food container” includes anything in which or with which food is served, stored, displayed, packed, wrapped kept or transported and with which food has direct contact;

“**contaminate**” means the effect exerted by an external agent on food so that it-

- (a) does not meet a standard or requirement determined by law;
- (b) does not meet acceptable food hygiene standards or consumer norms or standards ;or
- (c) is un fit for human consumption

and **“contamination”** has a corresponding meaning

**“core temperature”** means the temperature reading taken in the estimated centre of the food;

**“facility”** means any apparatus, appliance, equipment, implement, storage space, working surface of an object used in connection with the handling of food;

**“food”** Means food stuff intended for human consumption as defined in Section 1 of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act no 54 of 1972), excluding food referred to in regulation 14;

**“food premises”** means a building, structure, stall or other similar structure, and includes a caravan, vehicle, stand or place used for or in connection with the handling of food;

**“good manufacturing practice”** means a method of manufacture or handling or a procedure employed, taking into account the principles of hygiene, so that food cannot be contaminated or spoiled during the manufacturing process;

**“handle”** includes manufacture, process, produce, pack, prepare, keep, offer, store, transport, display, sale or for serving and **“handling”** has a corresponding meaning;

**“hands”** includes forearm or the part of the arm extending from the wrist to the elbow;

**“health hazard”** includes any condition, act or omission that may contaminate or spoil food so that consumption of such food is likely to be dangerous or detrimental to health;

**“inspector”** means a medical officer or health appointed in terms of section 22 (1) of the Act, or an environmental health officer or veterinary surgeon appointed in terms of section 24(1) of the Act;

**“Meat Safety Act”** means Meat Safety Act, 2000(Act No 40 of 2000)

**“Municipal Council”** means the Ingquza Hill Municipal Council and any officer to whom the Municipality has delegated the powers, functions and duties investing in the Municipality in relation to these By-Laws;

**“Municipality”** means Ingquza Hill Local Municipality;

**“National Building Standards Act”** means the National Building Standards Act, 1977 (Act No 103 of 1977);

**“ perishable food”** means any food stuff which on account of its composition, ingredients, moisture content and or pH value and of its lack of preservatives and suitable packing is susceptible to an uninhibited increase in microbes thereon or therein if the foodstuff listed in the Government Notice R1183 of June 1990 as amended, excluding fruit and vegetables;

**“person in charge”** with regard to any food premises, means a natural person who is responsible for the food premises or the owner of such food premises, as the case may be;

**“pre packed food”** means food which, before it is presented for sale or for serving has been packed as contemplated in section 7(3);

**“ready to consume”** means any perishable food which may be consumed without having to undergo any further process of preparation to make it consumable;

**“serve”** includes the provision of food whether for a consideration or otherwise;

**“the Act”** means the Health Act, 1977 (Act no 63 of 1977);

**“thermometer”** means an apparatus which can give the temperature readings referred to in these regulations, the combined accuracy of such thermometer and its temperature-sensitive sensor being approximately 0,5oC;

**“these By-Laws”** includes any annexure to these By-Laws;

**“unsound”** means unwholesome sick, polluted, infected, contaminated, decayed or spoiled, or unfit for human consumption for any reason whatsoever;

**“vehicle”** any other craft, vehicle or conveyance used in the handling or transport of food;

**“water”** means water that complies with the requirement set out in SABS 241: water for domestic supplies.

## CHAPTER 2

### 2. Application

- (1) If the Municipality does not have the services of the inspector at its disposal for any reason reason may use the services of an inspector from another health authority or in private practice to exercise or execute the powers or duties of an inspector refer referred to in these By-Laws.
- (2) No provision of these By-Laws that is in conflict with the regulations made under the Act with regard to the handling or transport of certain foods must be valid in so far as it so conflicts.
- (3) This Bylaw applies to all persons dealing with food in this area of Jurisdiction.

## 3 CERTIFICATE OF ACCEPTABILITY

- 3(1) Subject to the provisions of subsection (2) and section 15 (5), no person must handle food or permit food to be handled-
  - (a) On food premises in respect of which valid certificate of acceptability has not been issued or is not in force; or

- (b) In contravention of any restriction or conditions or stipulation contained in such certificate of acceptability has not been issued or is not in force; or
- (2) The provisions of subsection (1) must come into effect in the case of food premises existing at the time of publication of these By-Laws on the first day following a period of six months after the date of promulgation of these By-Laws.
- (3) The person in charge of any food premise wishing to obtain a certificate of acceptability in respect of such food premises must apply in writing to the Municipality on a form containing at least the particulars that are substantially the same as those contained in the form in the annexure to these By-Laws.
- (4) On receipt of the application referred to in subsection (3), the Municipality must without delay refer the application to an inspector for consideration.
- (5) An inspector may, in considering such an application, request such further information as he/she may deem necessary or expedient from the applicant or from any other person.
- (6) If an inspector, after having carried out an inspection, is satisfied that the food premises concerned, having due regard to existing conditions of the adjacent land and facilities and subject to the provisions of section 4(2) and 15
- (a) in all respects comply with the provisions of section 5 and 6, the Municipality must issue an certificate of acceptability in the name of the person in charge on a form that is substantially the same as the form in these By-Laws; or
- (b) do not in all respect comply with the provisions of section 5 and 6, a local authority may subject
- (7) A certificate of acceptability must be displayed in a conspicuous place for the information of the public on the food premises in respect of which it was or a copy thereof must immediately be made available on request where the display thereof is impractical.



- (8) If the person in charge of food premises is replaced by another person, such replacement within 30 days after the date thereof and the Municipality must subject to the provisions of section 4(2), issue a new certificate of acceptability in the name of the new person in charge.
- (9) A certificate of acceptability-
- (a) is not transferable from one person to another person and from one food premises to other premises;
  - (b) is valid only in respect of the nature of handling set out in the application of or a certificate of acceptability
- (c) May at any time be endorsed by the Municipality by-
- (i) The addition of any further restrictions that may be necessary to prevent a health hazard; and
  - (ii) The removal of any restrictions with regard to the category or type of food or the method of handling
- (d) Must expire temporarily for the period during which prohibition under section 4(2) is in effect;
- (e) Must expire permanently for the period during which prohibition under section 4(2) is not removed within a stipulated period which must not exceed six months from the date on which a notice was issued in terms of section 4(2); and
- (f) Must expire permanently if the provisions of subsection (8) are not complied with.
- (10) No person may take any unauthorized changes or additions to or forge a certificate of acceptability.

#### **4 Prohibition on handling and transportation of food**

- (1) No person must be handle food in a manner contrary to the provisions of these By-Laws.
- (2) If an inspector following an inspection of food premises or a facility is of the opinion that –

- (a) such food premises or facility-
  - (i) are or is in such a condition or used in such a manner, or
  - (ii) do or does not comply with these sections to the extent;
- (b) a particular activity with regard to the handling of food takes place in such a manner referred to in section (1); or
- (c) such circumstances exist with regard to the food premises or facility or any other activity, that constitute a health hazard and that the continued use of the food premises or facility or the activity should be prohibited,

The Municipality may summarily prohibit the use of the food premises or facility for the handling of food, by serving a written notice in terms of section 52 of the Act on the person in charge or if he/she is not available, his or her representative informing such person of the prohibition.

- (3) A notice referred to in subsection (2) must contain at least the following particulars:
  - (a) The reason(s) for the prohibition; and
  - (b) a statement in writing that the prohibition will be removed by a municipality as soon as the reasons for the prohibition are removed and the inspector is satisfied that the reasons for the prohibitions are not likely to recur.
- (4) (a) A prohibition will come into operation at a date stated by the Municipality in the notice and served under subsection (2).
- (5) An inspector must, within 72 hours of receiving a request for the removal of a prohibition carry out an investigation of the food premises, facility, activity or circumstances which gave rise to the prohibitions.
- (6) The Municipality must on completion of such investigation, in writing, inform the person on whom the prohibition notice was served or, if he/she is not available, any other person representing such person that the prohibition has been removed or remains, as the case may be.
- (7) The Municipality may levy an inspection fee equivalent to the expenses incurred by it for carrying out by an inspector in terms of subsection (5).

### CHAPTER 3

#### 5 STANDARDS AND REQUIREMENTS FOR FOOD PREMISES

(1) Each room of premises must be-

(1.1) Ventilated effectively by means of –

(1.1.1) Natural ventilation through openings or unobstructed sections which directly connected to the outside air and so positioned in the external wall or roof that effective cross –ventilation is possible but such openings must have a surface area of the room concerned ; or

(1.1.2) artificial ventilation that complies with the requirements of the National Buildings Regulation and Building standards Act;

Whichever of the two methods will facilitate the addition of adequate fresh air to and the effective removal of polluted or stale air from the food –handling area to the extent that air contaminants that could contaminate food, and that gas, vapours steam and warm air that may arise during the handling of food are effectively removed, and that the emergence of any unhygienic or unhealthy condition in the food-handling area is prevented.

(1.1.3) Illuminated by means of –

(1.2) Unobstructed transparent surfaces in the external wall and / or roof which admit daylight , with an area equal to at least 10% of the floor area in the concerned ; and

(1.2.1) Artificial –illumination which complies with the requirements of the National Building Regulations and the Building Standards Acts , and which permits an illumination strength equal to at least 200 lux to fall on all food –handling surfaces in the room concerned .

(2) Food premises must-

(2.1) Have a wash –up facility with hot and cold water for the cleaning of facilities

(2.2) Be rodent proof in accordance with the best available method but this requirement will not apply in respect of food premises on which no food is handled or kept after the trading hours of the premises;

(i) Be provided with effective means of preventing the access of flies or other insects to an area where food is handled;

(ii) Have a wastewater disposal system approved by the Municipality.

(3) The following must be available in respect of food premises:

(i) The number of latrines, urinal stall and hand washbasins specified in annexure C to these By-Laws for use of workers on the food premises and for use by persons to whom

food is served for consumption on the food premises but separate sanitary facilities for workers and clients are not required but where persons of only one sex or more than ten persons work on food premises, separate sanitary facilities must not be required for workers of different sexes.

(ii) Hand-washing facilities which must be provided with of soap ( or other cleaning agents ) and clean disposable hand –drying material or other hand cleaning facilities or hand drying equipment for the cleaning and drying of hands by such workers and persons.

(iii) Liquid proof, easy to clean refuse container with close –fitting lids suitable for the hygienic storage refuse pending its removal from the food –handling area

(iv) Storage space for the hygienic storage of food, facilities and equipment and a suitable separate area for the hygienic storage of refuse container on the food premises ;

(v) A separate changing area with storage facilities for clothes ; and

(vi) An adequate supply of water

(4) No room in which food is handled must have a direct connection with any area –

(i) In which gas, Fumes, dust soot deposits, offensive odours or any other impurity is presents or may arise in such a manner that food in the food –handling room could be contaminated or spoilt, or

(ii) In which an act is performed in any manner or where any manner or where any condition exists that could contaminate or spoil food in the food handling area.

(5) A room in which food is handled may be connected to a room in which a latrine or urinal is situated-

(i) Only via a properly ventilated lobby but all relevant interconnecting doors must cover the whole area of their apertures but they must be equipped with durable self closing devices, or

(ii) Without such a lobby between them but the connecting aperture must have a self-closing door as contemplated in subparagraph 1) but the latrine or urinal room must be equipped with effective mechanical extraction ventilation to the outside air to render the atmosphere inside such room under a negative pressure in relation to the atmosphere in the food handling room.

## **6 STANDARDS AND REQUIREMENTS FOR FACILITIES ON FOOD PREMISES**

(1) The surface of any table, counter or working surface on which unwrapped food is handled and any equipment utensil or basin or any other surface which comes into direct contact with food must be made of smooth, rust –proof, non toxic and non absorbent material that is free of open joints or seams but wooden chopping blocks, cutting boards and utensils not be prohibited if such items are kept in such condition that dirt does not accumulate thereon or therein.

- (2) No surface referred to in subsection (1) and no crockery, cutlery, utensils basins or any other such facilities must be used for the handling of food if they are chipped, split or cracked.
- (3) Any utensil or item which suitable for single use only –
  - (a) Must be stored in a dust –free container until used and
  - (b) Must not be used more than once.
- (4) A surface referred to in subsection (1) and facility referred to in subsection (2) must be –
  - (a) Cleaned and washed before food come into direct contact with it for the first time during each work shift and
  - (b) Cleaned and washed, as and when necessary , during and immediately after handling of food , so that contamination of the food that comes into contact with any such surface of facility must, before food comes into direct contact therein , contain –
    - (i) No more than 100 viable micro –organism s per cm<sup>2</sup> upon Analysis, conducted in accordance with acknowledged scientific micro biological methods of investigation , of a sample taken in accordance with the swab technique prescribed by SABS Standard Test Method 763: Efficacy of Cleaning Plant, Equipment and Utensils : Swab Technique; and
    - (iii) No remains of cleaning material or disinfectants which may pollute the food.
- (5) Every chilling and freezer facility used for the storage , display or transport of perishable food must be provided with a thermometer which at all times must reflect the degree of heating of the heating area concerned and which must be in such a condition and positioned so that an accurate reading may be taken unhampered.
- (6) Every heating apparatus or facility used for the storage, display or transport or heated perishable food must provided with a thermometer which all times must reflect the degree of heating of the heating area concerned and which must be in such condition and positioned so that an accurate reading may be taken un hampered.

## **7 STANDARD AND REQUIREMENTS FOR FOOD CONTAINERS**

- (1) No person must sell canned or hermitically sealed food in a container which –
  - (a) Bulges at the flat or round sides or ends or one side of which bulges when the other side is pressed
  - (b) Is in any way blown or from which gas escapes when it is opened or punctured , unless –
    - (i) The container contains an aerated ring ; or
    - (ii) Gas has been used as a preservative ;
  - (c) Is so rusted or damaged that is liable to contaminate or spoil the food or that it leaks or has become unsealed; or
  - (d) A container must be clean and free from any toxic substance, ingredient or any other substance liable to contaminate or spoil the food in the container.
  - (e) Repacked food, depending on the type of food, must be packed in a dustproof and liquid proof container that protects the product therein against contamination under normal handling conditions and must be so packed or sealed that the food cannot be removed

from its container with the stopper or lid or similar seal being removed or without the wrapping, container seal being damaged.

- (f) Perishable foods, excluding the products referred to in section 14 and products that are not pre-packed except food for consumption as meals on food premises, must when served to the consumer, be packed in a container that protects the food therein against contamination.

## **8. STANDARDS AND REQUIREMENTS FOR DISPLAY, STORAGE AND TEMPERATURE FOOD**

8. (1) Food that is displayed or stored must not be indirect contact with a floor or any ground surface.

(2) Any shelf or display case used for displaying or storing food or any container must be kept clean and free from dust or any other impurity.

(3) Non repacked, ready to consume food, including food served as meals and displayed in an open container, must be protected in accordance with the best available method against droplet contamination or contamination by insects or dust.

(4) Subject to subsection (6) all food specified in the annexure to these By-Laws must, excluding the time taken by the food to cool down or 10 be heated to the required temperature in accordance with good manufacturing practice, during the storage, transport or display thereof be kept at a core temperature not exceeding the core temperature specified for food and must be sold if, in the case of frozen or chilled food products, the core temperature thereof is higher than the required core temperature of the surface temperature thereof is more than 20c higher than the required temperature thereof is lower than the required core temperature or the surface temperature thereof is more than 20c lower than the required core temperature.

(5) The provisions of paragraph (1) must not apply to-

- I. Any perishable food that will sold directly to a consumer within one hour of being processed or prepared or that will be consumed on the food premises within one hour of being processed or prepared,
- II. Venison, for period not exceeding eight hours after the animal concerned has been killed but the surface temperature thereof must not exceed 250c
- III. Unprocessed raw fish, molasses or crustaceans or raw meat or edible off the carcasses of cattle, sheep, goats, pigs, horses, mules, donkeys, rabbits, or ostriches while being transported for a period not exceeding one hour during delivery but the surface temperature thereof must not exceed.
- IV. Any food exposed to high temperature than those referred to in this regulation a maturation period or as part of a manufacturing process but exposure to such higher temperatures must be in accordance with good manufacturing practice.

(6). Any food that is marketed as frozen product and has thawed both the surface temperature of which has not exceeded 70c may be refrozen but such refrozen product must be handled in accordance with good manufacturing practice.

(7). The code of practice for measuring the temperature of food set out in annexure to these By-Laws must, so far as it is applicable, be applied to measuring the temperature of food.

## **9. STANDARDS AND REQUIREMENTS FOR PROTECTIVE CLOTHING**

- 1) No person is allowed to handle food without wearing suitable protective clothing as specified in subsection.2
- 2) The protective clothing, including head covering and footwear, of any person handling food that is not packed so that the food cannot be contaminated must-
  - a) Be clean and neat when such person begins to handle the food
  - b) At all times during the handling of the food be in such a clean condition and of such design and material that it cannot contaminate the food; and
  - c) Be so designed that the food cannot come into direct contact with any part of the body, excluding the hands.

## **10. DUTIES OF PERSON IN CHARGE OF FOOD PREMISES**

10(1) A person in charge of food premises must ensure that-

- (i) Effective measures are taken to eliminate flies, other insects, rodents or vermin on the food premises;
- (ii) Any person working on the food premises is adequately trained in food hygiene by an inspector or any other suitable person : and
- (iii) Refuse is removed from the premises or from any room in which food is handled as often is necessary and whenever an inspector requires it to be done.
- (iv) Refuse is stored or disposed of in such a manner that it does not create a nuisance.
- (v) Refuse bins are-
  - 1) Cleaned regularly ; and
  - 2) Disinfected whenever necessary and where never an inspector requires it to be done.

(2) Waste water on the food premises is disposed of to the satisfaction of the local authority;

(3) The food premises and any land used in connection with the handling of food and all facilities, freight compartments of vehicles and containers are kept clean and free from any unnecessary material, goods or items that do not form an integral food premises.

(4) No person handling non-pre-packed food wears any jewellery or adornment that may come into contact with the food, unless it is suitably covered;

(6) No animal , subject to the provisions of any law, is kept or permitted in any room or area where food is handle, except that-

(7) A guide dog accompanying a blind person may be permitted in the sales or serving area of the food premises.

(8) Fish molasses or crustaceans may keep alive until prepared for consumption;

(9) An alive animal may be killed in a separate room before the carcass is handled.

(10) No condition, act or omission that may contaminate any food arises or is performed or permitted on the food premises.

(11) The provisions of this By-Law is complied with if;

(i) All persons under his or her control who handle food at all times meet the standards and requirements and execute the duties prescribed by section 9 and 11, respectively.

(11) A room or area in which is food is handled shall not be used for –

(i) Sleeping purposes

(ii) Washing, cleaning or ironing of clothing or similar laundry;

(iii) Any other purpose or in any manner that may contaminate the food therein or thereon;

(12) No food handler touches ready –to-consume non-pre-packed food with his or her bare hands, unless it is unavoidable for preparation purposes, in which case such food shall be handled in accordance with good manufacturing practice; and

## **11 DUTIES OF FOOD HANDLER**

(1) Food, a facility or a container shall not be handled by any person

(a) Whose fingernails, hands or clothes are not clean;

(b) Who has not washed his or her hands thoroughly with soap and water or cleaned them in another effective manner-:

(i) Immediately prior to the commencement of each work shift;

(ii) At the beginning of the day's work or after a rest period;

(iii) After every visit to a latrine or urinal;

(c) Every time he/she has blown his or her nose or after his or her hands have been in contact with respiration or with his or her hair, nose or mouth.

(d) After handling a handkerchief, money or a refuse container or refuse.

(e) After handling raw vegetables, fruit, eggs, meat, or fish and before handling ready –to-use food

(f) After he/she has smoked or on returns to the food premises or



(g) After his or her hands have become contaminated for any other reason.

(2.) Food, a facility or a container shall not be handled by any person provided that:-

(a) The food premises and any land used in connection with the handling of food and all facilities, freight compartments of vehicles and containers are kept clean and free from any unnecessary material, good or items that do not form an integral food premises.

(b) No person handling non-pre packed food wears any jewellery or adornment that may come into contact with the food, unless it is suitably covered,

(c) No animal, subject to the provisions of any law, is kept or permitted in any room or area where food is handled, except that-

(i) . A guide dog accompanying a blind person may be permitted in the sales or serving area of the food premises;

(ii) . Fish molasses or crustaceans may be kept alive until prepared for consumption;

(iii) A live animal may be killed in a separate room before the carcass is handled, subject to section 2 (4)

(d) No condition, act or omission that may contaminate any food arises or is performed or permitted on the food premises;

(e) The provisions of these By-Laws are complied with;

(f) All persons under his or control who handle food at all times meet the standards and requirements and execute the duties prescribed by section 9 and 11, respectively;

(g) A room or area in which food is handled shall not be used for

(1) Sleeping purposes

(2) Washing cleaning or ironing of clothing or similar laundry;

(3) Any other purpose or in any manner that may contaminate the food therein or thereon;

(h) No food handler touches ready –to-consume non –pre-packed food with his or her bare hands, unless it is unavoidable for preparation purposes, in which case such food shall be handled in accordance with good manufacturing practice;

(i) The reporting of diseases and conditions contemplated in section 11(2) (b) are properly recorded and kept for perusal inspector ;

(j) While he /she are handling food, perform any act other than those referred to above which could contaminate or spoil food.

## 12 STANDARDS AND REQUIREMENTS FOR HANDLING OF MEAT

1 (a) No person shall on food premises handle meat derived from an animal slaughtered in contravention of subsection 3

(b) No person shall on food premises handle the meat of an animal exempted from the provisions of sections 3(1) and 10(1) of the Meat Safety Act, unless a notice that is clearly visible and legible and that contains the following information or information to that effect, in letters at least 18 mm high, is displayed at the food premises: "The meat sold on these premises has been exempted from inspection in terms of section 10(1) of the meat safety Act.

2. Meat on carcass must not be handled on premises, unless-

(a) The carcass has been properly bled,

(b) The abdominal viscera were removed within 30 minutes after the killing of content nor any other matter polluted or spoiled the meat; an

(c) The thoracic viscera were removed within three hours after the killing of the animal.

(d) Unskinned carcass shall not be so handled that the skin thereof comes into contact with other food on food premises or that the meat of such carcasses is contaminated or spoiled.

(e) Subject to section 3 of the meat Safety Act, no animal must be killed, bled eviscerated, skinned or dressed on food premises other than in a room used specifically and exclusively for that purpose in accordance with good manufacturing practice but no further handling or processing of any such carcass must take place in that room.

3. No person must-

a) Slaughter any animal at any place other than an approved abattoir;

b) Permit the slaughter of any animal at any place under his /her control, unless such place is an approved abattoir.

c) Sell or provide meat for human and consumption unless it has been slaughtered at an abattoir

(d) Subsection (1) does not apply to slaughter for own consumption or for cultural or religious purposes; and

(e) No meat or animal product obtained from a slaughtered animal as contemplated in paragraph(a) may be sold.

## 13. STANDARDS AND REQUIREMENTS FOR TRANSPORT FOOD

13. (1) No person shall transport food including the products referred to in section 14 or nor in any part of vehicle-

(a) Unless that part is clean and has been cleaned to such an extent that chemical, physical or microbiological contamination of the food is prevented;

(b) Together with-

(i) Contaminated food or waste food;

(ii) Poison or any harmful substance

(iii) An alive animal; or

(iv) any object that may contaminate or spoil the food

(2) Subject to subsection (1) and (4) the freight compartment of a vehicle that is used for the transportation of food that is not packed or wrapped in liquid proof dustproof sealed containers must-

(a) Have an interior surface made of an easy –to clean and smooth, rust free non-toxic and non absorbent material without open joints or seams and, before food is loaded into such freight compartment, no square centimeter of the said surface shall upon analysis referred to in section 6(4) contain more than 100 viable micro –organisms;

(b) Be rust proof; and

(c) Not be used simultaneously for the transport of any person or any other item that may contaminate the food.

(3.) Despite any provisions to the contrary contained in this section, no non-pre-packed food shall be-

(a) Transported in such a manner that it comes into contact with the floor of a vehicle or the floor covering thereof or surface thereof that can be walked on or with anything else that could pollute the food; or

(b) Transported or carried in such a manner that the food could be spoiled or contaminated in any way.

(4.) Subsections (2) and (3) (a) shall not apply to the transport of venison, fish , mollusks or crustaceans between the food premises and the place where the animals are hunted or the place where the fish, molasses or crustaceans are caught or harvested : Provided that such transport shall be by the best available method and within a suitable time limit for transport as required by circumstances.

#### **14 PROVISIONS CONCERNING UNPROCESSED PRODUCTS**

(1) despite any provisions to the contrary contained in these regulations, an inspector shall, if he/she is of the opinion that conditions prevail that constitute a health hazard with regard to the packing, storage, display, sale or transport of fresh, raw and peanuts, sugar cane,

sunflower seed or other unprocessed agricultural crops, or with regard to the handling of food referred to in section 15 (5) (a)

- (2) Subject to regulation made in terms of 35 of the Act relating to inspections and investigations in respect of handling of food , order that may conditions that led to or could lead to such or any other health hazard be corrected or that any provisions of these regulations be complied with; or
- (3) Prohibit the continued use of the facility or food premises for the packing, storage, display, sale or transport –of any of the said products and the provisions of regulation 4(2) to (5) shall with the necessary changes apply to such prohibition.

## **15 EXEMPTIONS, ADDITIONAL REQUIREMENTS AND RESERVATIONS**

- (1). a person in charge of food premises may, subject to section (3) (a), apply to the Municipality concerned for exemption from any of the provisions of these By-Laws excluding exemption from issuing of a certificate of acceptability.
- (2). Upon receipt of an application referred to in subsection (1) a local authority shall refer the application to an inspector without delay , and exemption shall not be granted unless the inspector has submitted a report to the local authority to the effect that he/ she is satisfied that :-
  - (a) The provision from which exemption is requested imposes unreasonable requirements in the case in question; and
  - (b) The granting of such exemption does not or will result in conditions that constitute a health hazard.
- (3). An exemption referred to in this section must be-
  - (a) Subject to the condition listed by the Municipality in the certificate of acceptability or notice or notice of exemption, as the case may be; and
  - (b) Withdrawn by the Municipality on the grounds of an inspection report and a recommendation by inspector to the effect that he/she is of the opinion that such exemption will result in conditions that constitute a health hazard.
  - (c) Subject to section 3(6) (a) the Municipality may, on the grounds of an inspection report and recommendations from an inspector, set additional requirements to be met on any food premises where, despite compliance with an provisions contained in these By-Laws which additional requirements shall, subject to the principles of these best available method and good manufacturing practice, be limited to the minimum necessary to remove the health hazard in question.
- (4) (a) Subject to the principles of the best available method and good manufacturing practice, the provisions of section 3(1) and 5 do not apply in respect of the killing,

bleeding or evisceration of an animal after the hunting thereof or of fish, mollusks or crustaceans after the catching or harvesting thereof .

(b) The provisions of section 3(1) do not apply to a private residence where food is handled for the purpose of making it available without compensation to a church, educational or amateur sports organization or any registered welfare or fund raising organization, for sale.

(c) The person in charge of any such organization who receives such food must keep a record of the type of food and address of private residence where the food was handled for a period of at least 30 days after receipt of food. And any vehicle used by the person in charge of food premises, for which a certificate acceptability exists, to transport, display or serve pre-packed food deriving from such food premises, will apply in respect of a vehicle used for the transport of perishable food on behalf of another person.

(d) These By-Laws do not apply to a private household, which handles food for consumption by such household or, without compensation, by any other person

## **CHAPTER 5**

### **16 REPEAL OF MUNICIPALITY BY-LAWS ON FOOD HANDLING**

The provisions of any by-law relating to food handling by the Municipality are repealed in so far as they relate to matters provided for in these By-Laws.

### **17 OFFENCES**

Any person who contravenes a provision of these By-Laws or allows such as a contravention to take place shall be guilty of an offence and shall upon conviction be liable for a payment of a fine R1500 or to imprisonment for a period not exceeding 180 days or both such fine and such imprisonment and also subject to a discretion of the Court.

### **SHORT TITLE AND COMMENCEMENT**

This By-Law is called food handling and will come into operation on a date fixed by

### **Annexure**

### **CODE OF PRACTICE FOR MEASURING TEMPERATURES OF FOOD**

1. Informing person in charge or person responsible that :-

The inspector must inform or a person supervising the operation if the person in charge is not available, that he/she wishes to measure the temperatures of food concerned and must explain to him or her all the procedures contained in this code.

2. Precautionary measures

- 1) All procedures must be carried out as far as is practically in manner that is aseptic and free from chemical pollutants.
- 2) In the case of pre-packed food, and if it is necessary, the inspector must remove the packaging in such a manner that the minimum and only the most reasonable essential damage is caused, or the person in charge or the person supervising the operation must remove the packaging at his or her own risk .
- 3) The temperature of food must as far as is practicable be measured without removing the food a chilling, freezing or heating facility.

### **3. MEASUREMENT OF TEMPERATURE**

- 1) If the food is pre-packed, the estimated temperature of the food may be measured by placing at least one minute the stem of a thermometer (herein after referred to as the stem) between two or more food packages or in the case of a single food package, on the outer surface of the package.
- 2) If the temperature reading is not in compliance with the core temperatures specified in Annexure to these regulations or if the inspector has any doubt regarding the temperature of the food inside the package, the surface to core temperature of the food may be measured to determine the actual temperature.

### **4 CORE TEMPERATURE**

If the food product is frozen a hole must be drilled in the food up to the estimated core of food product with a sterilized stainless steel bit with an external measurement of about 4mm. The sterilized stem must be inserted into the hole up to the estimated center of the product, the sterilized stem must be inserted up to the estimated core of the food product and a reading must be taken after one minute.

### **5 SURFACE TEMPERATURE**

The surface temperature shall be measured by placing the sterilized stem directly on the surface of the food for at least one minute or, in the case of liquid, in the liquid for at least one minute and the reading shall be taken immediately thereafter.

## **8 PRESUMPTION IN RESPECT OF REPRESENTATION TEMPERATURE READING**

The food temperature determined in accordance with this code of practice shall be regarded as being representative of the temperature of all food in the freezing, chilling or heating facility concerned if the inspector is satisfied that such food is in the same condition or has the same characteristics as the food the temperature of which was taken.

## **BY-LAW RELATING TO CONTROL AND REMOVAL OF REFUSE**

### **PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996;

AND WHEREAS the Council in the exercise of its functions has the right to control and regulate removal of refuse in the jurisdiction of the Municipality and matters connected therewith;

NOW THEREFORE be it enacted by the Council as follows:

### **TABLE OF CONTENTS**

	<b>PAGES</b>
<b>CHAPTER 1</b>	
<b>INTERPRETATION</b>	
1. DEFINATIONS .....	70
<b>CHAPTER 2</b>	
2. DISPOSAL OF DOMESTIC REFUSE.....	70
3. CARE OF RECEPTACLES & USE OF DISPOSAL BAGS.....	72
4. SEPARATE REFUSE RECEPTACLES REQUIRED FOR EACH TRAD, BUSINESS OR FLAT.....	73
5. PROVISIONS OF EXTRA REFUSERECEPTACLES .....	73
6. BIN AREA TO BE PROVIDED.....	73
<b>CHAPTER 3</b>	
7. LOCATION OF REFUSE RECEPTACLES OR BAGS FOR REMOVAL .....	73

8. LIQUID WATER WAISTE MATTER.....	74
9. REMOVAL OF INDUSTRIAL, SPECIAL& BULK REFUSE.....	74
10. BUILDING WAISTE.....	75
11. SPECIAL INDUSTRIAL, HARZADOUS OR HEALTH CARERISK WAISTE.....	75
CHAPTER 4	
12. STORAGE OF SPECIAL INDUSTRIAL, HARZADOUS OR HEALTH CARE RISK.....	76
13. PROVISIONS OF SELF DISPOSAL REFUSE.....	77
14. GARDEN REFUSE.....	77
CHAPTER 5	
15. TARIFF AND CHARGES .....	78
16. OFFENCES AND PENALTIES.....	78
17. CONFLICT OF LAWS.....	78

## 1. Definitions

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

**"Council"** means the Council of the Ingquza Hill local Municipality and its successors in law, and includes the Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any official to whom the Executive Committee has delegated any powers and duties with regards to these by-laws;

**"refuse receptacle"** means any receptacle, complying with the South African Bureau of Standards' specifications, for holding refuse;

**"refuse bag"** means a durable refuse bag suitable to be placed in a refuse receptacle;

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

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



## CHAPTER 2

### 2

#### **Disposal of Domestic Refuse**

way

1. (a) No person may dispose or allow the disposal of refuse of any nature in any other than as prescribed in these bylaws without the written approval of the authorised official.
  - (b) No person may accumulate, store or allow the accumulation or storage of refuse of any nature on any property other than as prescribed in these bylaws without the written approval of the authorised official.
  - (c) The authorised official may direct the occupier or owner of a property on Which refuse of any nature is found to be accumulating or person deemed to be responsible for the disposal of refuse of any nature on any public place or vacant land to deal with the refuse as directed and any person failing to comply with such directive will be guilty of an offence.
  - (d) In the event of the person directed to remove refuse in terms of paragraph (c) failing to deal with such refuse in the manner and within the time frame directed, the authorised official may arrange for the removal of such refuse and the Council may recover all costs in this regard from such person.
3. (a) The Council may arrange for the removal of all or a portion of any refuse from premises situated on properties within its area of jurisdiction.
  - (b) The Council may introduce the different levels of refuse removals services In different service areas within the Council's area of jurisdiction.
  - (c) Where the Council selects not to render a removal service in respect of Bulk garden refuse, industrial refuse or special refuse, the Council may direct the occupier or owner, as the case may be, in writing to arrange at his / her own cost for the removal of such refuse and the disposal thereof at a dump site approved by the Council.

(d) Should the owner or occupier fail to comply with a directive as contemplated in clause (c), the authorised official may arrange for the removal of such refuse and recover the costs thus incurred from the occupier or owner as the case may be.

4. (a) For the purpose of these bylaws, the Council may raise -
- (i) an annual levy against the owner; and / or
  - (ii) a monthly charge payable by the occupier, on all premises in the service area which shall be payable regardless of whether or not the refuse removal service is actually utilized; and / or
  - (ii) recover the levy for the service through the sale of municipal refuse bags;
  - (iv) a fee per service; and / or
  - (v) a deposit for any permit issued in terms of these bylaws.
- (b) The Council may differentiate in the levy, charge or fees between the different refuse removal service levels rendered in the respective service areas.
- (c) In a service area where a compulsory service has been introduced by the Council, the levy or monthly charge shall be payable by the occupier or owner, as the case may be, regardless of whether or not the refuse removal service is actually utilized.

#### **18. CARE OF RECEPTACLES AND THE USE DISPOSAL BAGS**

- (a) Every owner or occupier, as the case may be, shall, where the service introduced for the service area so requires, provide and maintain, on the premises, a refuse receptacle in such condition as not to cause or constitute a nuisance, and shall cause all commercial and domestic refuse accumulated on such premises to be deposited therein,

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

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

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

#### **5 PROVISIONS OF EXTRA REFUSE RECEPTACLES**

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

**6 BIN AREA TO BE PROVIDED**

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

**CHAPTER 3****7 LOCATION OF REFUSE RECEPTACLES OR BAGS FOR REMOVAL**

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

**8 Liquid Waste Matter**

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

**9 Removal of Industrial, Special and Bulk Refuse**

- (a) The owner or occupier, as the case may be, of any premises on which industrial, special or bulk refuse is produced or accumulated, shall package and deal with such refuse in a manner which the authorised official may determine and direct from time to time.
- (b) The owner or occupier of premises generating business, industrial, special or bulk refuse must ensure that the container in which the refuse is stored, is not kept in a public place except when so required for collection
- (c) Should the owner or occupier fail to deal with such industrial, special or bulk refuse as directed, the authorised official may arrange for the removal of such refuse, and

recover the costs thus incurred from the occupier or owner as the case may be.

### **10 Building Waste**

(1) The owner or occupier of premises on which building refuse is generated, must ensure that:

- (a) until disposal, all building waste, together with the containers used for storage, collection or disposal thereof, is kept on the premises on which the waste was generated
- (b) the premises on which the building waste is generated, does not become unsightly or cause a nuisance as a result of accumulated building waste;
- (c) any building waste which is blown off the premises, is promptly retrieved and
- (d) pursuant to any instruction from the Council, any structure necessary to contain such building waste is constructed

### **11 Special industrial, hazardous or health care risk waste**

- (a) No person may carry on an activity which will generate special industrial, hazardous or health care risk waste, without notifying the Council in writing, prior to the generation of such waste, of the composition of such waste, the estimated quantity to be generated, the method of storage, the proposed duration of storage, the manner in which it will be collected and disposed of.
- (b) If so required by the Council, the notification referred to in subsection (a) must be substantiated by an analysis of the composition of the waste concerned, certified by an appropriately qualified industrial chemist.
- (c) The person referred to in subsection (a), must notify the Council in writing of any change occurring with respect to the generation, composition, quantity, method or location of disposal of the special industrial, hazardous or health care risk waste.

## **CHAPTER 4**

### **12 Storage of special industrial, hazardous or health care risk waste**

- (a) Any person carrying on an activity which generates industrial, hazardous or health care risk waste, must ensure that such waste generated on the premises is kept and stored thereon until it is collected from the premises.
- (b) Special industrial, hazardous or health care risk waste stored on premises, must be stored in such a manner that it does not become a nuisance or causes harm to human health or damage to the environment, and in accordance with the requirements of any applicable legislation relating to buildings.
- (c) Special industrial, hazardous or health care risk waste must be stored in an approved receptacle and for a period not exceeding 90 days or any other maximum period stipulated by the Department of Economic Development and Environmental Affairs

### **13 Provision for the Self-Disposal of Domestic Refuse**

- (a) Notwithstanding the foregoing provisions of these bylaws, owners or occupiers of

premises whose boundary line is situated more than 100 m from any road traversed by any refuse removal vehicle provided by the Council, may apply to the authorised official for authority to bury their refuse on their premises, on the grounds of inaccessibility, in pits constructed at their expense to the satisfaction of the authorised official. All owners or occupiers, to whom authority is given in terms of this bylaw, shall be exempted from charges levied by the Council in respect of the refuse removal service, save that the Council is empowered to levy a charge for the processing of any application received, and for regular inspections of the

pit

which shall be stated in the Council's tariff of charges.

- (b) The authorised official may grant or refuse an application in his discretion and in granting such an application may impose such conditions as to the location and the digging of the pit, the disposal of the refuse therein and the measures to be taken to prevent any nuisance or health hazard which may emanate therefrom, as he may deem fit: provided that the authorised official shall not refuse an application unless he has reasonable grounds for believing that the proposed pit will constitute a nuisance or health hazard or a source of pollution of any river, stream or water supply.

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- (c) In granting such an application, the authorised official shall issue to the applicant

certificate on which any conditions imposed by him in terms of these bylaws shall be endorsed. The abovementioned certificate shall be valid for such period as the authorised official may determine or until its withdrawal or cancellation, whichever is the earlier.

- (d) The authorised official may, at any time, by notice in writing, alter, amend or vary any condition endorsed on any certificate issued in terms of these bylaws or issue any written instruction to the holder of such a certificate to do or perform any act, matter or thing regarding a pit, the digging of a new pit or the disposal or handling of the refuse therein.

- (e) Should the holder of the certificate issued in terms of these bylaws fail to comply with any of the conditions endorsed thereon or with any written instruction from the authorised official issued in terms of these bylaws, the authorised official may, by notice in writing to the holder, require him to comply with any such conditions within such period as he may determine, Upon the failure of such holder to comply with the terms of such notice, the authorised official may cancel or withdraw his certificate in which event such holder shall be obliged to revert to the use of the refuse removal service provided by the Council, subject to the conditions pertaining thereto.

- (f) The continued disposal of refuse in a pit after the cancellation of a certificate issued in terms of these bylaws shall be an offence and render the offender liable to prosecution.
- (g) The provision of this section of the bylaws shall not apply to the self-disposal of refuse where such self-disposal forms part of the service introduced by the Council in a service area.

#### **14 Garden Refuse**

- (a) No person may place, store or dump any garden refuse or allow any person to do so, on any road, verge, public or private open space without the written approval of the authorised official having been obtained.
- (b) The authorised official may, subject to such conditions as it may deem fit, issue a permit to allow the temporary storing of garden refuse, on the verge or other suitable place for a limited period of time on payment of the deposit laid down in the Council's Tariff of Charges.
- (c) Should any person fail to comply with the conditions of any permit issued in terms of these bylaws for the temporary storage of garden refuse the deposit paid will be forfeited to Council and the authorised official may arrange for the removal of such refuse and the person to whom the permit was issued will be liable for all costs incurred for the removal of all the garden refuse on the spot indicated on the said permit.
- (d) The Council may establish or approve garden refuse, transfer sites where garden refuse may be deposited for removal or landfill purposes subject to such conditions and on such days and during such hours as the Council may determine and displayed by notice on site.
- (e) No person may enter upon a site established or approved by the Council in terms of these bylaws for the disposal of garden refuse at any time other than the days and time indicated on the notice displayed or disposes of any refuse other than organic garden refuse on such site.
- (f) The owner or occupier of premises on which garden refuse is generated may compost garden waste on the property, provided such composting does not cause a nuisance or health risk.
- (g) The Council may require that garden refuse be stored in separate disposal receptacle to that of domestic refuse.

### **CHAPTER 5**

#### **15 Tariff of Charges**

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

**16 Offences and Penalties**

- (a) Any person who -
- (i) contravenes any provision of these bylaws, which contravention is not expressly stated to be an offence;
  - (ii) contravenes any condition or restriction imposed upon the granting of any application, approval, authority, consent or permission in terms of these bylaws; or
  - (iii) fails to comply with the terms of any notice served upon him or instruction to him in terms of these bylaws, shall be guilty of an offence.
- (b) Any person who contravenes any of these bylaws shall be guilty of an offence and liable, upon conviction, to a fine -
- (i) not exceeding one thousand rands (R1 000) or imprisonment for a period not exceeding six months and;
  - (ii) in the case of a second or subsequent conviction for the same offence, a fine not exceeding two thousand rands (R2 000) or imprisonment for a period not exceeding two year or both such fine and imprisonment.

**17 Conflict of laws**

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

**SHORT TITLE AND COMMENCEMENT**

This bylaw shall be called REMOVAL OF REFUSE AND shall commence on the date of publication.



**BY-LAW RELATING TO CONTROL AND REGULATING OF CEMETERIES****PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996;

AND WHEREAS the Council in the exercise of its functions has the right to control and regulate Cemeteries in the jurisdiction of the Municipality and matters connected therewith;

NOW THEREFORE be it enacted by the Council as follows:

**TABLE OF CONTENTS**

	PAGE
<b>CHAPTER 1</b>	
1. DEFINITION OF TERMS.....	80
<b>CHAPTER 2</b>	
2. REQUIREMENTS FOR DISPOSAL OF BODIES.....	81
3. APPLICATION FOR BURIAL SITE.....	81
4. RESERVATION OF GRAVE.....	82
5. POSTPONEMENT OR CANCELLATION OF BURIAL.....	82
6. NUMBER OF BODIES IN A COFFIN.....	82
7. BURIAL AND SUBSEQUENT BURIALS.....	82
8. SIZES OF GRAVES.....	82
9. COVERING OF COFFINS.....	82
10. BODY BAGS .....	82
<b>CHAPTER 3</b>	
11. FUNERALS .....	83
12. CONTROL OF HEARSEs AT THE CEMETERY.....	83
13. TRANSPORTATION OF COFFINS AND BODIES.....	83
14. INSTRUCTIONS AT THE CEMETERY.....	83
15. HOURS OF BURIAL .....	83

CHAPTER 4	
16. REOPENING OF GRAVES AND EXHUMATIONS.....	84
17. EXHUMATION AND REBURIAL.....	84
18. SCREENING OF EXHUMATION.....	85
CHAPTER 5	
19. CARE OF GRAVES	
20. MEMORIAL SECTION .....	87
21. INFERIOR MEMORIAL.....	87
22. INSCRIPTION OR MEMORIAL WORK.....	87
23. DISMANTLING OF MEMORIAL WORK.....	88
24. GENERAL REQUIREMENTS.....	89
25. REQUIREMENTS FOR MEMORIAL WORK IN MEMORIAL SECTION.....	91
26. PROHIBITED ACTS .....	91
27. PENALTIES .....	93

## CHAPTER 1

### DEFINATION OF TERMS

**Council** – refers to the Council of Ingquza Hill Local

**Body** – a body of a deceased human being

**Authorised Officer** – a Municipal Employee mandated to control cemetery use

**Burial site** – the plot of land that has been purchased from the municipality for burial purposes

**Surviving spouse** – surviving partner of the deceased be it male or female

**Next of kin** – a family member over the age of 18 years

**Prescribed fee** – amount payable for reservation of a grave site

**Indigent person** – A person who has no financial means or next of kin to conduct a funeral and the costs of his or her burial are borne by the Municipality

## CHAPTER 2

### 2 Requirement for Disposal of bodies

- (1) No person residing within the municipal area shall without written consent of the Council.  
Dispose of or attempt to dispose of a body, other than in a burial cemetery
- (2) A person may not bury a body in a cemetery without:
  - (i) The permission of the authorized officer; and
  - (ii) Arranging a date and time of such burial with such officer

### 3. Application for a burial site

[1] (a) A person intending to bury a body must complete and submit the prescribed to the authorised officer for approval

(b) The next of kin of the deceased, or such other person authorised by the next of kin, must sign such application.

(c) Despite the provisions of subsection (b) authorised officer may, if he or she is satisfied that the signature of the next of kin cannot be obtained timeously approve and application by an interested party.

(d) The applicant must-

- (i) submit the application at least three working days before the burial;
- (ii) indicate whether the application is in respect of a first, second or third burial, in respect of a particular grave; and
- (iii) indicate the date and time of such burial.

(e) The authorized officer must approve an application if:

- a. It is accompanied by an original burial order in terms of the Births and Deaths Registration Act;
  - b. The prescribed fee has been paid; and
  - c. An application in terms of subsection (1) has been submitted.
- (d) The authorised officer must, where necessary, take into consideration the customs of the deceased, and the people responsible for the burial

**4 Reservation of a grave**

- (1) An application to reserve a grave must be made to the authorized officer
- (2) A surviving spouse of the deceased may apply for an adjoining grave to be reserved
- (3) The authorized officer must allocate another grave within the cemetery to the applicant, where persons other than the applicant mistakenly utilized a reserved grave.
- (4) A grave will be reserved only upon payment of the prescribed fee.

**5 Postponement or cancellation of a burial**

- (1) An applicant must give notice of the postponement or cancellation of a burial, by completing the prescribed application form, to the authorized officer, who must approve the application at least one working day before the burial.
- (2) In a case of a cancellation of a burial:
  - a. A refund will not be made to the applicant for costs incurred for opening the existing grave
  - b. The Council will only refund the applicant for costs for opening a new grave

**6 Number of bodies in a coffin**

- (1) Only one body in a coffin is allowed for burial
- (2) Burial of more than one body in a coffin may be allowed if an application is made and approved by the authorized officer and the prescribed fee has been paid;
- (3) Such an application may be made in respect of:
  - a. Family members who either died together or a short while after each other, and the burial of the first dying member has not yet taken place;
  - b. A mother and child who died during child birth
  - c. (i) two people who have lived together as partners; or  
(iii) Unrelated deceased persons, whose families have no objection

**7 Burials and subsequent burials**

- (1) A burial may take place only in a grave allocated by the authorized officer
- (2) Subject to paragraph (b), not more than two burials may be permitted in a grave;
- (3) A person who has been given permission for a second burial must:
  - a. Give at least two days notice; and
  - b. At his or her cost remove, and, subsequent to the burial, replace all memorial work on such a grave

## **8 Sizes of graves**

- (a) An adult's grave must measure 2.3m in length and 2 m in width and 9m in depth
- (b) A child's grave must measure 1.5m in length and 1.5m in width and 7m in depth

### **(1) Enlarging a grave**

- a. An applicant for a burial may, by giving at least 24 hours notice before burial, request that a grave be enlarged or deepened
- b. If a coffin is too large for the size of an adult grave, such grave must be enlarged to accommodate such coffin
- c. If a child's coffin is too large for a child's grave it must be buried in an adult's grave, on payment of the prescribed fee

## **9 Covering Coffins**

(1) Coffins to be placed in graves must be made of natural wood or other perishable materials

(2) Every coffin must be covered with at least 300 mm of soil immediately after burial;

(a) There must be at least -

- (i) 1 200 mm of soil between a coffin of a buried adult and the surface of the ground; or
- (ii) 900 mm of soil in the case of a coffin of a child.

## **10 Body bags**

(1) If there is more than one body in a coffin each body must be contained in a separate body bag.

(2) A body intended for burial at a cemetery must be sealed in a body bag inside a coffin, unless this is contrary to the tradition, customs or religious beliefs of the deceased person or the applicant.

(3) There must be at least -

- (a) 1 200 mm of soil between a coffin of a buried adult and the surface of the ground; or
- (b) 900 mm of soil in the case of a coffin of a child.

## **CHAPTER 3**

### **11 FUNERALS**

#### **(1) Religious or memorial services**

A person who desires to have a religious or memorial service at a cemetery must apply to the officer-in-charge and pay the prescribed fee.

#### **12 Control of hearses at the cemetery**

(1) No person in a cemetery may –

- (a) drive a hearse or cause a hearse to be driven except on a designated roadway;
- (b) park a hearse or detain a hearse on a roadway after the coffin has been removed from the hearse; or
- (c) park a hearse in such a manner that it interferes with other burials in progress.

#### **13 Transportation of coffins and bodies**

(1) An applicant in terms of section 3 is responsible at his or her own cost for ensuring that a coffin is conveyed to the cemetery for burial.

(2) No person may in any street, cemetery or other public place convey a body in a disrespectful manner.

#### **14 Instructions at cemeteries**

- (1) The officer-in-charge at the cemetery may issue instructions relating to –
- (a) the parking of vehicles;

- (b) a funeral procession;
- (c) the duration of a service.

(3) Every person taking part in a funeral procession at the cemetery must comply with all reasonable instructions of the officer-in-charge.

## **15 Hours for burial**

19. (a) Subject to paragraph (b) burial may take place only between 08h00 and 15h00.
- (b) The Officer-in-charge may, on exceptional circumstances, as he or she may determine, and on payment of the prescribed fee, give permission to bury outside the stipulated hours.
- (c) If the burial takes place outside the stipulated hours, the applicant will provide tools and assume the responsibility of closing the grave.
- (d) If the applicant requires the Council to provide the service outside the stipulated hours, the Council may provide such service on payment of the prescribed after hours fee, subject to such conditions as the officer-in-charge may determine.
- (e) A person who wants to do a burial outside the stipulated hours must give prior notice of at least 3 days before the burial

## **CHAPTER 4**

### **16 RE OPENING OF GRAVES AND EXHUMATIONS**

#### **(1) Conditions of exhumations**

(1) No person may exhume or cause to be exhumed a body without the written consent of the –

- a) the Council;
- b) the Provincial Department of Health;
- c) the Administrator of cemeteries; and
- d) the Council's Environmental Health Officer
- e) the Headman/Chief of the area where the exhumation and reburial shall take place and in the case where the reburial is to take place in a jurisdiction, the applicant must also obtain a written consent from the Headman/Chief in charge of the new burial place
- f) In the case where Headman/Chief refuses to give consent, the applicant may approach the court

(2) Whenever an exhumation is to take place, the officer-in-charge must inform the Station Commander of the South African Police Services.

(3) A member of the South African Police Services must always be present when an exhumation is being conducted.

(4) An exhumation must not take place when the cemetery is open to the public and must take place under the supervision of the officer-in-charge.

(5) If remains are to be exhumed from any grave, only the undertaker under the supervision of the officer-in-charge, may cause the grave to be excavated for such exhumation;

(6) (a) If a grave is to be excavated for exhumation, the officer-in-charge must be given 48 hours written notice before the time of exhumation, and

(b) The authority referred to in paragraph (1) (d) and the prescribed fee must accompany such notice.

(7) A person who wishes to exhume the remains of an indigent person must pay the costs incurred by the Council at the time of burial, to the Administrator of Cemeteries.

(8) The person carrying out the exhumation must ensure that the body and grave are properly disinfected and deodorized.

(9) The South African Police Services must -

(a) if there is proof of illegal burial immediately exhume the body; and

(b) take it to a government mortuary for investigation.

(10) A grave of victims of conflict and a grave which is older than 60 years may only be exhumed with the permission of the South African Heritage Resources Agency.

#### **17 Exhumation and reburial**

(1) The Council may, if a body has been buried in contravention of these By-laws, cause the body to be exhumed and re-buried in another grave.

(2) The relatives of the deceased must be -

(a) notified of the intended exhumation and re-burial; and

(b) allowed to attend

#### **18 Screening of exhumation**

(1) A grave from which a body is to be exhumed must be screened from the view of the public during the exhumation.

(2) The person carrying out the exhumation must provide a suitable receptacle for each body or remains.

### **CHAPTER 5**

#### **19 CARE OF GRAVES**

(1) Gardening of graves and other objects on grave

(a) The Council is responsible for keeping cemeteries clean unless these by-laws provide otherwise.

(2) No person may -

(a) plant, cut or remove plants, shrubs or flowers on a grave without the permission of the officer-in-charge;

(b) place a metal cot on any grave.



(3) Natural or artificial flowers contained in receptacles may be placed on a grave at any time.

(4) The officer-in-Charge may –

(a) remove all withered natural flowers, faded or damaged artificial flowers and any receptacle placed on a grave; or

(b) 30 days after publishing a general notice remove all objects of decoration, for the purpose of beautification of the area.

(1) The Council is not liable for any loss or damage to any object on a grave unless such loss or damage is a result of the negligence of any employee of the Council.

## **CHAPTER 6**

### **20 MEMORIAL SECTION**

#### **(1) Erection of memorial work**

- (a) A person intending to erect a memorial work must make and complete an application on the prescribed application form to the officer-in-charge.
- (b) Such application must be made not less than five working days before the date of erection.
- (c) Memorial work may only be erected during working hours, but may, with the approval of the officer-in-charge, be erected outside working hours.
- (d) No person may—
  - (i) erect memorial work, or bring material into a cemetery for the purpose of erecting memorial work, without the written consent of the officer-in-charge;
  - (ii) remove memorial work for additional inscriptions or other alterations without the consent of the officer-in-charge; or
  - (iii) erect a memorial work on a Saturday, Sunday or a public holiday, without the written consent of the officer-in-charge.
- (e) The Council is not liable for damage to memorial work resulting from any subsiding soil.
- (f) A person erecting memorial work must at the request of the officer-in-charge produce the written consent.
- (g) Memorial work or material to be used in the erection of such work, may not be conveyed in a cemetery or crematorium in a manner that may damage the roadways, pathways, lawns, grounds or other memorials.
- (h) Any surplus material or rubble, resulting from the erection of any memorial work, must be removed by the person responsible for such erection, immediately after its completion.

#### **21 Inferior memorial work**

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

**22 Inscription on memorial work**

(1) Any memorial work must display the number assigned to the grave by the officer in charge, permanent and visible markings:-

- (a) On the side of the base of the memorial work; and
- (b) On the upper surface, in the lower left hand corner of a tablet erected on grave in a land scape section.

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

**23 Dismantling of memorial work**

(1) Only a holder of private rights, or a person authorised in writing by the holder of such rights, may, with the written permission of the officer-in-charge, dismantle, alter, or disturb, any memorial work on a grave.

(2) Dismantled memorial work must either be removed from a cemetery or be left on the grave on which such memorial work had been erected.

(3) The officer-in-charge may in the case of a second or subsequent burial in such grave, permit memorial work to be left elsewhere in the cemetery, for a period not exceeding 30 days after such burial.

(4) The person dismantling the work must immediately after the work is completed, remove any surplus material, or rubble, resulting from the dismantling of any memorial work.

(5) If a holder of rights or person referred to in subsection (1) -

- (a) fails to re-erect dismantled memorial work within 30 days after it was dismantled; or
  - (b) leaves such memorial work within the cemetery in contravention of subsection (2),
- the Council may give 30 days written notice to such holder of rights or person, instructing him or her to remove such memorial work from the cemetery with any rubble resulting there from, at his or her own expense or to re-erect such memorial work.

(6) If any memorial work has –

- (a) been damaged;
- (b) become a danger to the public; or
- (c) been erected in contravention of these by-laws,

(7) The council may give written notice to the holder of rights or person referred to subsection (1), instructing such person at his/her own expense , within a period specified in the notice to:-

- (a) Alter or make such memorial work safe so that it complies with the provisions of this By –Law.
- (b) dismantle and remove such memorial work from the cemetery together with all rubble resulting therefrom.
- (c) if such holder of rights or person referred to in section (1) fails to comply with a notice in terms of subsection , the council may:-

- (i) Re-erect memorial work.

- (ii) Dismantle and dispose memorial work and remove any rubble resulting therefrom ; or
- (iii) Make the memorial work safe and such holder or person will be liable for any costs incurred by the council.

The Council may without giving any notice, or incurring any liability to the holder of rights or person referred to in subsection (1) –

a) dismantle the memorial work and remove it and any rubble resulting therefrom, except memorial work that is protected by the provisions of the National Heritage Resources Act, 1999; or

(b) make the memorial work safe, if such memorial work has become so dangerous to the public that immediate steps to safeguard the public are essential.

(9) After the Council has acted in terms of subsection (8), it must immediately, in writing, notify the holder of rights or person that, unless he or she reclaims the memorial work from the cemetery within a specified period, the Council will dispose of the memorial work.

(10) Such holder of rights or person referred to in subsection (1) is liable for costs incurred by the Council, when the Council has acted in the manner contemplated in subsection (8).

(11) If the holder of rights or person referred to in subsection (1) fails to pay the costs referred to in subsection (10), or to reclaim the memorial work dismantled by the Council, the Council may dispose of such memorial work in any manner it deems fit.

(12) If any proceeds are derived from the disposal, such proceeds will be offset against the cost of the dismantling, removal, storing, and disposing, of memorial work and rubble resulting therefrom.

## **24 General requirements for memorial work**

(1) Memorial work must be constructed or made of durable material, approved by the South African Bureau of Standards with a life expectancy of at least 25 years.

(2) Any person erecting memorial work in a cemetery or crematorium must do so with the approval of the officer-in-charge.

(3) A person erecting memorial work must comply with the following requirements-

(a) when joining any part of the memorial work to any other part of the memorial work the person must use copper or galvanized iron pins as follows-

(i) for memorial work up to a height of 500 mm, two or more pins of at least 5mm thick and 100 mm long;

(ii) for memorial work 501 mm up to a height of 1 000 mm, two or more pins at least 10 mm thick and 200 mm long; or

(iii) for memorial work 1 001 mm and higher at least two or more pins 20 mm thick and 300 mm long;

(b) any part of memorial work which rests on the ground, stone or foundation must be properly secured and bedded;

(c) a material of uneven thickness must not be used;

(d) the undersides of every flat memorial work and the base of every memorial work must be sunk at least 50 mm below the natural level of the ground;

- (e) a border which is more than 225 mm above the surface of the ground or more than 200 mm deep must not be used without the consent of the Council;
- (f) all memorial work and border stones must be securely clamped with round copper or galvanized iron clamps;
- (g) all memorial work up to 150 mm in thickness must be securely attached to the base;
- (h) all the components of memorial work must be completed before being brought into a cemetery;
- (i) footstones must consist of one solid piece;
- (j) in all cases where memorial work rests on a base -
  - (i) such memorial work must have a foundation;
  - (ii) such memorial work must be set with cement mortar;
  - (iii) the bottom base of a single memorial work must not be less than 900mm long 220 mm wide x 250 mm thick and that of a double memorial work not less than 2 286 mm long x 200 mm wide x 250 mm thick; and
  - (iv) if loose stone chips are placed on a grave, the level of such stone chips must not be higher than 10 mm below the level of the surrounding curbstones.

## **25 Requirements for memorial work in memorial section**

30. The maximum horizontal measurements of any memorial work erected on a grave in a memorial section must -

- (a) in the case of an adult's grave, be 2 500 mm in length and 1 050 mm in width; or
- (b) in the case of a child's grave, be 1 500 mm in length and 900 mm in width.

## **26 Prohibited acts**

(1) No person -

- (a) under the age of 16 years may enter any cemetery unless when accompanied by an adult, or with the consent of the officer-in-charge;
- (b) may enter or leave any cemetery, except by the gateway provided;
- (c) may enter any office or enclosed place in a cemetery, where entry is prohibited, without the consent of the officer-in-charge, which may be given only when such person is attending business connected with such cemetery.

(2) No person may, within any cemetery

- (a) interfere with any fountain, statue, monument, equipment, fence, grave or Council property;
- (b) pick, damage, deface or destroy any flower, plant or seed;
- (c) damage, deface or remove any memorial work, grave, building, fence or fixtures;
- (d) throw litter outside containers provided by the Council for that purpose;
- (e) sit, stand, walk, climb, draw, or write on any grave or memorial work;

- (f) swim, bath or wash himself him or herself or any animal in a pond, fountain, artificial watercourse, dam or stream;
  - (g) reside in a cemetery, or, without the written consent of the officer-in-charge, build any structure or encroach on any land;
  - (h) capture, chase, shoot at, or interfere with any fish, bird, or animal, except where licensed to do so, or take, touch or damage birds' eggs or nests;
  - (i) light any fire or burn any object unless there is special provision therefore made by the Council;
  - (j) drive, ride or park any vehicle, bicycle, tricycle or push-cart, wear roller blades or draw or propel any vehicle, except in the places and at the times referred to in these By-laws;
  - (k) drive or ride any vehicle, except in the places referred to in paragraph (j) at a speed exceeding 15 km per hour;
  - (l) carry on or solicit business, hold any demonstration, or perform an activity which is not normally associated with a cemetery ;
  - (m) cause a nuisance or commit any offensive or indecent act;
  - (n) play any game except in a designated area;
  - (o) use a facility provided for the opposite sex;
  - (p) brew, sell or drink alcohol or abuse drugs;
  - (q) play any musical instrument without the written consent of the officer-in-charge;
  - (r) deliver a public speech except for a funeral service or cremation, without the written consent of the officer-in-charge,
  - (s) do anything which may endanger or cause disturbance to any person ;
  - (t) hold organized functions, advertise, dig any hole, trench or place any tent, caravan, booth screen, stand, or any construction or obstruction, without the written consent of the officer-in-charge;
  - (u) undertake any community or voluntary work, without the written consent of the officer-in-charge;
  - (v) make any film, without the written consent of the officer-in-charge, and payment of the prescribed fee;
  - (w) remain between sunset and sunrise without the written consent of the officer-in-charge;
  - (x) bring or allow an animal, except a guide dog, without the consent of the officer-in-charge; and
  - (y) hinder, obstruct or resist the officer-in-charge or any official of the Council in the performance of his or her duties or in the exercise of any authority assigned to him or her by or in terms of these By-laws.
- (3) Any animal found in a cemetery may be impounded and must be released on payment of a fee.

**27 Penalty clause**

(1) Any person who-

- (a) Contravenes or fails to comply with any provision of these By-laws;
  - (b) fails to comply with any notice issued in terms of these By-laws;
  - (c) fails or fails to comply with any lawful instruction given in terms of these By-laws;
- or
- (d) obstructs or hinders an authorized official or employee of the Council in the execution of his or her duties under these By-laws, is guilty of an offence and liable on conviction to a fine or in default of payment of such a fine to imprisonment for a period not exceeding six months, and in the case of a continuing offence, to a further fine not exceeding R50, or in default of payment, to imprisonment not exceeding one day, for every day during the continuance of such offence, after a written notice has been issued by the Council, and served on the person concerned, requesting the discontinuance of such offence.
- (e) reside in a cemetery, or, without the written consent of the officer-in-charge, build any structure or encroach on any land;
- (f) capture, chase, shoot at, or interfere with any fish, bird, or animal, except where licensed to do so, or take, touch or damage birds' eggs or nests;
- (g) light any fire or burn any object unless there is special provision therefore made by the Council;
- (h) drive, ride or park any vehicle, bicycle, tricycle or push-cart, wear roller blades or draw or propel any vehicle, except in the places and at the times referred to in these By-laws;
- (i) drive or ride any vehicle, except in the places referred to in paragraph (j) at a speed exceeding 15 km per hour;
- (j) carry on or solicit business, hold any demonstration, or perform an activity which is not normally associated with a cemetery ;
- (j) cause a nuisance or commit any offensive or indecent act;
- (k) play any game except in a designated area;
- (l) use a facility provided for the opposite sex;
- (m) brew, sell or drink alcohol or abuse drugs;
- (n) play any musical instrument without the written consent of the officer-in-charge;
- (o) deliver a public speech except for a funeral service or cremation, without the written consent of the officer-in-charge,
- (p) do anything which may endanger or cause disturbance to any person ;
- (q) hold organized functions, advertise, dig any hole, trench or place any tent, caravan, booth screen, stand, or any construction or obstruction, without the written consent of the officer-in-charge;
- (r) undertake any community or voluntary work, without the written consent of the officer-in-charge;

- (s) make any film, without the written consent of the officer-in-charge, and payment of the prescribed fee;
- (t) remain between sunset and sunrise without the written consent of the officer-in-charge;
- (u) bring or allow an animal, except a guide dog, without the consent of the officer-in-charge; and
- (v) hinder, obstruct or resist the officer-in-charge or any official of the Council in the performance of his or her duties or in the exercise of any authority assigned to him or her by or in terms of these By-laws.

(2) Any animal found in a cemetery may be impounded and must be released on payment of a fee.

(3). Any person who-

- (a) Contravenes or fails to comply with any provision of these By-laws;
- (b) fails to comply with any notice issued in terms of these By-laws;
- (c) fails or fails to comply with any lawful instruction given in terms of these By-laws; or
- (d) obstructs or hinders an authorized official or employee of the Council in the execution of his or her duties under these By-laws, is guilty of an offence and liable on conviction to a fine of R500 or in default of payment of such a fine to imprisonment for a period not exceeding six months, and in the case of a continuing offence, to a further fine not exceeding R150, or in default of payment, to imprisonment not exceeding one day, for every day during the continuance of such offence, after a written notice has been issued by the Council, and served on the person concerned, requesting the discontinuance of such offence.

#### SHORT TITTLE

This by-law shall be called Management of cemeteries.

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