



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

**Provincial Gazette
Igazethi Yephondo
Provinsiale Koerant
(Extraordinary)**

Vol. 23

BISHO/KING WILLIAM'S TOWN
29 MARCH 2016
29 MAART 2016

No. 3643

PART 1 OF 3

We all have the power to prevent AIDS



**AIDS
HELPLINE**

0800 012 322

DEPARTMENT OF HEALTH

Prevention is the cure

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

ISSN 1682-4556



03643



9 771682 455006

Government Printing Works

Notice submission deadlines

Government Printing Works has over the last few months implemented rules for completing and submitting the electronic Adobe Forms when you, the customer, submit your notice request.

In line with these business rules, GPW has revised the notice submission deadlines for all gazettes. Please refer to the GPW website www.gpwonline.co.za to familiarise yourself with the new deadlines.

CANCELLATIONS

Don't forget!

Cancellation of notice submissions are accepted by GPW according to the deadlines stated in the table above. Non-compliance to these deadlines will result in your request being failed. **Please pay special attention to the different deadlines for each gazette.**

Please note that any notices cancelled after the cancellation deadline will be published and charged at full cost.

Requests for cancellation must be sent by the original sender of the notice and must accompanied by the relevant notice reference number (N-) in the email body.

AMENDMENTS TO NOTICES

take note!

With effect **from 01 October**, GPW will not longer accept amendments to notices. The cancellation process will need to be followed and a new notice submitted thereafter for the next available publication date.

CUSTOMER INQUIRIES



Many of our customers request immediate feedback/confirmation of notice placement in the gazette from our Contact Centre once they have submitted their notice – While GPW deems it one of their highest priorities and responsibilities to provide customers with this requested feedback and the best service at all times, we are only able to do so once we have started processing your notice submission.

GPW has a **2-working day turnaround time for processing notices** received according to the business rules and deadline submissions.

Please keep this in mind when making inquiries about your notice submission at the Contact Centre.

PROOF OF PAYMENTS

REMINDER

GPW reminds you that all notice submissions **MUST** be submitted with an accompanying proof of payment (PoP) or purchase order (PO). If any PoP's or PO's are received without a notice submission, it will be failed and your notice will not be processed.

When submitting your notice request to submit.egazette@gpw.gov.za, please ensure that a purchase order (GPW Account customer) or proof of payment (non-GPW Account customer) is included with your notice submission. All documentation relating to the notice submission must be in a single email.

A reminder that documents must be attached separately in your email to GPW. (In other words, your email should have an Adobe Form plus proof of payment/purchase order – 2 separate attachments – where notice content is applicable, it should also be a 3rd separate attachment).

REMINDER OF THE GPW BUSINESS RULES

- Single notice, single email – with proof of payment or purchase order.
- All documents must be attached separately in your email to GPW.
- 1 notice = 1 form, i.e. each notice must be on a separate form
- Please submit your notice **ONLY ONCE**.
- Requests for information, quotations and inquiries must be sent to the Contact Centre **ONLY**.
- The notice information that you send us on the form is what we publish. Please do not put any instructions in the email body.



government
printing
Department:
Government Printing Works
REPUBLIC OF SOUTH AFRICA

eGazette



CONTENTS

	<i>Gazette</i>	<i>Page</i>
	<i>No.</i>	<i>No.</i>
PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS		
42		
Local Government: Municipal Systems Act (32/2000): Elundini Local Municipality advertising Signs and Disfigurement of the Frontages of Streets By-law	3643	4
43		
Local Government: Municipal Systems Act (32/2000): Elundini Local Municipality Barbers, Haidressers and Beauticians By-law	3643	26
44		
Local Government: Municipal Systems Act (32/2000): Elundini Local Municipality Building Control By-law	3643	38
45		
Local Government: Municipal Systems Act (32/2000): Elundini Local Municipality Cemeteries By-law	3643	62
46		
Local Government: Municipal Systems Act (32/2000): Elundini Local Municipality Fire Safety By-law	3643	88
47		
Local Government: Municipal Systems Act (32/2000): Elundini Local Municipality Funeral Undertakers By-law 3643.....	145	
48		
Local Government: Municipal Systems Act (32/2000): Joe Gqabi District Municipality: By-law on the sale of liquor and the regulating of trading hours for licenced undertakings and matters incidental thereto.....	3643	163
49		
Local Government: Municipal Systems Act (32/2000): Elundini Local Municipality Livestock Trading By-law...	3643	177
50		
Local Government: Municipal Systems Act (32/2000): Elundini Local Municipality Traffic By-law.....	3643	188

PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 42 OF 2016**ADVERTISING SIGNS AND DISFIGUREMENT OF THE FRONTAGES OF
STREETS BY-LAW****[Local Authority Notice No. ____]****[Date of Commencement: ____]****ELUNDINI LOCAL MUNICIPALITY ADVERTISING SIGNS AND
DISFIGUREMENT OF THE FRONTAGES OF STREETS BY-LAW**

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 (Act No. 108 of 1996), the Advertising Signs and Disfigurement of the Frontages of Streets By-law.

Arrangement of sections

1. Definitions
2. Purpose of the By-law
3. Affixing of posters and signs prohibited
4. Submission and approval of application to display sign
5. Existing signs to comply with By-law
6. Enforcement
7. Subject matter of signs
8. Signs allowed on buildings
9. Flat signs
10. Projecting signs
11. Sky-signs
12. Signs on verandahs and balconies
13. Signs over footways forming part of public roads
14. Prohibited signs
15. Signs on walls, fences and hoardings
16. Signs on poles and other structures
17. Signs on vehicles and signs carried through the street
18. Illuminated signs

19. Election posters
20. Structural requirements
21. Use of glass
22. Fire precautions
23. Electrical requirements
24. Display of signs on old buildings
25. Exemptions
26. Savings
27. Waiver of provisions
28. Penalty clause
29. Short title

Definitions

In this By-law, unless the context otherwise indicates –

“**aerial sign**” means any sign attached to a kite, balloon, aircraft or any other device whereby it is suspended in the air over any part of the area under the jurisdiction of the Municipality;

“**authorised employee**” means any employee authorised thereto by the Municipality;

“**clear height**” of a sign means the vertical distance between the lowest edge of such sign and the level of the ground, footway or roadway immediately below such sign;

“**depth**” of a sign means the vertical distance between the uppermost and lowest edges of such sign;

“**display of a sign**” includes the erection of any structure if such structure is intended solely or primarily for the support of such sign and the expression “**to display a sign**” shall have a corresponding meaning;

“**election poster**” means a poster that is designed and displayed for purposes of national, provincial and municipal elections, including municipal by-elections;

“**flashing sign**” means any illuminated sign, the light emitted from which does not remain constant in all respects;

“**flat sign**” means any sign which is affixed to or painted directly on a main wall and which at no point projects more than 250 mm in front of the surface of such wall, but does not include a poster: Provided, however, that a poster affixed to a main wall shall be deemed to be a flat sign if such poster is:

- (a) not less than 0,80 m² in area;
- (b) bordered by a permanent frame fixed to such main wall; and
- (c) maintained at all times in an un mutilated and clean condition;

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

“**Municipality**” means the Elundini Municipality;

“**new sign**” means any sign first displayed after the promulgation of this By-law;

“**overall height**” of a sign means the vertical distance between the uppermost edge of such sign and the level of the ground, footway or roadway immediately below such sign;

“**person**” in relation to the display or alteration of or the addition to a sign, or in relation to the intended or attempted display or alteration of, or addition to a sign, includes the person at whose instance such sign is displayed, altered or added to, or at whose instance such sign is intended or attempted to be displayed, altered or added to, as the case may be and the person who or whose goods, products, services, activities, property or premises, is or are referred to in such sign shall be deemed to be such person, unless he or she proves the contrary;

“**poster**” means any placard or similar device attached to some fixed object whereby any advertisement or notice is publicly displayed;

“**projecting sign**” mean any sign which is affixed to a main wall and which at some point projects more than 250 mm in front of the surface of such wall;

“**public road**” means any road, street or thoroughfare or any other place 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 footpath, sidewalk or similar pedestrian portion of a road reserve;
- (c) any bridge, ferry or drift traversed by any such road, street or thoroughfare;

(d) any other work or object belonging to such road, street or thoroughfare, footpath or sidewalk; and

(e) any premises with or without structures thereon, used or set aside as a public parking area or public parking place for the parking of motor vehicles whether or not access to such a parking area or place is free of charge;

“running light” means a portion of a sign in the form of an illuminated strip, the illumination of which varies periodically in such a way as to convey the impression of a pattern of lights moving steadily along such strip;

“sign” means any sign, signboard, screen, private lamp, blind or other device by means whereof any advertisement or notice is publicly displayed;

“sky sign” means any sign that is fixed above the roof of a building other than a roof of a verandah or a balcony and shall include any such sign consisting of a single line of free standing, individual, cut-out, silhouette letters, symbols or emblems; and

“thickness” of a projecting sign means the horizontal dimension of such sign measured parallel to the plane of the main wall to which such sign is affixed.

2. Purpose of the By-law

The purpose of the By-law is to provide for the control of advertising signs and the prohibition of disfigurement of the fronts or frontages of streets in the Elundini Municipality; and for matters connected therewith.

3. Affixing of posters and signs prohibited

Subject to the provisions of this By-law, no person shall affix a poster or any other sign on the front or frontage of any public road, wall, fence, land, rock, tree or other natural feature, or to the front, frontage or roof of any building.

4. Submission and approval of application to display sign

(1) Save as in section 25(2) as provided, every person intending to display a new sign or to alter or to add to an existing sign (hereinafter referred to as the “applicant”) shall make written application to the Municipality in the form prescribed in the Schedule to this By-law, submitting therewith plans drawn in accordance with the following requirements –

- (a) (i) the plans shall be drawn in black ink on tracing linen or stout durable drawing paper or shall be linen prints with black lines on a white background.
- (ii) such form and plans shall be in duplicate (one set of which shall become the property of the Municipality)

and shall be dated and signed in ink by the applicant or by a person authorised by such a person in writing to sign on his or her behalf, and all alterations and corrections to such form and plans shall be similarly dated and signed.

- (b) (i) Where the sign is to be affixed to a building, the plans shall include an elevation and a section of the façade and, where necessary, of the roof of the building, drawn to a scale of 1:100 upon which shall be depicted the sign, any other signs affixed to such façade or roof and enough of the main architectural features of such façade or roof to show the position of the sign in relation to such other signs and features.
- (ii) The location of the sign relative to the ground level and, where necessary, the kerb line shall also be shown on such elevation and section.
- (c) Where the sign is not to be affixed to a building, the location of the sign relative to the ground level and, where necessary, the kerb line shall be shown on an elevation, plan and section drawn to a scale of 1:100.
- (d) Elevations, including full particulars of the subject matter as detailed in section 7, plans and sections of the sign itself as may be necessary to show whether it complies with this By-law, accurately drawn to a large enough scale (but in no event less than 1:50) shall also be included.
- (e) The plans shall depict full details of the structural supports of the sign, drawn to a scale of 1:20.
- (f) The plans shall also include a site plan, drawn to a scale of 1:200, showing clearly and accurately the position of the sign and the building, if any, to which it is to be attached, in relation to such of the boundaries of the erf as may be affected by such position, and giving the name of the abutting street and the distance to and the name of the nearest named cross-street, and showing the direction of true north.
- (g) The plans shall indicate the materials of which the sign is to be constructed, the manner in which the lettering thereon is to be executed, the colours to be used, and whether or not the sign is to be illuminated, and in the latter event the plans shall indicate whether or not the sign is a flashing sign, and if the sign is a flashing sign,

full details of its frequency and variations or changes in appearance shall be furnished.

- (2) (a) Notwithstanding the provisions of subsection (1), it shall be lawful, subject to the provisions of section 6(1), to display any poster and to replace any poster by another poster of the same size without the consent of the Municipality, if any such poster as aforesaid is displayed at a cinema or theatre, or other place of public amusement, or on a hoarding, the erection and use of which for this purpose have been authorised by the Municipality, or is a poster which in terms of section 1 is deemed to be a flat sign.
- (b) The Municipality may, subject to such conditions as it may deem fit, grant permission for the display of posters on special occasions such as elections, festivities, university rag processions, etc.
- (3) The Municipality shall, within 21 days after receiving the form and plans referred to in subsection (1), specify to the applicant the provisions, if any, of this By-law, or of any other law that the Municipality is required or empowered to administer, with which such form or plans do not comply and the Municipality may, if it deems it necessary, return the form and plans to the applicant.
- (4) Where the form and plans comply with this By-law and any other law as aforesaid, the Municipality shall approve them and shall forward one set thereof to the applicant.
- (5) Approval granted in terms of subsection (4) shall become null and void if the sign has not been completed in accordance with the approved form and plans within 12 months of the date of such approval.

5. Existing signs to comply with By-law

- (1) (a) Every sign existing at the date of the promulgation of this By-law shall be made to comply therewith in all respects within a period of one year from the date of such promulgation.
- (b) Where any sign does not so comply after the said period of one year, it shall forthwith be removed.
- (2) Where any sign not complying with the provisions of this By-law has not been made to comply therewith within the aforementioned period of one year, or where any sign has been erected which is not in conformity therewith, the Municipality may order the owner thereof to remove such sign.

- (3) Whenever, through change of ownership or occupancy or change in the nature of the business, industry, trade or profession conducted on any premises or through the erection of new traffic signal lights or through an alteration in the level or position of any street, footway or kerb, or through any other cause whatsoever, a new sign ceases to comply with this By-law, such sign shall be forthwith removed, obliterated or altered by the person displaying such sign so as to comply with this By-law.

6. Enforcement

- (1) Any person who displays or attempts to display a new sign or who alters or adds to, or attempts to alter or add to, an existing sign without the prior approval of the Municipality given in terms of section 4, where such approval is required by the said section 4, shall be guilty of an offence.
- (2) Any such person shall forthwith, after service on him or her of an order in writing to that effect under the hand of the authorised employee of the Municipality, cease or cause to cease all work on the display of such new sign, or shall cease or cause to cease any alteration or addition to such existing sign, as the case may be, and any such person who fails to comply with such order shall be guilty of an offence.
- (3) Any person who, having obtained such approval, does anything in relation to any sign which is a departure from any form or plan approved by the Municipality shall be guilty of an offence.
- (4) Any such person shall forthwith, after the service upon such a person, of an order in writing to that effect under the hand of the authorised employee of the Municipality, discontinue or cause to be discontinued such departure, and any person who fails to comply with such order shall be guilty of an offence.
- (5) Whether or not any such order as is referred to in subsections (2) and (4) has been served on any such person, the Municipality may serve upon such person an order in writing requiring such person forthwith to begin to remove or obliterate such sign or anything referred to in subsection (3) and to complete such removal or obliteration by a date to be specified in such order, which date may be extended by the Municipality as it may deem fit.
- (6) If before the date for completion of the removal or obliteration required by such order such person satisfies the Municipality that such a person has complied with this By-law, the Municipality may withdraw such order.

- (7) Where any person displaying a sign contravenes any of the provisions of this By-law other than those relating to the matters referred to in subsections (1) and (3), the authorised employee of the Municipality may serve a notice in writing under his or her hand upon such person, and in such notice shall cite the provisions contravened and shall specify the things to be done in order that such provisions may be complied with.
- (8) Any person who fails to comply with any order referred to in subsection (5) or with the terms of any notice referred to in subsection (7) shall be guilty of an offence, and in addition the Municipality itself may give effect to such order or notice at the expense of such person.

7. Subject matter of signs

- (1) No sign on any premises shall contain any words, letters, figures, symbols, pictures or devices (hereinafter called "subject matter") unless every part of such subject matter falls into one or more of the following categories –
- (a) the name, address and telephone number of such premises or part thereof;
 - (b) the name of the occupier of such premises or part thereof;
 - (c) a general description of the type of trade, industry, business or profession lawfully conducted on such premises or part thereof by the occupier thereof;
 - (d) any information, recommendation or exhortation concerning, or any name, description, particulars or other indication of –
 - (i) any goods, not being samples, regularly and lawfully manufactured, kept and sold or kept and offered for sale on such premises; or
 - (ii) any services regularly and lawfully rendered or offered on such premises; or
 - (iii) any catering or any entertainment or amusement or any cultural, educational, recreational, social or similar facilities lawfully provided or made available on such premises, or any meeting, gathering or function lawfully held on such premises:

Provided that this paragraph shall not be construed as permitting any subject matter, which, in the opinion of the

Municipality, is an evasion of or not in accordance with the intent of this paragraph.

- (2) Notwithstanding the provisions of subsection (1), in the case of any premises partly or wholly used for residential purposes, no sign other than the name of such premises shall be displayed on the part of such premises used for residential purposes.
- (3) The provisions of this section shall not apply to any sign referred to in section 25(2).
- (4) Where a sign is displayed by means of a device whereby a series of consecutive signs is displayed at one place, the provisions of subsection (1) shall, subject to the following conditions, not apply to any such sign –
 - (a) no sign in such series, other than a sign permitted in terms of subsection (1), shall be displayed on any one occasion for a longer period than 20 seconds;
 - (b) the individual signs consecutively displayed within any particular 10-minute period shall all be completely different from one another in so far as their subject matter is concerned: Provided that this paragraph shall not apply to any sign permitted in terms of subsection (1);
 - (c) where such device is capable of displaying news or of providing entertainment, it shall not be operated in any position or place where in the opinion of the Municipality such operation may bring about or aggravate congestion of vehicular or pedestrian traffic;
 - (d) no such device whether or not it is capable of displaying news or of providing entertainment shall be operated in any position or place where in the opinion of the Municipality such operation or any gathering of persons brought about thereby may detract from the amenities of the neighbourhood or to depreciate property or to cause a public nuisance; and
 - (e) no such sign shall have a clear height of less than 9 m; and
 - (f) notwithstanding the granting of approval by the Municipality for the display of signs referred to in this subsection, the Municipality shall be entitled at any time thereafter to revoke such approval if it is satisfied that the display of such signs is in contravention of paragraph (a), (b) or (e) or is bringing or has brought into existence the conditions referred to in paragraph (c) or (d).

- (5) (a) Where the Municipality, by notice in writing informs any person displaying signs referred to in subsection (4) of the revocation of its approval for such display, such person shall forthwith cease to display such signs and shall remove the device by means whereof such signs are displayed by a date to be specified in such notice, which date may be extended by the Municipality as it may deem fit.
- (b) Any person who fails to comply with any notice referred to in paragraph (a) shall be guilty of an offence, and in addition the Municipality itself may give effect to such notice at the expense of such person.

8. Signs allowed on buildings

- (1) The following signs and no others may be affixed to or painted on buildings: Provided that the Municipality may prohibit the erection of certain or all of the undermentioned signs or the use of certain colours therein –
- (a) flat signs;
 - (b) projecting signs;
 - (c) sky signs;
 - (d) signs affixed to or painted on verandahs or balconies;
 - (e) signs painted on sunblinds affixed to buildings; or
 - (f) any sign referred to in section 25(2), if all the conditions applicable to such sign are complied with.

9. Flat signs

- (1) Flat signs shall not exceed, in aggregate area, 40 m² or one-quarter of the overall area of the main wall to which they are affixed or on which they are painted, whichever of these figures is the lesser: Provided that the Municipality may fix a lesser aggregate area for any flat sign.
- (2) No flat sign shall extend above the top of such main wall or beyond either end of such main wall.
- (3) (a) Where a building which is adjacent to another building, and which extends over the boundary line of the prospective width of a proclaimed road or public street, is demolished either wholly or partially and is reconstructed in such a manner that it no longer extends over the

aforementioned boundary line, no flat sign shall be permitted on the sidewall of such other building facing the building so reconstructed, in so far as the said sidewall extends over the aforementioned boundary line.

- (b) For the purpose of this section –
- (i) “prospective width” in relation to a proclaimed road shall mean the statutory width as contemplated by any enactment promulgated by any legislative body which has legal competency to pass legislation on such a matter and in relation to a public road shall mean the width whereto it is to be widened in accordance with a town planning scheme whether in the course of preparation, awaiting approval or in operation;
- (ii) “adjacent” shall mean a distance of 6 m or less.

10. Projecting signs

- (1) No part of any projecting sign shall project in front of the main wall to which such sign is affixed to a greater extent than –
- (a) 1,5 m in the case of a sign which has a clear height of not less than 7,5 m; or
- (b) 1 m in the case of any other sign:
- Provided, however, that where such a sign has a clear height of less than 7,5 m:
- (a) any portion of such sign which is not more than 600 mm in depth may project as aforesaid to an extent of more than 1 m, but not more than 1,5 m: Provided further that there shall be a clear vertical distance of not less than 3,6 m between any two successive portions, if any, so projecting; and
- (b) any such sign which is not more than 600 mm in depth may project as aforesaid to an extent of more than 1 m, but not more than 1,5 m: Provided further that there shall be a clear vertical distance of not less than 3,6 m between any two such signs, if any, which are in the same vertical plane.
- (2) No projecting sign shall extend above the top of the main wall to which it is affixed.

- (3) The depth of a projecting sign shall not exceed one-and-a-quarter times the clear height of such sign.
- (4) A projecting sign shall not exceed 600 mm in thickness.

11. Sky-signs

- (1) The depth of a sky-sign shall not exceed one-sixth of the clear height of such sky-sign.
- (2) No sky-sign shall project in front of a main wall of a building so as to extend, in plan, beyond the roof of such building in any direction.
- (3) The length of a sky-sign shall not exceed –
 - (a) 14 m, if the depth of such sky-sign does not exceed 4,5 m;
or
 - (b) 18 m, if the depth of such sky-sign exceeds 4,5 m.
- (4) Subject to the preceding provisions of this section the Municipality may allow a sky-sign in excess of 18 m in length whenever the street frontage of a site exceeds 55 m: Provided that –
 - (a) such sky-sign shall consist of a single line of free standing, individual, cut-out, silhouette letters, symbols or emblems;
 - (b) the length of such sky-sign shall not exceed one-third of the length of the road frontage of such site;
 - (c) such sky-sign shall be erected parallel to the road frontage of such site; and
 - (d) if as a result of the road frontage of such site being reduced such sky-sign ceases to comply with the preceding provisions of this section, the owner of such site shall forthwith remove such sky-sign or alter it so as to comply with such provisions.

12. Signs on verandahs and balconies

- (1) The following signs and no others may be affixed to or painted on verandahs and balconies –
 - (a) signs affixed flat on to or painted on a parapet wall, balustrade or railing of a verandah or a balcony;

- (b) signs affixed flat on to or painted on a beam or fascia of a verandah or a balcony; and
 - (c) signs suspended below the roof of a verandah or the floor of a balcony.
- (2) No sign affixed to a parapet wall, balustrade or railing of a verandah or a balcony shall exceed 1 m in depth, or project above or below or beyond either end of such parapet wall, balustrade or railing, or project more than 250 mm in front of such parapet wall, balustrade or railing.
- (3)
 - (a) No sign affixed to a beam or fascia of a verandah or balcony shall exceed 600 mm in depth, or project above or below or beyond either end of such beam or fascia, or project more than 250 mm in front of such beam or fascia.
 - (b) Where any such sign is affixed to a beam which is at right angles to the building line and which is below the roof of a verandah or the floor of a balcony, such sign shall not exceed 1,8 m in length.
- (4) No sign suspended below the roof of a verandah or the floor of a balcony shall exceed 1,8 m in length or 600 mm in depth and every such sign shall be at right angles to the building line.
- (5) Notwithstanding the foregoing, it shall be permissible to erect a sign on the roof of a verandah or balcony: Provided that –
 - (a) such sign shall be composed of a single line of free-standing, individual, cut-out silhouette letters;
 - (b) such sign shall lie in the vertical plane passing through the foremost edge of such roof, being an edge parallel to the kerb line;
 - (c) the subject matter of such sign shall be limited to that referred to in paragraphs (a), (b) and (c) of section 7(1); and
 - (d) the depth of such sign shall not exceed 600 mm.
- (6) Notwithstanding the provisions of section 17(1), it shall be permissible for a sign suspended below the roof of a verandah or the floor of a balcony to be bordered by a running light: Provided that such running light border shall be not more than 75 mm in width.

13. Signs over footways forming part of public roads

- (1) Any sign projecting over a footway forming part of a public road shall be not less than 2,4 m in clear height: Provided that a flat sign in the form of a showcase for the display of goods may project not more than 50 mm over such footway if such footway is not less than 1,5 m wide, irrespective of the clear height of such showcase.
- (2) Any sign projecting more than 150 mm over any place where persons may walk, if such place is not a footway forming part of a public road, shall be not less than 2,1 m in clear height.
- (3) No part of a sign projecting over a footway forming part of a public road shall be nearer than 300 mm to a vertical plane through the kerb line of such footway.
- (4) Where a public road has no footway, signs may project over the carriageway of such public road if such signs are not less than 6 m in clear height.

14. Prohibited signs

- (1) Notwithstanding anything in this By-law contained, the following types of signs are prohibited –
 - (a) swinging signs, loose portable signs (other than signs designed for the purpose of being carried through the streets and signs on portable racks or other articles for containing and displaying goods), aerial signs and other signs not rigidly fixed;
 - (b) posters, except:
 - (i) any poster referred to in section 3 of this By-law;
 - (ii) any poster comprising any such sign as is referred to in section 25(2) of this By-law; and
 - (c) any sign which is so placed as to obstruct, obscure, interfere with, or otherwise be likely to introduce confusion into the effective working of any traffic sign.
- (2) No person shall exhibit in any place to which the public has access or shall expose to public view, any advertisement, placard, poster, engraving, picture, drawing, print or photograph of an indecent, obscene, repulsive, revolting or objectionable character, or of a nature calculated to produce a pernicious or injurious effect on the public or any particular class of persons.

- (3) Any person contravening the provisions of subsection (2) shall be guilty of an offence.

15. Signs on walls, fences and hoardings

- (1) Except as in section 25 provided, no sign shall be affixed to or painted on a wall (other than a wall of a building), a fence or a hoarding, unless in the opinion of the Municipality such wall, fence or hoarding serves primarily either to conceal a condition or attribute of the property on which such wall, fence or hoarding is erected, which condition or attribute is unsightly by reason of the use to which such property is lawfully being put, or unless such wall, fence or hoarding is a temporary measure to protect the public in the neighbourhood of building, demolition or similar operations.
- (2) In granting its approval in terms of section 4 for the affixing or painting of any such sign, the Municipality may grant such approval for a limited period only, and the provisions of section 6 shall not apply to such sign.
- (3) Every such sign affixed or painted in terms of this section shall comply with the following requirements –
- (a) no such sign shall exceed 3 m in depth or 4,2 m in overall height; and
 - (b) poster signs shall be enclosed with definite panels, which shall be uniform in size and level.

16. Signs on poles and other structures

- (1) Except as in section 25 provided, no sign shall be affixed to or painted on a pole or any other structure which is not a building, wall, fence or hoarding unless:
- (a) such sign is indispensable for the effectual conduct of the activity in connection with which it is displayed; and
 - (b) either:
 - (i) it is impracticable to display a sign effectively at the premises concerned except by affixing a sign to or painting a sign on a pole or other structure as aforesaid; or
 - (ii) in the opinion of the Municipality a particular sign intended to be affixed to or painted on a pole or other structure as aforesaid would not detract from

the amenities of the neighbourhood or depreciate neighbouring property to a greater extent than a sign capable of being displayed at the premises in conformity with any other section of this By-law would do.

- (2) Where in the opinion of the Municipality serious difficulty is experienced by the public in finding the way to a factory in an industrial zone the Municipality may permit the erection of a signboard on a pole on a vacant erf in such zone for purposes of indicating the direction to such factory, subject to the following conditions –
 - (a) not more than one such signboard shall be erected on any one erf, but it shall be permissible to indicate the direction to more than one factory on any such signboard; and
 - (b) the subject matter of the signs on such signboard shall be limited to the names of the factories concerned, the names of their occupiers, and essential directional information and the lettering employed shall not exceed 100 mm in height.
- (3) Where in its opinion this is reasonably required, the Municipality may permit the erection of a signboard on a pole on a vacant erf in a township for the purposes of displaying thereon a map showing the street names and erf numbers of such township, together with the name and address of the owner of or agent for such township and the name of the township and such signboard shall not exceed 3,6 m² in area, and the lettering employed thereon shall not exceed 100 mm in height.
- (4) In granting its approval in terms of section 4 for the display of any sign referred to in subsection (1), (2) or (3) of this section the Municipality may grant such approval for a limited period only and on the expiry of such period the person displaying such sign shall forthwith remove it.

17. Signs on vehicles and signs carried through the street

- (1) No person shall carry or cause to be carried in any public road any sandwich board, flag, banner, screen or other movable advertising device if such board, flag, banner, screen or other device hinders or obstructs traffic in such road, or is likely to do so.
- (2) No person shall drive or propel or cause to be driven or propelled in any public road any advertising van or other movable advertising device if such van or device hinders or obstructs traffic in such road, or is likely to do so.

- (3) Any person who contravenes the provisions of subsections (1) or (2) shall be guilty of an offence.

18. Illuminated signs

- (1) No flashing sign shall be less than 9 m in clear height, and no illuminated sign shall be displayed in such a position that it is or is likely to be a danger to traffic or to cause confusion with traffic signals.
- (2) No sign that is so intensely illuminated as to create a nuisance shall be displayed.

19. Election posters

- (1) Subject to the provisions of this By-law, election posters may be displayed in public places at the time of any national, provincial or municipal election, including any municipal by-election.
- (2) The display of an election poster shall be for a limited duration and, in any event, shall not be permitted after the expiry of 30 days from the date of the election to which it refers.
- (3) The duty to remove an election poster from display shall be that of-
- (a) the political party which caused the election poster to be displayed; or
 - (b) the candidate, in the event that he or she does not represent any political party.
- (4) Any failure to remove an election poster within the time period specified in subsection (2) shall be an offence, for which the penalties in section 27 may be imposed.

20. Structural requirements

- (1) (a) Every sign affixed to a building or structure shall be rigidly attached thereto.
- (b) Every sign which is affixed to the ground and every structure supporting a sign, which structure is affixed to the ground, shall be rigidly anchored to the ground.
- (c) Every sign and its supports and anchorages, and the building or structure, if any, to which it is affixed, shall be of adequate strength to resist, with a safety factor of 4, the dead load of the sign and a superimposed horizontal wind pressure of 1,5 kPa.

- (2) All signs and supports thereof which are attached to brickwork or masonry shall be attached thereto by means of expansion bolts or by means of bolts passing through such brickwork or masonry and secured on the opposite side thereof and such bolts shall be not less than 12 mm in diameter.
- (3) Every sign affixed to a building or a wall shall be supported by at least four independent supports so designed and disposed that any two of such supports will safely support the sign with a safety factor of 2.
- (4) All exposed metalwork in a sign or its supports shall be painted or otherwise treated to prevent corrosion and all timber in a sign or its supports shall be treated with creosote or other preservative to prevent decay.
- (5) Every person displaying a sign shall cause such sign and its supports to be maintained in a safe condition at all times and any person who contravenes the provisions of this subsection shall be guilty of an offence.

21. Use of glass

- (1) All glass used in signs (other than glass tubing used in neon and similar signs) shall be plate glass at least 5 mm thick.

22. Fire precautions

- (1) Except as in section 25 provided, all illuminated signs and supports thereof shall be of incombustible material: Provided that the Municipality may allow any sign approved in terms of sections 14 and 15 and any support for any such sign to be of combustible material.
- (2) No person shall display a sign in such a way or in such a position that it may, partly or completely, obscure a sign displayed by the Municipality to indicate the location of emergency equipment or a fire hydrant terminal.

23. Electrical requirements

- (1) No sign shall be illuminated except by electricity from the Municipality's mains where such supply is available.
- (2) Every sign in connection with which electric current is used shall be provided with an external switch in a position to be determined by the Municipality whereby the electricity supply to such sign may be switched off.

24. Display of signs on old buildings

No person shall alter any building or works or part thereof, older than 60 years, by affixing and displaying any sign thereon unless he or she has successfully applied for the necessary permit issued by the relevant provincial heritage resources authority in terms of the National Heritage Resources Act, 1999 (Act No. 25 of 1999), as amended from time to time.

25. Exemptions

- (1) The provisions of this By-law shall not apply to any sign inside a building, except illuminated signs in shop windows.
- (2) There shall be exempted from the provisions of sections 3, 14, 15 and 21 any sign that falls into one or other of the following categories –
 - (a) any sign displayed by the Municipality or by any public transport company lawfully authorised to conduct a system of transport for use by the public, and any sign affixed to a street pole with the written permission of the Municipality;
 - (b) any sign inside a shop window;
 - (c) any advertisement appearing in a newspaper or periodical sold on the streets, and any poster in connection therewith;
 - (d) any sign temporarily displayed on the occasion of –
 - (i) any public thanksgiving, rejoicing or mourning; or
 - (ii) any other public function or occasion to which the Municipality may apply the provisions of this paragraph;
 - (e) any sign displayed on any vehicle ordinarily in motion upon public roads, and any sign carried by such vehicle;
 - (f) any unilluminated sign not projecting over a public road and not exceeding 0,60 m² in area, notifying only that the premises to which it is attached are to be sold on a date specified in such sign, or that a sale of furniture or household goods is to take place therein on a date specified in such sign (neither of which dates shall be more than one month after the date when the sign is first displayed): Provided that only one such sign is displayed on any public road frontage of such premises and that it is removed within seven days after the said specified date;

- (g) any unilluminated sign not projecting over a public road and not exceeding 0,20 m² in area, notifying only that the premises to which it is attached are for sale or to let or that lodgers and boarders may be received therein: Provided that only one such sign is displayed on any public road frontage of such premises;
- (h) any unilluminated sign not projecting over a public road and not exceeding 1,2 m² in area, comprising only the name, address and telephone number of any building or premises not used for purposes of industry or trade, and attached to such premises: Provided that only one such sign is displayed on any public road frontage of such premises;
- (i) any unilluminated sign not projecting over a public road and not exceeding 0,20 m² in area, notifying only the types of trade, business, industry or profession lawfully conducted by any occupant of the premises to which it is attached, the name of such occupant, the address and telephone number of such premises and the hours of attendance (if any): Provided that only one such sign is displayed by any occupant on any public road frontage of such premises;
- (j) any unilluminated sign not projecting over a public road and not exceeding 0,60 m² in area, advertising a function to be conducted on a date specified in such sign on the premises to which it is attached: Provided that such function is not conducted for the private gain of any individual: Provided further that such date is not more than one month after the date when such sign is first displayed and: Provided lastly that only one such sign is displayed on any public road frontage of such premises and that it is removed within seven days after the said specified date;
- (k) any unilluminated sign not projecting over a public road, which serves only for purposes of warning or indication of direction in relation to the premises to which such sign is attached, and which is no bigger or higher than is reasonably necessary for the effectual performance of its functions;
- (l) any sign painted directly on, or forming part of the permanent fabric of, a wall of a building;
- (m) any sign painted or otherwise executed on the glass of any window;
- (n) any sign painted directly on a verandah or balcony if it complies with section 12;

- (o) any sign required to be displayed by law; and
- (p) any sign displayed at premises upon which building operations are taking place relating to any services being provided, or any work being done, or any goods being supplied in connection with such operations: Provided that any such sign shall be forthwith removed when the provision of such services or the doing of such work or the supply of such goods, as the case may be, has ceased.

26. Savings

Nothing in this By-law contained shall be construed as affecting in any way rights belonging to, or duties imposed upon, the Municipality as the body in whom is lawfully vested the ownership of, or the control over, any public road or other place or thing whatsoever within its area of jurisdiction.

27. 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 this By-law: Provided that any person whose rights are adversely affected by such waiver or relaxation shall not be bound thereby.
- (2) In each case in which such waiver or relaxation has been granted to any person, the Municipality shall 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 shall keep a record containing an identical copy of each such notice, which record shall be available for inspection by members of the public at the offices of the Municipality.

28. Penalty clause

In addition to any offence created by a specific provision of this By-law, any person who contravenes or fails to comply with any provision of this By-law shall be guilty of an offence and liable upon conviction to a penalty not exceeding –

- (a) a fine or imprisonment or both such fine and such imprisonment;
- (b) in the case of a continuing offence, an additional fine or an additional period of imprisonment or both such additional fine and imprisonment for each day on which such offence is continued; and

- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as a result of such contravention or failure.

29. Short title

This By-law shall be called the Advertising Signs and Disfigurement of the Frontages of Streets By-law, 2015 and commences on the date of promulgation in the *Provincial Gazette*.

PROVINCIAL NOTICE 43 OF 2016**BARBERS, HAIRDRESSERS AND BEAUTICIANS BY-LAW****[Local Authority Notice No.____]****[Date of Commencement: ____]****ELUNDINI LOCAL MUNICIPALITY BARBERS, HAIRDRESSERS AND
BEAUTICIANS BY-LAW**

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 (Act No. 108 of 1996), the Barbers, Hairdressers and Beauticians By-law.

Arrangement of sections

1. Definitions
2. Purpose of the By-law
3. Licence to operate
4. Hygiene on premises
5. General hygiene
6. Removal and impoundment
7. Authority to issue notice in terms of the CPA
8. Penalties
9. Short title and commencement

1. Definitions

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

“**authorised official**” means an employee of the municipality who is duly authorised by the municipality to perform a function or exercise a power for the implementation of this By-law;

“**barber or hairdresser**” means a person who carries on or assists in carrying on the business of cutting, shaving or dressing the hair of human beings;

“**beautician**” means a person who carries on or assists in carrying on the business of manicure, pedicure, massage and beauty treatment;

“**CPA**” means the Criminal Procedure Act, 1977 (Act 51 of 1977), as amended;

“**dwelling**” means any place the whole or part of which is used as a sleeping place or is habitually occupied by a person;

“**licence**” means a licence issued in terms of section 3 and which has not expired or been cancelled;

“**municipal police service**” means the municipal police service of the municipality, established in terms of section 64A of the South African Police Service Act, 1995 (Act 68 of 1995); and

“**municipality**” means the Elundini Local Municipality, established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in terms of this By-law by virtue of a power vested in the municipality and

delegated to such political structure, political office bearer, councillor, agent or employee.

2. Purpose of the By-law

The purpose of the By-law is to-

- (a) promote the achievement of a safe and clean environment for the benefit of all residents within the area of jurisdiction of the municipality; and
- (b) to provide for procedures, methods and practices for the regulation of the business of barbers, hairdressers and beauticians.

3. Licence to operate

- (1) A person shall not carry on the business of a barber, hairdresser or beautician –
 - (a) unless he or she is in possession of a business licence or similar written authority, granted to him or her by the municipality;
 - (b) on premises other than those specified in such licence; or
 - (c) otherwise than in accordance with the conditions subject to which such licence has been granted.
- (2) Every application for a licence shall be submitted in writing to the municipal manager –
 - (a) at least one month before the date on which it is intended to commence the business;

- (b) in the case where the business is already being carried on at the date when this By-law comes into operation, within one month from such date; or
 - (c) in the case of the renewal of an existing licence, at least 14 days before the expiry of such licence.
- (3) Every applicant shall furnish such further particulars in connection with his or her application as may be required by the municipal manager.
- (4) A duly delegated official shall inspect the premises in respect of which an application has been lodged and shall report thereon to the municipal council.
- (5) After considering the report, the municipal council may, subject to such conditions as it deems appropriate, grant a licence to the applicant in the event that it is satisfied –
- (a) that the premises –
 - (i) conform to the requirements set out in section 4;
 - (ii) do not form part of a dwelling;
 - (iii) are situated in a suitable locality; and
 - (b) that the business is and can be carried on properly and in compliance with this By-law.
- (6) Unless previously cancelled, a licence issued in terms of subsection (5) shall expire on 31 December of the year for which it was issued.

4. Hygiene on premises

No person shall carry on the business of a barber, hairdresser or beautician unless –

- (a) all parts of such premises are effectively illuminated and ventilated;
- (b) there is provision on such premises for employees of each sex, separately, at least one toilet for every twenty or part thereof of that sex; provided that where the majority of employees is of one sex and not more than two are of the other sex, separate toilet accommodation need not be provided for the latter;
- (c) there is fixed on the premises at least one wash-basin with running water, hot and cold, and fitted with a trap or waste pipe for every two or part of two persons engaged at the same time on the premises in any operation in connection with the business of a barber, hairdresser or beautician;
- (d) the wall at the rear of each such wash-basin or sink on the premises is lined to a height of not less than 450 mm above the tap and for the full width of such wash-basin or sink with glass, glazed tiles or other similar glazed, durable or non-corroding material approved by the municipality;
- (e) all tables and shelves on such premises and on which instruments are usually laid are constructed of or covered with glass, glazed tiles or other similar glazed, durable or non-corroding material approved by the municipality;

- (f) such premises have an even floor suitably covered with material that can be easily swept and thoroughly cleaned;
- (g) a minimum of 14 m³ of air space, per chair, is provided;
- (h) the premises on which such business is carried on and all instruments and other articles thereon, which are used or intended to be used in connection with such business, are at all times clean and in good working order; and
- (i) a sufficient number of brushes, combs, razors, scissors, clippers or other instruments for the purpose of carrying on such business is kept on the premises.

5. General hygiene

No person carrying on the business of a barber, hairdresser or beautician or assisting in any such business shall –

- (a) use or keep a hairbrush or equipment, instruments or articles for use in such business unless they are thoroughly clean and sterilised before use, and if articles or instruments are destined for non-recurrent use then they shall not be used repeatedly;
- (b) in such business, use or allow the use of any towel upon a person unless it has been thoroughly washed and sterilised after having been used upon another person;
- (c) in such business, use or allow the use of a covering or garment upon any person so as to come into contact with the head, face and neck of such person unless it has been thoroughly washed and sterilised after being used upon another person;

- (d) attend to or allow any person to be attended to unless an unused piece of clean paper or linen, which has been washed and sterilised since previous use, has been applied to such person so as effectively to prevent direct contact of the head, neck and face of such a person with the chair occupied by him or her;
- (e) use or allow the use of any brush, comb, razor, scissors, clipper or other instrument, which has been in contact with an exposed part of a person's body, upon any other person unless-
 - (i) it has been thoroughly cleaned in boiling water;
 - (ii) it has been immersed for at least ten minutes in a disinfectant solution of a germicidal strength not less than that of a five percent solution of carbonic acid and has thereafter, before use, been thoroughly rinsed in clean water; and
 - (iii) it has been treated in a special disinfecting apparatus and in a manner approved by the municipality.
- (f) on that part of the premises where such business is ordinarily carried on, subject or allow any person who appears to be verminous or suffering from any hair or skin disease to be subjected to shaving, haircutting or any other operation connected with such business;
- (g) use or allow the use of any towel, instrument or other article which has been used on a person referred to in subsection (f) unless it has been sterilized;

-
- (h) in such business, use or allow the use of-
- (i) soap, shaving cream, wax or similar substance in other than its liquid, powder or tube form;
 - (ii) soap in cake or tablet form;
 - (iii) any styptic or other anti-haemorrhagic agent other than liquid or powder, applied as a spray or by means of a clean and unused piece of cotton wool, sponge, powder puff or alum or other styptic in stick or block form;
- (i) allow any operation pertaining to the business of a barber, hairdresser or beautician to be applied to any person, unless the person so applying:
- (i) wears clean clothes;
 - (ii) has, immediately before commencing such operation, washed his or her hands; and
 - (iii) is free from any infectious or contagious disease, any disruptive disorder or any discharging ulcer or sore, alternatively, if he or she has attended to or been in contact with a person thus afflicted, then he or she has thoroughly disinfected him- or herself before commencing such operation;
- (j) when engaged in any operation in such business:
- (i) use his or her breath to blow away any hair or other matter which may have fallen upon a person in the course of such operation; and

- (ii) remove such hair or matter otherwise than by means of a soft brush or a compressed air blower.

6. Removal and impoundment

- (1) An authorised official may remove and impound any article, receptacle, vehicle or structure –
 - (a) which he or she reasonably suspects is being used or has been used for or in connection with the operation of the business of a barber, hairdresser or beautician; and
 - (b) which he or she finds at a place where the operation of such business contravenes this By-law.
- (2) An authorised official acting in terms of this By-law shall –
 - (a) keep a proper record of any property so removed and must inform the person apparently in control of such property of the procedure to be followed for reclaiming such property and the venue where such property will be impounded; and
 - (b) forthwith deliver such property to the offices of the municipality for safekeeping.
- (3) Any property so removed and impounded –
 - (a) may be sold or destroyed within a reasonable time after the impoundment thereof: provided that such property shall, subject to the provisions of subsection (4), at any time prior to the disposal or selling thereof, be returned on proof of ownership; and

- (b) shall, subject to the provisions of sub-section (4), be returned on proof of ownership within a period of one month of the date of impoundment.
- (4) The municipality shall be entitled to keep the property concerned until the owner thereof has complied with the provisions of this By-law, failing which the property may be sold by public auction upon 14 days' notice.
- (5) In the case of the sale of any impounded property by the municipality, the proceeds of such sale, less any reasonable expenses incurred, shall be paid to the person who was the owner of such property when it was impounded: provided that such proceeds shall be forfeited to the municipality in the event that the former owner fails to claim the proceeds within three months of the date on which such property was sold.
- (6) The owner of property which has been removed, impounded, sold or disposed of, as contemplated in this section, shall be liable for all expenses incurred by the municipality in connection with such removal, impoundment, sale or disposal.

7. Authority to issue written notice in terms of the CPA

- (1) An authorized official or member of the municipal police service may issue a written notice to any person who is alleged to have contravened the provisions of this By-law, such notice having the legal effect of a written notice issued in terms of section 56 of the CPA, provided that the provisions of sub-sections (2) to (4), hereunder, are satisfied.
- (2) For the purposes of sub-section (1), an authorised official must be a peace officer in terms of section 334 (1) of the CPA.

- (3) Any notice issued in terms of sub-section (1) must comply with the requirements of section 56 (1) of the CPA and shall –
- (a) specify the name, the residential address and the occupation or status of the person;
 - (b) call upon such person to appear at a place and on a date and at a time specified in the written notice to answer a charge of having contravened this By-law;
 - (c) contain an endorsement in terms of section 57 of the CPA that the person may admit his or her guilt in respect of the contravention in question and that he or she may pay a stipulated fine in respect thereof without appearing in court; and
 - (d) contain a certificate under the hand of the authorised official that he or she has handed the original of such written notice to the person in question and that he or she has explained to such person the import thereof.
- (4) The issuing of any notice in terms of sub-section (1) must be done in accordance with any set of procedures or guidelines that may have been prepared and adopted by the municipality.

8. Penalties

- (1) Any person who contravenes or fails to comply with any provision of this by-law shall be guilty of an offence and liable upon conviction to a fine or imprisonment or a combination of both.
- (2) In the case of a continuing offence, an additional fine or an additional period of imprisonment or a combination of both for each day on which such offence is continued.

9. Short title and commencement

This By-law shall be called the Barbers, Haidressers and Beauticians By-law, 2015 and commences on the date of promulgation in the *Provincial Gazette*.

PROVINCIAL NOTICE 44 OF 2016
BUILDING CONTROL BY-LAW

[Local Authority Notice No. _____]

[Date of Commencement: _____]

ELUNDINI LOCAL MUNICIPALITY BUILDING CONTROL BY-LAW

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, 1996, the Building Control By-Law.

Arrangement of sections

1. Definitions
2. Purpose of the By-law
3. Conflict with other legislation
4. Erection of buildings
5. Demolition or alteration of certain buildings
6. Compliance with provisions of land use scheme
7. Application of LUPO
8. Unauthorized and illegal discharges
9. Waste management
10. Authorization of officer
11. Functions of authorized officer
12. Powers of authorized officer
13. Power of entry to a private dwelling
14. Warrant of entry for enforcement purposes
15. Observing fundamental rights
16. Using force to enter
17. Authority to issue written notice in terms of the CPA
18. Contravention notice
19. Contents of contravention notice
20. Remedies for contravention
21. Contents of prohibition order

22. Display of prohibition order notice
23. Order for demolition, removal, alteration or rehabilitation
24. Service of documents
25. Offences and penalties
26. Additional penalties
27. Offences and penalties in relation to obstructing the Municipality
28. Payments of fines and other amounts to the Municipality
29. Consequences of non-payment
30. Indemnity
31. Delegation of powers
32. Short title

1. Definitions

In this By-law, unless the context otherwise indicates—

“**Act**” means the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977) and shall include any regulation made in terms thereof;

“**authorised officer**” means an employee of the Municipality who is duly authorised by the Municipality to perform a function or exercise a power for the implementation of this By-law and includes a building control officer and an inspector;

“**building**” includes—

- (a) any structure, whether of a temporary or permanent nature and irrespective of the materials used in the erection thereof, including a marquee or a tent, that is erected or used for or in connection with—
 - (i) the accommodation or convenience of human beings or animals;

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

“**building control officer**” means any person appointed or deemed to be appointed as building control officer by the Municipality in terms of section 5 of the Act;

“**CPA**” means the Criminal Procedure Act, 1977 (Act No. 51 of 1977), as amended;

“**erection**”, in relation to a building, includes the alteration, conversion, extension, rebuilding, re-erection, subdivision of or addition to, or repair of any

part of the structural system of, any building; and **“erect”** shall have a corresponding meaning;

“inspector” means a person designated or appointed as an inspector in terms of section 32 of SPLUMA;

“land use” means the purpose for which land is or may be used lawfully in terms of a land use scheme, existing scheme or in terms of any other authorisation, permit or consent issued by a competent authority, and includes any conditions related to such land use purposes;

“land use scheme” means the documents referred to in Chapter 5 of SPLUMA for the regulation of land use;

“LUPO” means the Land Use Planning Ordinance (Eastern Cape) No.15 of 1985, as amended;

“Municipality” means the Elundini Municipality;

“private dwelling” means a self-contained and substantial unit of accommodation and includes a block of flats, dwelling-house, residential building or a town house, as may be defined in terms of the land use scheme;

“SPLUMA” means the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013), amendments thereto, and any regulations made in terms thereof;

“structural system”, in relation to a building, means the system of constructional elements and components of any building which is provided to resist the loads acting upon it and to transfer such loads to the ground upon which the foundation of the building rests;

“zoning”, when used as a noun in terms of LUPO, means a category of directions setting out the purpose for which land may be used and the land use restrictions applicable in respect of the said category of directions, as determined by relevant scheme regulations; and

“**zoning scheme**” means the scheme prepared by the Municipality in terms of LUPO, consisting of scheme regulations and a register, with or without a zoning map.

2. Purpose of the By-law

The purpose of the By-law is to provide for the control of buildings erected on land within the municipal boundaries of the Municipality, and for matters connected therewith.

3. Conflict with other legislation.

To the extent that this By-law conflicts with national or provincial legislation, it shall be invalid.

4. Erection of buildings

- (1) No person shall, without the prior written approval of the Municipality, erect any building in respect of which plans and specifications are to be drawn and submitted in terms of the Act.
- (2) If any building or earthwork–
 - (a) in the opinion of the Municipality, is being erected or is to be erected in such manner that it–
 - (i) will not be in the interest of good health or hygiene;
 - (ii) will be unsightly or objectionable;
 - (iii) will probably or in fact be a nuisance to the occupiers of adjoining or neighbouring properties;

(iv) will probably or in fact derogate from the value of adjoining or neighbouring properties;

(b) is being or is to be erected on a site which is subject to flooding or on a site which or any portion of which in the opinion of the Municipality does not drain properly or is filled up or covered with refuse or material impregnated with material liable to decomposition,

the Municipality may serve a written notice on such person, prohibiting him or her from erecting the building or earthwork or causing such building or earthwork to be erected from commencing or proceeding with the erection thereof or from so commencing or proceeding except on such conditions as the Municipality may determine from time to time.

5. Demolition or alteration of certain buildings

(1) If the Municipality is of the opinion that—

(a) any building is dilapidated or in a state of disrepair or shows signs thereof;

(b) any building or the land on which a building was or is being or is to be erected or any earthwork is dangerous or is showing signs of becoming dangerous to life or property,

then it may serve a written notice on the owner of such building, land or earthwork, within a specified period, to demolish such building or to alter or secure it in such manner that it will no longer be dilapidated or in a state of disrepair or show signs thereof or be dangerous or show signs of becoming dangerous to life or property or to alter or secure such land or earthwork in such manner that it will no longer be dangerous or show signs of

becoming dangerous to life or property: Provided that if the Municipality is of the opinion that the condition of any building, land or earthwork is such that steps should forthwith be taken to protect life or property, then it may take such steps without delivering such notice on or to the owner of such building, land or earthwork and may recover the costs of such steps from the owner.

- (2) It is an offence for any person to occupy or use or permit the occupation or use of any building in respect of which a notice was delivered in terms of this section or where steps were taken by the Municipality in terms of sub-section (1), unless the Municipality has granted written permission that such building may again be occupied or used.

6. Compliance with provisions of land use scheme.

- (1) A building may only be used for the purposes permitted for the land, on which such building is situated, in terms of—
- (a) a land use scheme;
 - (b) a town planning scheme, until such scheme is replaced by a land use scheme; or
 - (c) sub-section (2).
- (2) Where no town planning or land use scheme applies to a piece of land before a land use scheme is approved in terms of SPLUMA, such building may be used only for the purposes listed for such land in Schedule 2 to SPLUMA and for which such land was lawfully used or could lawfully have been used immediately before the commencement of SPLUMA.

7. Application of LUPO

- (1) No person shall—
 - (a) contravene or fail to comply with—
 - (i) the provisions incorporated in the zoning scheme, or
 - (ii) conditions imposed in terms of LUPO, except in accordance with the intention of a plan for a building as approved by the Municipality and to the extent that such plan has been implemented, or
 - (b) utilise any building for a purpose or in a manner other than that intended by a plan for such building, as approved by the Municipality and to the extent that such plan has been implemented.
- (2) The application of this section shall be subject to the extent of any repeal or amendment of LUPO pursuant to the application of SPLUMA or other legislation.

8. Unauthorized and illegal discharges

- (1) A person may not discharge or cause or permit any sewage to be discharged from a building directly or indirectly into a storm water drain, river, stream or other watercourse, whether natural or artificial.
- (2) The owner or occupier of any building in which steam or any liquid other than potable water, is stored, processed or generated must provide all facilities necessary to prevent any discharge or leakage of such liquid to any street, storm water drain or watercourse, whether natural or artificial, except where the Municipality has approved such discharge.

9. Waste management

- (1) The owner or occupier of any building shall ensure that all waste generated on the premises is properly disposed of.
- (2) In the case of a building used for business, light industrial or any other commercial purposes, the owner or occupier must use a bin or skip for waste disposal, alternatively as may be directed or prescribed by the Municipality.
- (3) No person shall fail to manage waste disposal properly, such that the waste generated on a premises creates a nuisance or a health risk.

10. Authorisation of officer

- (1) The Municipality may authorise any person in its employ, by way of a written designation or appointment from the municipal manager, to be an authorised officer for purposes of the implementation of this By-law.
- (2) When an authorised officer performs or exercises any function or power in terms of this By-law, he or she must, on request, produce his or her written designation or appointment.

11. Functions of authorised officer.

- (1) An authorised officer shall monitor and enforce compliance with this By-law.
- (2) Subject to the provisions of any other law, an authorised officer must perform and exercise the functions and powers

contemplated in this By-law in strict accordance with the procedures stipulated.

- (3) An authorised officer may not perform or exercise any functions or powers in terms of this By-law with regard to any matter in which he or she has a direct or indirect personal or private interest.

12. Powers of authorised officer.

- (1) An authorised officer who conducts an inspection for purposes of performing the functions contemplated in section 11 may—
 - (a) subject to section 13, enter any building at any reasonable time without previous notice for the purpose of ascertaining an issue required to ensure compliance with this By-law;
 - (b) question any person who is or was at or in such building, either alone or in the presence of any other person, on any matter to which this By-law relates;
 - (c) require from any person who has control over or custody of a book, record or other document at or in such building, to produce to the authorised person forthwith, or at such time and place as may be determined by the authorised officer, such book, record or other document;
 - (d) examine any such book, record or other document or make a copy thereof or an extract therefrom;
 - (e) require from such a person an explanation of any entry in such book, record or other document;

- (f) inspect any article, substance, plant or machinery which is or was at or in the building, or any work performed at or in the building or any condition prevalent at or in the building, or remove for examination or analysis any article, substance, plant or machinery or a part or sample thereof;
 - (g) seize any book, record or other document or any article, substance, plant or machinery or a part or sample thereof which in his or her opinion may serve as evidence at the trial of any person charged with an offence under this By-law or the common law: Provided that the user of the article, substance, plant or machinery concerned, as the case may be, may make copies of such book, record or document before such seizure;
 - (h) take photographs or make audio-visual recordings of anything or any person, process, action or condition on or regarding any building; and
 - (i) direct any person to appear before him or her at such time and place as may be determined by the authorised officer either alone or in the presence of any other person on any matter to which this By-law relates.
- (2) When an authorised officer enters any building in terms of sub-section (1)(a), a person who controls or manages the building must at all times provide such facilities as are reasonably required by the authorised officer to enable him or her to perform his or her functions effectively and safely under this By-law.
- (3) When an authorised officer removes or seizes any article, substance, plant, machinery, book, record or other document as contemplated in sub-section (1)(g), he or she must issue a receipt to the owner or person in control thereof and return it as

soon as practical after achieving the purpose for which it was removed or seized.

- (4) An authorised officer may be accompanied by an interpreter, a police official or any other person who may be able to assist with the inspection.
- (5) An authorised officer must leave the building as effectively secured against trespassers as the authorised officer found it, if the owner or occupier is not present.
- (6) A person who wilfully obstructs an authorised officer or any person lawfully accompanying such authorised officer from entering a building as contemplated in this section is guilty of an offence and is liable on conviction to a fine or to a period of imprisonment or a combination thereof.

13. Power of entry to a private dwelling.

An authorised officer may, with the permission of the occupier or owner of a private dwelling, and during normal business hours, enter such private dwelling for the purposes of ensuring compliance with this By-law.

14. Warrant of entry for enforcement purposes.

- (1) A magistrate for the district in which a private dwelling is situated may, at the written request of the Municipality, issue a warrant to enter the private dwelling if—
 - (a) the prior permission of the occupier or owner cannot be obtained after reasonable attempts; or

- (b) the purposes of the inspection would be frustrated by prior knowledge thereof.
- (2) A magistrate may only issue a warrant if the magistrate is satisfied that there are reasonable grounds for suspecting that any activity that is contrary to the provisions of this By-law has been or is about to be conducted in or at that private dwelling.
- (3) A warrant authorises entry to the private dwelling on one occasion only and that entry must occur–
 - (a) within one month of the date on which the warrant was issued; and
 - (b) at a reasonable hour, except where the warrant was issued on the grounds of urgency.

15. Observing fundamental rights

An authorised officer or any person lawfully accompanying such authorised officer who enters or inspects any building, in terms of this By-law, must do so with strict regard for decency and orderliness and with regard for the constitutional rights of the owner or occupier, including the right to human dignity and privacy.

16. Using force to enter

- (1) An authorised officer, lawfully entering a building for purposes of enforcing this By-law, may overcome any resistance to entry or inspection by using as much force as is reasonably required, including but not limited to breaking a lock, door or window of the building to be entered.

- (2) Before resorting to force, an authorised officer must audibly demand admission and must announce his or her purpose, unless he or she reasonably believes that doing so may induce someone to destroy, dispose of, or tamper with, an article or document that is the object of the inspection.
- (3) The Municipality shall compensate anyone who suffers damage because of any forced entry that was unlawfully carried out by an authorised officer during the execution of any inspection.
- (4) Force may not be used to effect an entry to conduct an inspection of a private dwelling in terms of section 13 unless an emergency arises and there is a reasonable apprehension of injury or harm.

17. Authority to issue written notice in terms of the CPA

- (1) An authorized officer may issue a written notice to any person who is alleged to have contravened the provisions of sections 4(1), 5(2), 6, 7(1), 8 or 9, such notice having the legal effect of a written notice issued in terms of section 56 of the CPA, provided that the provisions of sub-sections (2) to (4), hereunder, are satisfied.
- (2) For the purposes of sub-section (1), an authorised officer must be a peace officer in terms of section 334 (1) of the CPA.
- (3) Any notice issued in terms of sub-section (1) must comply with the requirements of section 56 (1) of the CPA and shall–
 - (a) specify the name, the residential address and the occupation or status of the person;

- (b) call upon such person to appear at a place and on a date and at a time specified in the written notice to answer a charge of having contravened this By-law;
 - (c) contain an endorsement in terms of section 57 of the CPA that the person may admit his or her guilt in respect of the contravention in question and that he or she may pay a stipulated fine in respect thereof without appearing in court; and
 - (d) contain a certificate under the hand of the authorised officer that he or she has handed the original of such written notice to the person in question and that he or she has explained to such person the import thereof.
- (4) The issuing of any notice in terms of sub-section (1) must be done in accordance with any set of procedures or guidelines that may have been prepared and adopted by the Municipality.

18. Contravention notice

- (1) The Municipality may serve a contravention notice on a person if it has reasonable grounds to suspect that the person is guilty of an offence contemplated in sections 4(1), 5(2), 6, 7(1), 8 or 9.
- (2) At least 30 days must be given to comply with the requirements of a contravention notice, unless there is an immediate threat to the health or safety of any person, in which event the person in sub-section (1) shall be required to comply with such requirements within the period stipulated by the Municipality.

19. Contents of contravention notice

A contravention notice must–

- (a) identify the person to whom it is directed;
- (b) describe the activity concerned and the building at or in which it is being conducted;
- (c) state that the activity concerned is illegal and inform the person of the particular offence, contemplated in sections 4(1), 5(2), 6, 7(1), 8 or 9, which that person allegedly has committed or is committing through the conducting of that activity;
- (d) subject to the provisions of section 18(2), require the person to cease the activity within such period as may be stipulated, calculated from the date upon which the contravention notice was served;
- (e) issue a warning to the effect that–
 - (i) the person could be prosecuted for and convicted of an offence contemplated in section 25(1);
 - (i) on conviction of an offence, the person could become liable for the penalties provided for in sections 25(2) and (3) and 25(6); and
 - (ii) the person could be required by an order of court to demolish, remove or alter any building, structure or work illegally erected or constructed, or to rehabilitate the building concerned.

20. Remedies for contravention

- (1) If the Municipality has reasonable grounds to believe that the person specified in the contravention notice is guilty of an offence contemplated in section 25(1), then the Municipality may, within 30 days after the expiry of the period stipulated in section 19(d) for the activity to cease—
 - (a) issue a written notice in terms of section 17(1) and serve it in on the person;
 - (b) serve a prohibition order on that person;
 - (c) apply to court for judicial relief; or
 - (d) initiate criminal proceedings against that person by laying a charge at a police station with jurisdiction in respect of the building in question.
- (2) In exercising the powers contemplated in terms of sub-section (1), the Municipality may implement one or more of the measures provided.

21. Contents of prohibition order

A prohibition order must—

- (a) identify the person to whom it is directed;
- (b) state that the activity described in the contravention notice is being conducted at or in the building described, despite service of the contravention notice;
- (c) state that the activity concerned is illegal and prohibited;

- (d) order the person to discontinue the illegal activity immediately or at least by any date mentioned in the order; and
- (e) issue a warning to the effect that –
 - (i) upon failing to comply with the order, the person could be prosecuted for and convicted of an offence contemplated in section 25(1);
 - (ii) on conviction of an offence, the person could become liable for the penalties provided for in sections 25(2) and (3) and 26; and
 - (iii) the person could be required by an order of court to demolish, remove or alter any building, structure or work illegally erected or constructed, or to rehabilitate the land concerned.

22. Display of prohibition order notice

- (1) The Municipality may display a notice at or in the building that relates to the prohibition order, stating that–
 - (a) an illegal activity, specified in the notice, is being conducted at or in the building described in the notice; and
 - (b) the person specified in the notice has been served with a prohibition order in which–
 - (i) the illegal activity is prohibited; and
 - (ii) that person was ordered to discontinue the illegal activity immediately or at least by any date specified in the notice.

- (3) Any person who wilfully damages, destroys or removes a notice contemplated in sub-section (1), without the prior written approval of the Municipality, is guilty of an offence and is liable on conviction to a fine or to a period of imprisonment or a combination thereof.

23. Order for demolition, removal, alteration or rehabilitation

When the Municipality has instituted proceedings against a person for an offence contemplated in section 25(1), it may simultaneously apply to court for an order compelling that person to—

- (a) demolish, remove or alter any building, structure or work illegally erected or constructed; and
- (b) rehabilitate the land concerned.

24. Service of documents

- (1) Where any notice, order or other document issued under this By-law is to be served on any person, then, subject to sub-section (3), the notice, order or document must be served, if the addressee is a-

- (a) natural person-
 - (i) by delivering the notice, order or other document by hand to the person concerned;
 - (ii) who in writing has nominated, for the purposes of receiving such a notice, order or document-
 - (aa) any particular physical address, by delivering it by hand at that physical address to a person who apparently is over

- the age of sixteen years and apparently resides or works there; or
- (bb) any particular postal address, by sending it by registered post or signature on delivery mail to that postal address;
- (iii) who cannot be reached and has not made such a nomination-
- (aa) by delivering it by hand at the addressee's usual or last-known place of residence, to a person who apparently is over the age of sixteen years and apparently resides at that place; or
- (bb) by sending it by registered post or signature on delivery mail to the addressee's usual or last-known residential or postal address; or
- (iv) who, in writing, has nominated a telefax number or e-mail address for the purposes of receiving a notice, order or document, by successful electronic transmission of the relevant notice, order or document to that telefax number or e-mail address; or
- (b) company or any other juristic person, or a partnership-
- (i) by delivering the notice, order or document by hand at the registered office or place of business of the company, other juristic person or partnership, to a person who apparently holds a responsible position in the company, other juristic person or partnership;

- (ii) by sending it by registered post or signature on delivery mail to the registered office of place of business of the company, other juristic person or partnership; or
 - (iii) which in writing has nominated a telefax number or e-mail address for the purposes of receiving such a notice, order or document, by successful electronic transmission of the relevant notice, order or document to that telefax number or e-mail address.
- (2) Where a notice, order or document has been served-
 - (a) by registered post or signature on delivery mail, service must be regarded as having been effected within 21 days of posting if the mail has not been collected; or
 - (b) on a person who apparently is over the age of sixteen years, service must be regarded as having been effected within 21 days of delivery.
- (3) Sub-section (1) does not apply where this By-law or any national or provincial legislation prescribes another method of service.

25. Offences and penalties

- (1) Any person who contravenes the provisions of sections 4(1), 5(2), 6, 7(1), 8, 9, 12(6) or 22(3) shall be guilty of an offence.
- (2) A person who is convicted of an offence under this section may be sentenced to a fine or a period of imprisonment or a combination thereof.

- (3) A person convicted of an offence under this By-law who, after conviction, continues with the conduct for which he or she was convicted, shall be guilty of a continuing offence and shall be liable on conviction to a fine or a period of imprisonment or a combination thereof, in respect of each day on which he or she so continues or has continued with such conduct.

26. Additional penalties

When a court convicts a person of an offence under section 25(1), it may–

- (a) at the written request of the Municipality, summarily enquire into and determine the monetary value of any advantage which that person may have gained as a result of the offence; and
- (b) in addition to the fine or imprisonment contemplated in sections 25(2) and (3), order an award for damages or compensation, not exceeding the amount specified in sub-section (a).

27. Offences and penalties in relation to obstructing the Municipality

- (1) A person is guilty of an offence–
- (a) when obstructing an authorised officer who is acting on behalf of the Municipality in the implementation of this By-law; or

- (b) when attempting to exercise a power or perform a function under this By-law without the necessary authority.
- (2) A person who is convicted of an offence under this section may be sentenced to a fine or to a period of imprisonment or to a combination thereof.

28. Payment of fines and other amounts to the Municipality

All amounts recovered by way of fines, estreated bail, damages or compensation in connection with any offence in terms of sections 25(1) or 27(1) or any award made in terms of section 26(b) shall be paid into the revenue fund of the Municipality.

29. Consequences of non-payment

In the event that any amount, contemplated in sections 25(2) and (3), 26(b) and 27(2), is outstanding upon request for the Municipality to issue a prescribed certificate in terms of section 118(1) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), for purposes of the transfer of land upon which a building is being used in contravention of this By-law, the Municipality may inform the person who made the request that—

- (a) the building is being used unlawfully; and
- (b) the Municipality may enforce this By-law by implementing the measures available in terms thereof.

30. Indemnity

The Municipality, an authorised officer, a municipal official or any other person exercising a power or performing a function in terms of this By-law shall not be liable in respect of any loss or damage resulting from the exercise of that power or the performance of that function in good faith.

31. Delegation of powers

The Municipality may, subject to such conditions as it may determine, delegate any of its powers under this By-law to the municipal manager, who may in turn sub-delegate such powers, subject to any conditions imposed by the Municipality.

32. Short title

This By-law shall be called the Buildings Control By-law, 2015.

PROVINCIAL NOTICE 45 OF 2016**CEMETERIES BY-LAW****[Local Authority Notice No.____]****[Date of Commencement: ____]****ELUNDINI LOCAL MUNICIPALITY CEMETERIES BY-LAW**

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 (Act No. 108 of 1996), the Cemeteries By-law.

Arrangement of sections

1. Definitions
2. Purpose of the By-law
3. Establishment of cemeteries
4. Official hours
5. Register
6. Numbering of graves
7. Reservation of graves
8. Transfer of reserved rights
9. Number of corpses in a grave
10. Application for a burial
11. Burial of a corpse
12. Burial of ashes
13. Burial of a cadaver
14. Persons dying outside the area of the Municipality
15. Measurements of graves
16. Cremation
17. Exhumation
18. Memorial work
19. Graves supplied with a berm
20. Maintenance of graves

21. General conduct in cemeteries
22. Injuries and damages
23. Firearms and traditional weapons
24. Penalty clause and expenses
25. Exemptions
26. Short title and commencement

1. Definitions

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

“**adult**” (where the word is used to describe a corpse) means a corpse buried in a coffin that will fit into a grave for adults as contemplated in section 14;

“**ashes**” means the remains of a corpse after it has been cremated;

“**authorised official**” means an employee of the municipality who is duly authorised by the municipality to perform a function or exercise a power for the implementation of this By-law;

“**burial**” means burial in earth or any other method of disposal of a corpse, ashes or a cadaver in the manner provided for in this By-law;

“**burial order**” means an order issued in terms of the provisions of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992) authorising a burial;

“**caretaker**” means the officer appointed by the Municipality to supervise and control a cemetery or cemeteries, and his or her delegates;

“**cemetery**” means land or part thereof, including the buildings and works thereon, that is owned and controlled by the Municipality, duly set aside and

reserved for the purpose of burials and made available for public use from time to time for burials;

“**child**” (where the word is used to describe a corpse) means a corpse that is being buried in a coffin that fits into a grave for a child as contemplated in section 14;

“**columbarium**” means a memorial wall or a wall of remembrance provided by the Municipality for the burial of ashes;

“**corpse**” means any dead human body, including the body of a stillborn child;

“**grave**” means a piece of land in a cemetery laid out, prepared and used for a burial;

“**holder**” means a person to whom a reservation certificate for a specific grave has been issued in terms of a law repealed by section 24;

“**medical Officer of Health**” means the officer appointed by the Municipality from time to time in such position and his or her delegates;

“**memorial work**” means any headstone, monument, inscription or other similar work or portion thereof erected or intended to be erected upon a grave or a columbarium;

“**municipality**” means the Elundini Local Municipality, established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in terms of this By-law by virtue of a power vested in the municipality and delegated to such political structure, political office bearer, councillor, agent or employee;

“**niche**” means the cavity in a columbarium provided for the burial of ashes;

“**plaque**” means a tablet erected on the columbarium for identification purposes;

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

“**resident**” means a person who at the time of his or her death, was ordinarily resident within the Municipality or under law liable for the payment of assessment rates, rent, service charges or levies to the Municipality;

“**responsible person**” means the nearest surviving relative of the deceased person or a person authorised by such relative, or if the caretaker is satisfied that such person does not exist or that the signature of such relative or authorised person cannot be obtained timeously for the purpose of completing the necessary application forms, another person who satisfies the caretaker as to his or her identity, interest in the burial, capacity to pay the prescribed fees and to comply with the applicable provisions of this By-law; and

“**stillborn**” in relation to a child, means that it had at least 26 weeks of intra-uterine existence, but showed no sign of life after complete birth.

2. Purpose of the By-law

The purpose of the By-law is to-

To provide for the establishment and management of cemeteries in the Elundini Municipality; and for matters connected therewith.

3. Establishment of cemeteries

- (1) The Municipality may from time to time set aside and reserve suitable municipal land within the Municipality for the establishment and management of a cemetery.
- (2) The Municipality may consider and approve an application for the establishment and maintaining of a private cemetery or a private columbarium on private land on the conditions that the Municipality may deem necessary.
- (3) A cemetery established under a law repealed by this By-law, shall be deemed to be established under this section.
- (4) The Municipality may set aside, reserve and demarcate within a cemetery, in accordance with an approved layout plan, such areas as the Municipality may deem expedient for exclusive use by the members of a particular religion or denomination, or for the burial of adults, children, members of security forces or war heroes, or for the creation and management of
 - (a) a berm section where memorial work of a restricted size may be erected only on a concrete base provided by the Municipality at the top or bottom end of a grave, while the top surface of the grave is levelled;
 - (b) a monumental section where memorial work erected shall cover the entire grave area;
 - (c) a semi-monumental section where memorial work, without a restriction on the size, may be erected only on a concrete base at the top end of a grave, which base will not be provided by the Municipality;

- (d) a natural-grass section where the surface of graves are levelled and identified by numbers affixed on top of the graves in such a way that a lawnmower can be used to cut the natural grass without damaging the numbers;
- (e) a traditional section where the surface of graves are levelled and memorial work does not have to cover the entire grave area, and may be erected on graves that are not supplied with a concrete base as required in the berm section;
- (f) a columbarium section where ashes may be buried in a niche in a memorial wall or wall of remembrance provided by the Municipality.

4. Official hours

- (1) The cemetery and the office of the caretaker shall be open during the hours as determined by the Municipality and the cemetery office of the caretaker shall be open from Monday to Friday.
- (2) Burials shall take place on the days and during the hours determined by the Municipality.
- (3) The Municipality has the right to close a cemetery or any portion thereof to the public for such periods and for such reasons as the Municipality may deem fit.
- (4) No person shall be or remain in a cemetery or part thereof before or after the official hours as determined by the Municipality or during any period when it is closed for the public, without the permission of the caretaker.

5. Register

- (1) A register of graves and burials shall be kept by the caretaker and such register shall be completed as far as possible immediately after a burial has taken place, with reference to the prescribed particulars contained in the burial order concerned.

6. Numbering of graves

- (1) All graves in a cemetery that are occupied or for which a burial has been authorised in terms of the provisions of section 9, shall be numbered by the Municipality.
- (2) The number shall be affixed to the grave and indicated on a plan to be kept available in the caretaker's office.

7. Reservation of graves

- (1) No reservation of a grave in a cemetery shall be allowed: Provided that reservation of graves made and recorded in the official records of the Municipality in terms of a law repealed by section 24, shall still be valid and the Municipality shall honour such reserved rights.

8. Transfer of reserved rights

- (1) A reserved right as contemplated in section 6 may not be transferred without the prior written approval of the Municipality.
- (2) Application to transfer such right shall be made to the caretaker in writing by completing and submitting a prescribed application form.

- (3) If the application is granted, a certificate will be issued in favour of the transferee who will become the holder.
- (4) The reserved right may be cancelled on request of the holder and if the request is approved by the Municipality, the amount paid by the holder (if any), minus 10 % administration fees, will be refunded to the holder.

9. Number of corpses in a grave

- 9.1 Only one corpse may be buried in a grave with measurements as contemplated in section 14(1) or (2).
- 9.2 Only two corpses may be buried in a grave with measurements as set out in section 14(4): Provided that application for the burial of two corpses has been made to the caretaker in writing by submitting an application mentioned in section 9(1) before the first corpse is buried.
- 9.3 After the reopening of a grave for the purpose of the burial of a second corpse as mentioned in subsection (2) in that grave, a concrete layer of not less than 25 mm thick shall be cast above the coffin previously buried.
- 9.4 If on reopening any grave, the soil is found by the Medical Officer of Health to be offensive or dangerous to the general health of people, the situation shall be handled in consultation with the Medical Officer of Health.

10. Application for a burial

- (1) Application for permission for a burial in a cemetery shall be made to the caretaker on the prescribed application form and such application shall be accompanied by:

- (a) the prescribe burial order;
 - (b) the prescribed fees; and
 - (c) a reservation certificate, where applicable.
- (2) No person shall, without the prior written approval of the Municipality, execute, cause or allow a burial, including the burial of ashes or a cadaver, in any other place in the Municipality than in a cemetery established and managed by the Municipality.
- (3) An application for permission for a burial must be submitted to the caretaker at least 24 working hours prior to the planned burial, failing which the caretaker may refuse the application.
- (4) No person shall execute a burial or cause or allow a burial to be executed in a cemetery, unless written approval for the burial has been obtained, a specific grave has been allocated for the purpose of the burial and a date and time for the burial has been arranged with the caretaker.
- (5) In allocating a date and time for a burial, the caretaker shall have regard to the customs of the deceased's relatives and their religion or church affiliation.
- (6) The allocation of a specific grave is the responsibility and in the sole discretion of the caretaker and a burial shall be executed only in a grave allocated by him or her: Provided that in allocating a grave the caretaker shall as far as practicable allow the responsible person access to a plan of the cemetery showing the various sections, and allow him or her to select the section of his or her choice, but not the individual grave of his or her choice.

- (7) The Municipality may allow in its discretion a burial without payment of the prescribed fees in a part of a cemetery set aside for such purposes and in such manner as it may deem fit.
- (8) Notice of cancellation or postponement of a burial must be submitted to the caretaker at least 4 working hours before the time set for the burial.
- (9) The granting of approval for a burial and the allocation of a specific grave in a cemetery, does not give the applicant, the responsible person or any other person any right in respect of such grave other than to bury a corpse in the grave.
- (10) No corpse may be buried in a grave other than the grave specifically approved and allocated in writing by the Municipality.

11. Burial of a corpse

- (1) All graves shall be provided by the caretaker, with the exception of brick-lined or concrete-lined graves, in which cases the brickwork or concrete work shall be carried out by the undertaker under the supervision of the caretaker and in conformity with the specifications applicable to ordinary graves.
- (2) There shall be at least 1200 mm of soil between the top of an adult coffin and the ground surface, and at least 900 mm of soil between the top of a child coffin and the ground surface.
- (3) All corpses shall be placed in a coffin for the burial thereof, except as provided for in the respective cultures.
- (4) No person shall, without the prior permission of the caretaker, conduct any religious ceremony or service according to the rites

of one denomination in any portion of a cemetery reserved by the Municipality in terms of the provisions of section 2(4) for the use of some other denomination.

- (5) No person shall permit any hearse in a cemetery to leave the roads provided, and every hearse shall leave the cemetery as soon as possible after the funeral for which it was engaged.
- (6) Every person taking part in any funeral procession or ceremony shall comply with the directions of the caretaker as to the route to be taken within the cemetery.
- (7) No person shall convey, or expose a corpse or any part thereof, in an unseemly manner in any street, cemetery or public space.
- (8) Every application and every document relating to a burial shall be marked with a number corresponding to the number in the register referred to in section 4 and shall be filed and preserved by the Municipality for a period of not less than ten years.

12. Burial of ashes

- (1) Ashes may be buried in a coffin and only two such coffins containing ashes may be buried in an extra deep grave as contemplated in section 14(4): Provided that a coffin does not exceed the average body weight of 70 kg, and furthermore, that the grave is readjusted to the prescribed depth and measurements.
- (2) No person shall execute a burial or cause a burial of ashes to be executed in a cemetery, unless written approval for the burial has been obtained, a specific grave or niche has been allocated for the purposes of the burial and a date and time for the burial has been arranged with the caretaker.

- (3) Application for the burial of ashes for definite periods or in perpetuity, or for the provision of memorial tablets of approved material to be fixed on the building, columbarium or other facility, shall be made to the caretaker on the prescribed application form.
- (4) Niches shall be allocated by the caretaker strictly in the order in which the applications therefor are received and no reservations for future use shall be made.
- (5) An application for permission for a burial must be submitted at least 24 working hours prior to the planned burial, failing which the caretaker may refuse the application.
- (6) An urn or casket containing ashes that has been deposited in a building, columbarium or other facility shall not be removed without the caretaker's prior written consent.
- (7) Every niche containing ashes shall be sealed by a tablet approved by the Municipality and shall only be opened for the purpose of withdrawing an urn or casket contained therein for disposal elsewhere, or for the purpose of depositing an additional urn or casket therein whereafter it shall once again be sealed.
- (8) Application for the opening of a niche shall be made to the caretaker on the prescribed application form.
- (9) No person shall introduce any material into the columbarium for the purpose of constructing or erecting any memorial work therein, unless and until:

- (a) approval for the burial has been obtained in terms of the provisions of section 9;
 - (b) approval for the erection of the memorial work has been obtained in terms of the provisions of section 17(1); and
 - (c) the prescribed fees have been paid.
- (10) Any person engaged upon any work on the columbarium, shall execute such work to the satisfaction of the caretaker, and such work shall be undertaken during the official hours of the caretaker as set out in this by-law.
- (11) No permanent wreaths, sprays, flowers or floral tributes may be placed in or on a columbarium.
- (12) The columbarium may be visited daily during the official hours set out in section 3.
- (13) Plaques shall be made of material approved by the Municipality and shall be affixed simultaneously with the placing of the ashes and within 30 days of the obtaining of the consent.

13. Burial of a cadaver

- (1) The remains of a corpse used at an educational institution for the education of students, generally known as a cadaver, may be buried in one coffin and two such coffins containing cadavers may be buried in an extra deep grave as contemplated in section 15(4): Provided that a coffin does not exceed the average body weight of 70 kg, and furthermore, that the grave is readjusted to the prescribed depth and measurements.

14. Persons dying outside the area of the Municipality

- (1) The provisions of this By-law shall apply *mutatis mutandis* to any burial in a cemetery of a person who has died outside the Municipality.

15. Measurements of graves

- (1) The excavation of a grave for an adult shall be at least 1,820 mm deep, 2,300 mm long and 760 mm wide.
- (2) The excavation of a grave for a child shall be at least 1,370 mm deep, 1,520 mm long and 610 mm wide.
- (3) In the event that a grave of a greater depth, length and width than those specified above is required, an application in respect thereof, together with extra prescribed fees that are due, shall be made to the caretaker, together with the application to obtain permission for a burial.
- (4) The excavation of an extra deep grave for the burial of two corpses shall be at least 2,400 mm deep, 2,300 mm long and 760 mm wide.
- (5) Permitted deviation from measurements of graves shall be as follows:

Extra wide	2,300 mm long 840 mm wide
------------	------------------------------

Extra long	2,530 mm long 760 mm wide
------------	------------------------------

Rectangular small	2,300 mm long
-------------------	---------------

810 mm wide

Rectangular big 2,400 mm long
 900 mm wide

Brick-nogging 2,600 mm long
 1050 mm wide

- (6) The area of a rectangular grave for an adult shall be 1,500 mm wide and 2,600 mm long.
- (7) The area of a grave for an adult shall be 1,210 mm wide and 2,430 mm long.
- (8) The area of a grave for a child shall be 1,210 mm wide and 1,520 mm long, and if a coffin is too large, an adult grave shall be used.

16. Cremation

- (1) Cremation within the Municipality shall only take place in an approved crematorium established for that purpose, and in accordance with the provisions of the Cremation Ordinance, 1926 (Ordinance No. 6 of 1926).

17. Exhumation

- (1) No person shall, without the written approval contemplated in section 3 of the Exhumation Ordinance, 1980 (Ordinance No. 12 of 1980), and then only after notifying the Municipality, exhume or cause or allow any corpse or the mortal remains of a corpse to be exhumed.

- (2) Any person duly authorised to exhume a corpse as set out above, shall furnish such authority to the caretaker at least 8 working hours before the time proposed for the exhumation of such corpse, and shall at the same time pay the prescribed fees.
- (3) An exhumation and removal of any corpse shall be made only in the presence of the caretaker or any authorised official, accompanied by the funeral undertaker and in accordance with the stipulated legislation applicable to exhumations and reburials.
- (4) A grave from which any corpse is to be removed shall, if required by the caretaker, be effectively screened from public view during the exhumation.
- (5) The person who applied for the exhumation of a corpse shall provide an acceptable receptacle for the remains and shall remove the remains after the exhumation.
- (6) No person shall be permitted to reopen a grave, unless he or she has satisfied the caretaker that he or she is authorised thereto.
- (7) After the exhumation of a corpse and the removal of the remains, all rights in the grave shall revert to the Municipality, and the reuse of the grave shall be done in consultation with the Medical Officer of Health.
- (8) If at any time and for whatever reason the exhumation and transfer of a corpse to another grave shall become necessary, the Municipality may, after the relatives of the deceased person have been notified accordingly, exhume such body and transfer it to another grave.

18. Memorial work

- (1) Application for the erection of memorial works shall be made to the caretaker on the prescribed application form.
- (2) The erection of a trellis around a grave is prohibited.
- (3) No person shall bring or cause any material to be brought into any cemetery for the purpose of the erection or construction of any memorial work, unless and until:
 - (a) approval for the burial has been obtained in terms of the provisions of section 9;
 - (b) approval for the erection of the memorial work has been obtained in terms of the provisions of subsection (1); and
 - (c) the prescribed fees have been paid.
- (4) Graves of war heroes which are in the care of or maintained by the South African War Graves Board or by any other recognised body or by the government of any foreign country, shall upon application to the Municipality, be exempted from the requirement of payment of the prescribed fees.
- (5) The Municipality may refuse its consent for the erection of any proposed memorial work if the plan and specification thereof reveals that it will be of inferior quality or in any manner likely to disfigure a cemetery or which bears any inscription likely to cause offence to users of the cemetery or to visitors thereto.
- (6) No person engaged upon any memorial work in a cemetery shall at any time disturb any adjacent graves and on completion of such work he or she shall leave the grave and the cemetery in a

clean and tidy condition and remove any building material or surplus ground therefrom.

- (7) A person engaged in the erection of a memorial work in a cemetery, shall:
- (a) make arrangements beforehand with the caretaker with regard to the date and time of the intended erection;
 - (b) ensure that all separate parts of any memorial work other than masonry-construction are affixed by copper or galvanised iron dowel-pins of a length and thickness sufficient to ensure the permanent stability of the work;
 - (c) ensure that any part of such work which rests upon any stone or other foundation is fairly squared and pointed;
 - (d) ensure that the underside of every flat stone memorial and the base or landing of every headstone is set at least 50 mm below the natural level of the ground;
 - (e) ensure that all headstones are securely attached to their bases;
 - (f) ensure that flat stones consist of one solid piece in the case of all graves;
 - (g) ensure that all headstones consist of granite, marble, bronze or any other durable metal or stone approved by the Municipality;
 - (h) ensure that all curbing or memorial work on graves are erected on concrete foundations at least 1,210 mm wide and 200 mm deep over the full width in the case of adults'

graves and 910 mm wide and 200 mm deep in the case of children's graves;

- (i) ensure that the sizes of monumental tombstones (all inclusive) are:

Single grave 2,440 mm long
1,070 mm wide

Child grave 1,370 mm long
760 mm wide

Double grave 2,440 mm long
2,290 mm wide;

- (j) ensure that all curbs on larger graves than single graves shall be fixed on substantial concrete mats at the four corners and where joints occur;
- (k) ensure that any concrete foundation on any grave, upon instruction of the Municipality, is reinforced where it is considered necessary owing to the weight of the memorial work.
- (8) No person shall erect any memorial work within a cemetery, unless the number and section-letter of the grave upon which such work is to be erected, are engraved thereon in such a position that it will be legible at all times from a pathway, and, only with the consent of the family of the deceased, the name of the maker of such memorial work may be placed upon any footstone.
- (9) Memorial work shall be constructed and erected in a cemetery only during the official office hours as contemplated in section 3.

- (10) No person shall fix or place any memorial work in a cemetery during inclement weather or where the soil is in an unsuitable condition.
- (11) Every person carrying out work within a cemetery shall under all circumstances comply with the directions of the caretaker.
- (12) The Municipality may, after due notice, at any time change or alter the position of any memorial work in any cemetery: Provided that in any case where any memorial work has originally been placed in a certain position with the express consent of the caretaker, any alterations of such position in terms of the provisions of this By-law, shall be executed at the expense of the Municipality.

19. Graves supplied with a berm

- (1) Notwithstanding anything to the contrary contained in this By-law, a grave which is supplied with a berm shall be subject to the conditions set out in subsection (2).
- (2)
 - (a) No kerbing shall be erected at such grave.
 - (b) The berm provided by the Municipality shall be 1,200 mm long, 500 mm wide and 300 mm deep.
 - (c) The base of the memorial work to be erected on the berm of a single grave shall not be larger than 1,000 mm long and 230 mm wide, and the memorial work, together with the base, may not be higher than 1,200 mm from the ground surface.
 - (d) A memorial work shall not protrude beyond the base.

- (e) No object shall be placed and kept on any grave: Provided that a memorial work or a vase for flowers or foliage placed in the office provided in the berm, may be placed and kept on a grave until such time as the ground surface over the grave is levelled.

20. Maintenance of graves

- (1)
 - (a) A memorial work erected upon a grave shall at all times be maintained in good order and condition by the responsible person.
 - (b) Should any such work fall into a state of disrepair or constitute a danger or be a disfigurement of the cemetery, the Municipality may by written notice addressed to the responsible person by registered post at his or her last known postal address, require of him or her to effect such repairs as may be considered necessary.
 - (c) On failure to effect the required repairs within 1 month of the date of such notice, the Municipality may have the repairs effected or may have the memorial work removed as it deem fit and may recover the costs for such repairs or removal from the responsible person.
- (2) Unless otherwise provided for in this By-law, the Municipality shall be responsible for keeping cemeteries in a neat and tidy condition.
- (3) Grass may be planted on a grave by family members of the deceased, subject to the directions of the caretaker: Provided that the Municipality shall maintain the grave, as part of the

cemetery, at its own cost and in accordance with its own standards and programs.

- (4) (a) All memorial work which has been dismantled for purposes of a further burial, shall be re-erected or removed from the cemetery within 2 months of the date of such dismantling.
- (b) On failure to do so, the Municipality shall be entitled to remove any such dismantled memorial work from the cemetery without further notice, and to recover the costs of such removal from the responsible person.
- (5) No person shall plant any tree, shrub, bush or any other plant on or in the vicinity of a grave.
- (6) The Municipality shall have the right to remove, trim or prune any plants which extend beyond the limits of any grave or which are untidy.
- (7) No person shall deposit any flowers, grass, weeds or other materials removed from a grave, on any other grave, roadway or any other place in the cemetery, except in the refuse bins intended for that purpose.

21. General conduct in cemeteries

- (1) No person under the age of 12 years shall enter a cemetery unless he or she is in the care of an adult or with the approval of the caretaker.
- (2) No person shall enter or leave any cemetery, except through the gates provided for that purpose, nor shall any person enter any

office or enclosed place in any cemetery, except on business or with the consent of the caretaker.

- (3) No person shall make a false statement or provide false information in an application or other form or document to be completed and submitted in terms of this By-law.
- (4) No person shall carry on any trade or hawking activity, or solicit any business, or exhibit, distribute or leave any business card or advertisement within any cemetery or on any public place within 30 m of the boundary of any cemetery, except with the written approval of the Municipality and on such conditions as the Municipality may determine.
- (5) No person shall sit, stand or climb upon or over any tombstone, memorial work, gate, wall, fence or building in any cemetery.
- (6) No person shall hold a demonstration of any kind in any cemetery or allow or participate in such demonstration.
- (7) No person shall bring into or allow any animal to enter any cemetery, and any animal found in a cemetery may be impounded.
- (8) Directives from the caretaker to ensure the orderly procession of the ceremony concerning the placement of structures, chairs, voice amplification equipment, volume and the type of music to be played, shall be adhered to.
- (9) No person shall within any cemetery obstruct, resist or oppose the caretaker or any official of the Municipality, whilst acting in the course of his or her official duty, nor refuse to comply with any reasonable order or request of the caretaker or any official of the Municipality.

- (10) No person shall remove from the cemetery any soil, sand or other substance or thing of a similar nature without the express permission of the caretaker.
- (11) No person shall wantonly or wilfully damage or cause to be damaged, nor shall any person mark, draw or erect any advertisement, bill or placard upon or in any manner deface any grave, tombstone, monument, wall, building, fence, path or other construction within any cemetery.
- (12) No person shall bribe or try to bribe any employee in the service of the Municipality in regard to any matter in connection with a cemetery or burial, neither with money, gifts or any other benefit.
- (13) No person shall, except where expressly permitted by this By-law, or with the consent of the caretaker, disturb the soil, or plant or uproot any plant, shrub or flower, or in any way interfere with any grave or construction in any cemetery.
- (14) No person shall play any game or take part in any sport, or discharge any firearm, except as a salute at a military funeral, or discharge any airgun or catapult within any cemetery, or disturb or annoy any person present therein.
- (15) No musical instrument shall be played in a cemetery without the consent of the caretaker.

22. Injuries and damages

- (1) A person using a cemetery shall do so on his or her own risk, and the Municipality accepts no liability whatsoever for any personal injuries sustained by such person or for any loss of or

damage to such person's property relating to or resulting from the afore-mentioned usage of the cemetery.

23. Firearms and traditional weapons

- (1) No firearm or traditional weapon shall be allowed in a cemetery except in the case of a police, state or military funeral.

24. Penalty clause and expenses

- (1) Any person contravening or failing to comply with any of the provisions of this By-law, shall be guilty of an offence and upon conviction by a court be liable to a fine or imprisonment for a period not exceeding 3 years or to both a fine and such imprisonment.
- (2) Any expense incurred by the Municipality as a result of a contravention of this By-law, or in the doing of anything which a person was directed to do under this By-law, and which he or she failed to do, may be recovered by the Municipality from the person who committed the contravention or who failed to do such thing.

25. Exemptions

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the Municipality for exemption from any provision of this by-law.
- (2) The Municipality may grant or refuse an application for exemption or impose conditions and it may alter or cancel any exemption or condition in an exemption.

- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed under subsection 2: Provided that if an activity is commenced before such undertaking has been submitted to the Municipality, the exemption lapses.

- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

26. Short title and commencement

This By-law shall be called the Cemeteries By-law, 2015, and commences on the date of promulgation in the *Provincial Gazette*.

PROVINCIAL NOTICE 46 OF 2016**FIRE SAFETY BY-LAW****Local Authority Notice No.____****Date of Commencement: _____****ELUNDINI LOCAL MUNICIPALITY FIRE SAFETY BY-LAW**

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, 1996, the Fire Safety By-Law.

Arrangement of sections

Chapter 1- Administration and enforcement

1. Definitions
2. Purpose of by-law
3. Application of by-law
4. Administration and enforcement
5. Delegation
6. Enforcement provisions
7. Authority to investigate
8. Failure to comply with provisions
9. Denial, suspension or revocation of an approval or a certificate
10. Records required
11. Charges
12. Reporting a fire hazard and other threatening danger

Chapter 2- Fire protection of buildings

13. National Building Regulations
14. Access for emergency vehicles
15. Division and occupancy separating elements
16. Fire doors and assemblies
17. Escape routes
18. Tents

Chapter 3- Fire Safety Equipment

19. Fire extinguishers
20. Testing and maintenance of fire protection systems
21. Interference with and access to fire protection systems and fire extinguishers
22. Fire alarms and fire hydrants

Chapter 4- Public safety

23. Prevention and control of over-crowding
24. Availability of a service
25. Formulation of an emergency evacuation plan
26. Displaying of escape route plans
27. Barricading of vacant buildings

Chapter 5- Housekeeping

28. Combustible waste and refuse
29. Dust
30. Combustible or flammable substances and cleaning compounds
31. Accumulations in chimneys, flues and ducts
32. Sources of ignition
33. Smoking

34. Electrical fittings, equipment and appliances

35. Flame-emitting device

Chapter 6- Fire hazards

36. Combustible material

37. Lighting of fires and burning of combustible material on premises

38. Other restrictions on lighting of fires and burning

Chapter 7- Flammable substances

39. Application of this chapter

40. Storage and use of a flammable substance

41. Flammable substance certificate

42. Permanent or temporary above-ground storage tank for a flammable liquid

43. Underground storage tank for a flammable liquid

44. Bulk storage depot for flammable substances

45. Small installations for liquid petroleum gas

46. Liquid petroleum gas installation in mobile units and small non-permanent buildings

47. The fuelling of forklift trucks and other liquid petroleum gas operated vehicles

48. The storage and filling of refillable liquid petroleum gas containers

49. Bulk storage vessel for liquid petroleum gas

50. Termination of the storage and use of flammable substances

51. Reporting accidents

52. Flammable stores

53. Container handling and storage

54. Spray rooms and booths

55. Liquid petroleum gas containers

Chapter 8- Transportation of dangerous goods

56. Dangerous goods certificate

Chapter 9- General provisions

57. State bound

58. Offences and penalties

59. Short title

CHAPTER 1

ADMINISTRATION AND ENFORCEMENT

1. Definitions

In this by-law, the following terms shall have the meanings assigned to them—

“above ground storage tank” means a tank situated above ground for the storage of a flammable liquid;

“automatic releasing hold-open device” means a device used to hold open a fire door and operates on the detection of a fire to close the fire door;

“boundary” means any lateral or street boundary of a site;

“building” means—

- (a) any structure, whether of a temporary or permanent nature and irrespective of the materials used in the construction thereof, erected or used for or in connection with—

(i) the accommodation or convenience of human beings or animals;

(ii) the manufacture, processing, storage or sale of any goods;

(iii) the rendering of any service;

(iv) the destruction or treatment of combustible refuse or combustible waste;

(v) the cultivation or growing of any plant or crop;

(b) any wall, swimming pool, reservoir or bridge or any other structure connected therewith;

(c) any fuel pump or any tank used in connection therewith;

(d) any part of a building, including a building as defined in paragraph (a), (b) or (c);

(e) any facilities or system, or part or portion thereof, within or outside but incidental to a building, for the provision of a water supply, drainage, sewerage, storm water disposal, electricity supply or other similar service in respect of the building;

“bund wall” means a containment wall surrounding an above ground storage tank, constructed of an impervious material and designed to contain 110% of the contents of the tank;

“chief fire officer” means the person in charge of a service, or the acting chief officer, as contemplated in the Fire Brigade Services Act;

“combustible material” means combustible refuse, combustible waste or any other material capable of igniting;

“combustible refuse” means combustible rubbish, litter or material that is discarded, refused, rejected, or considered worthless;

“combustible waste” means combustible waste material which is salvageable, retained or collected for scrap or reprocessing and may include all combustible fibres, hay, straw, hair, feathers, down, wood shavings, turnings, all types of paper products, soiled cloth trimmings and cuttings, rubber trimmings and buffing, metal fines, and any mixture of the above items, or any other salvageable combustible waste material;

“Constitution” means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);

“controlling authority” means either a chief fire officer, a municipal manager or their respective delegates as contemplated in sections 4 and 5 of this by-law;

“dangerous goods” means a flammable gas, liquid or solid as contemplated in SABS 0228, as updated or amended;

“division separating element” means a building element or component which separates one area in a building from another and has a fire resistance of not less than that required by the National Building Regulations (T1) read with the SABS 0400, as updated or amended;

“emergency evacuation plan” means a plan specifically designed to aid in the evacuation of occupants from a building in the event of a fire or other threatening danger and assigns responsibility to various staff, indicates escape routes to be

used and provides for general contingencies for a safe and quick evacuation from a building;

“emergency route” means that part of an escape route that provides fire protection to the occupants of any building and which leads to an escape door;

“entertainment and public assembly occupancy” means a place where people gather to eat, drink, dance or participate in other recreation;

“escape door” means the door in an escape route, which at ground level leads directly to a street or public place or to any approved open space which leads to a street or public place;

“escape route” means the entire path of travel from the furthest point in any room in a building to the nearest escape door and may include an emergency route;

“escape route plan” means a diagram indicating the floor layout, the occupant’s current position and the route of travel to the nearest primary and secondary escape routes in the building, as well as the action to be taken in the event of a fire or other threatening danger;

“Fire Brigade Services Act” means the Fire Brigade Services Act, 1987 (Act 99 of 1987);

“fire damper” means an automatic damper and its assembly that complies with the requirements contained in SABS 193, as updated or amended;

“fire door” means an automatic or self-closing door or shutter assembly especially constructed to prevent the passage of fire for a specific length of time;

“fire extinguisher” means a portable or mobile rechargeable container which has a fire extinguishing substance that is expelled by the action of internal pressure for the purposes of extinguishing a fire;

“fire hazard” means any situation, process, material or condition which may cause a fire or explosion or provide a ready fuel supply to increase the spread or intensity of the fire or explosion and which poses a threat to life or property;

“fire lanes” means the road, path or other passageway constructed or designated to allow access for emergency vehicles;

“fire protection association” means a fire protection association contemplated in terms of the National Veld and Forest Fire Act, 1998 (Act No. 101 of 1998), as amended from time to time;

“fire protection system” means any device or system designed and installed to—

- (a) detect, control or extinguish a fire, or
- (b) alert occupants or the fire service, or both, to a fire,

but excludes portable and mobile fire extinguishers;

“fire wall” means a wall that is able to withstand the effects of fire for a specific period of time as contemplated in the National Building Regulations (T1) read with SABS 0400, as updated or amended;

“flammable gas” means a gas that, at 20° C and at a standard pressure of 101, 3 kPa—

(a) is ignitable when in a mixture of 13% or less (by volume) of air, or

(b) has a flammable range with air of at least 12 percentage points,

regardless of the lower flammable limit, read with SABS 0228, as updated or amended;

“flammable liquid” means a liquid, or mixtures of liquids, or a liquid containing solids in solution or in suspension that give off a flammable vapour at or below 60,5° C and also includes a liquid within the danger groups as determined in SABS 0228, as updated or amended (see Schedule 1);

“flammable solid” means a solid that is easily ignited by external sources, such as sparks and flames, solids that are readily combustible, solids that are liable to cause, or contribute to, a fire through friction or solids that are desensitised (wetted) explosives that can explode if not diluted sufficiently, read with SABS 0228, as updated or amended;

“flammable substance” means a flammable liquid or a flammable gas;

“flammable store” means a store that is used for the storage of flammable liquids and complies with the criteria set out in section 51 of this by-law;

“Hazardous Substances Act” means the Hazardous Substances Act, 1973 (Act 15 of 1973);

“Municipality” means the Elundini Local Municipality established in terms of section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the

municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

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

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

“National Building Regulations” means the regulations promulgated in terms of section 17(1) of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977), and–

(a) National Building Regulations (A2) means the provisions regulating the submission of building plans and particulars to the Municipality;

(b) National Building Regulations (A20) means the provisions regulating the classification and designation of occupancies;

(c) National Building Regulations (A21) means the provisions regulating the population of a building;

(d) National Building Regulations (T1) means the provisions regulating general requirements for fire protection of a building, and

(e) National Building Regulations (T2) means the provisions regulating the offences for non-compliance with the National Building Regulations (T1);

“National Road Traffic Act” means the National Road Traffic Act, 1996 (Act 93 of 1996);

“non-combustible” means a substance or material classified as non-combustible when tested in accordance with SABS 0177: Part 5, as updated or amended;

“occupancy” means the particular use or type of use to which a building or portion thereof, is normally put or intended to be put as provided for in the National Building Regulations (A20);

“occupancy separating element” means a building element or component which separates one occupancy in a building from another and has a fire resistance of not less than that required by the National Building Regulations (T1) read with the SABS 0400, as updated or amended;

“Occupational Health and Safety Act” means the Occupational Health and Safety Act, 1993 (Act 85 of 1993);

“operator” means the person responsible for the use of a motor vehicle and who has been registered as the operator of such a vehicle in terms of the National Road Traffic Act;

“owner” means—

(a) in relation to premises, other than a building, either a natural or juristic person whose identity is determined by operation of law;

(b) in relation to a building, either a natural or juristic person in whose name the land on which such building was or is erected or such land, as the case may be, is registered at the deeds registry in question;

(c) in relation to an installation, either a natural or juristic person in whose name a contract is entered into regarding approval, erection and

maintenance of the installation; provided that such a person is not the owner mentioned in (b), and

(d) in the event of the controlling authority being unable to determine the identity of a person mentioned in (a), (b) and (c), any person who is entitled to the benefit of the use of such premises, building or installation or who enjoys such benefit;

“person in charge” means–

(a) in relation to premises, either a natural or juristic person who is permanently or temporarily responsible for the management, maintenance or utilisation of the premises;

(b) in relation to a building, either a natural or juristic person who is permanently or temporarily responsible for the management, maintenance or utilisation of the building;

(c) in relation to an installation, either a natural or juristic person who is permanently or temporarily responsible for the management or utilisation of the installation; provided that such a person is not the person mentioned in (a), and

(d) in the event of the controlling authority being unable to determine the identity of a person mentioned in (a), (b) and (c), any person who is in the opinion of the controlling authority deemed to be in charge of such premises, building or installation;

“population” means the population determined in accordance with the National Building Regulations (A21);

“**premises**” means any building, beach, land, terrain, road, vehicle and can include a vessel, train or aircraft;

“**public place**” means any square, 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;

“**SABS Codes**” means the South African Bureau of Standards Codes of Practice issued in terms of the Standards Act;

“**service**” means a fire brigade service as defined in the Fire Brigade Services

Act;

“**site**” means any erf, lot, plot, stand or other piece of land on which a building has been, is being or is to be erected;

“**Standards Act**” means the Standards Act, 2008 (Act 8 of 2008);

“**state**” means–

(a) any department of state or administration in the national, provincial or local sphere of government, or

(b) any other functionary or institution–

(i) exercising a power or performing a function in terms of the Constitution or a provincial constitution, or

(ii) exercising a public power or performing a public function in terms of any legislation,

but does not include a court or judicial officer;

“**storage vessel**” means a pressure vessel as defined in the regulations for pressure vessels promulgated in terms of the Occupational Health and Safety Act;

“**summary abatement**” means to immediately judge a condition to be a fire hazard or other threatening danger to life or property and to order immediate correction of such condition;

“tank” means a container mounted permanently or temporarily on or embodied in a vehicle and so constructed to be suitable for the containment of flammable liquid or gas cargo;

“underground tank” means a tank used or intended to be used for the storage of flammable liquid wholly sunk into and below the surface of the ground; and

“vehicle” means a vehicle as defined in the National Road Traffic Act and includes the following—

(a) a road tank vehicle, which means a tank truck, tank trailer, or truck-tractor and tank-semi-trailer combination;

(b) a tank-semi-trailer, which means a vehicle with a tank mounted on it or built as an integral part of it, and so constructed that, the semi-trailer is drawn by a truck-tractor or another trailer, through a fifth wheel connection part of the load rest on the towing vehicle;

(c) a tank trailer, which means a vehicle with a tank mounted on it or built as an integral part of it, and so constructed that, when the tank trailer is drawn by a tank truck, practically all of its load rests on its own wheels;

(d) a tank truck, which means a single, self-propelled vehicle with a tank mounted on it;

(e) a truck-tractor, which means a self-propelled vehicle used to pull a tank-semitrailer, and

(f) any other vehicle, which in the opinion of the Municipality, is a vehicle contemplated in terms of this by-law.

2. Purpose of by-law

The purpose of the by-law is to promote a fire-safe environment and to provide for procedures, methods and practices to regulate fire safety within the area of jurisdiction of the Municipality.

3. Application of by-law

This by-law is applicable to all persons within the area of jurisdiction of the Municipality.

4. Administration and enforcement

- (1) The chief fire officer is responsible for the administration and enforcement of this By-law.
- (2) The municipal manager is responsible for the administration and enforcement of this By-law where no chief fire officer has been appointed or where no service has been established in the area of jurisdiction of the Municipality.

5. Delegation

- (1) A chief fire officer may delegate any power granted to him in terms of this by-law in accordance with section 19 of the Fire Brigade Services Act.
- (2) A municipal manager may delegate any power granted to him in terms of this by-law in accordance with the system of delegations of the municipality.

6. Enforcement provisions

- (1) A controlling authority may, whenever he or she regards it necessary or expedient to do so, enter any premises at any reasonable time to ensure compliance with this by-law.

- (2) A controlling authority or any *bona fide* member of a fire protection association—
 - (a) has the authority to summarily abate any condition which is in violation of any provision of this by-law and which presents an immediate fire hazard or other threatening danger; and

 - (b) must remedy any violation mentioned in subsection (a), by performing any act, and may also—
 - (i) call for the immediate evacuation of the premises;

 - (ii) order the closure of the premises until such time as the violation has been rectified;

 - (iii) order the cessation of any activity; and

 - (iv) order the removal of the immediate threat.

- (3) Any costs of such action must be borne by the person deemed by a controlling authority to be responsible for the existence of such condition.

7. Authority to investigate

Notwithstanding anything to the contrary contained in any other by-law, a controlling authority has the authority to investigate the cause, origin and circumstances of any fire or other threatening danger.

8. Failure to comply with provisions

- (1) When a controlling authority finds that there is non-compliance with the provisions of this by-law, excluding the situation in section 6(2), a written notice must be issued and include the following—
 - (a) confirmation of the findings;
 - (b) provisions of this by-law that are being contravened;
 - (c) the remedial action required, and
 - (d) set forth a time for compliance.
- (2) An order or notice issued under this by-law must be served either by personal delivery or registered mail upon a person who, in the opinion of the controlling authority, is deemed to be the appropriate person.
- (3) For unattended or abandoned premises, a copy of such order or notice must be posted on the premises in a conspicuous place at or near the entrance to such premises and the order or notice must be mailed by registered mail, to the last known address of the owner, the person in charge of the premises or both.

9. Denial, suspension or revocation of an approval or a certificate

A controlling authority may refuse, suspend or revoke an approval or a certificate required by this by-law for—

- (a) failure to meet the provisions of this by-law in respect of the issuing of an approval or certificate, or
- (b) non-compliance with the provisions of the approval or certificate.

10. Records required

The safekeeping of all relevant records and documents is the responsibility of the controlling authority.

11. Charges

- (1) The Municipality may determine the fees payable by a person on whose behalf the controlling authority rendered a service, as contemplated in section 10 of the Fire Brigade Services Act.
- (2) The Municipality may charge a fee for the conducting of an inspection, re-inspection or any other service, including the issuing of permits, approvals or certificates, in accordance with the applicable local government legislation with regard to the charging of fees.

12. Reporting a fire hazard and other threatening danger

An owner or the person in charge of any premises, upon discovering evidence of a fire hazard or other threatening danger pertaining to this by-law, must immediately notify the controlling authority.

CHAPTER 2

FIRE PROTECTION OF BUILDINGS

13. National Building Regulations

The controlling authority must, in terms of the procedures contained in sections 6, 7 and 8, *mutatis mutandis*, abate any contravention of the National Building Regulations with regard to the fire safety of buildings.

14. Access for emergency vehicles

(1) When, in the opinion of the controlling authority, premises are not readily accessible from public roads, it must be provided with emergency vehicle access and, notwithstanding the provisions in the National Building Regulations (T1), may be required to comply with the following—

- (a) an access road must be constructed so that it is capable of supporting the mass of the heaviest emergency vehicle required to cater for the risk of the premises;
- (b) a motorised or electronically operated gate must be equipped in such a manner that access to the premises can be gained without the use of a motor or any other electronic device;

- (c) fire lanes must be provided for all premises which are set back more than 45 metres from a public road or exceed nine metres in height and are set back over 15 metres from a public road;
 - (d) fire lanes must be at least four metres in width, the position of which must be decided upon after consultation with the controlling authority, and the area from ground level to a clearance height of four metres above the fire lane must remain unobstructed; and
 - (e) a cul-de-sac that is more than 90 metres in length must be provided with a turning circle at the closed end of the road, capable of accommodating the largest emergency vehicle which is required to cater for the risk of the premises.
- (2) The design, marking, use and maintenance of fire lanes not forming part of a public road must comply with the requirements of the controlling authority.
- (3) It is unlawful for a person to park a vehicle in or otherwise obstruct a fire lane.

15. Division and occupancy separating elements

An owner or person in charge of a building may not alter a division or occupancy separating element in any way that would render it less effective or to allow flame, heat or combustion products from penetrating into the adjacent compartment or structure.

16. Fire doors and assemblies

- (1) Subject to the provisions of SABS 1253, as amended or updated, a fire door and assembly must be maintained in such a manner that in the event of a fire it retains its integrity, insulation and stability for the time period required for that particular class of door.
- (2) A fire door may be kept open, but only when it is equipped with an automatic releasing hold-open device approved by the Municipality.
- (3) A fire door and assembly may not be rendered less effective through the following actions—
 - (a) altering the integrity, insulation or stability of a particular class of door;
 - (b) disconnecting the self-closing mechanism;
 - (c) wedging, blocking or obstructing the door so that it cannot close;
 - (d) painting the fusible link activating mechanism of a door;
 - (e) disconnecting or rendering less effective an electric or electronic release mechanism, or
 - (f) any other action that renders a fire door or assembly less effective.

17. Escape routes

- (1) A component which forms part of an escape route, such as a feeder route, an access door, an emergency route or an escape door, must not be obstructed or rendered less effective in any way that could hinder or

prevent the escape of any person from a building in the case of fire or any other emergency.

- (2) A locking device, which is fitted to an access or escape door in an escape route, must be of a type approved by the Municipality.
- (3) Where required by the controlling authority, an escape route must be indicated clearly with signage which complies with SABS 1186, as amended or updated, and which indicates the direction of travel in the event of fire or any other emergency.

18. Tents

- (1) Prior to the erection and usage of a tent as an occupancy, as contemplated in the National Building Regulations (A20), an applicant must–
 - (a) submit an application in terms of the National Building Regulations (A2) to the Municipality for the erection and usage of the tent; and
 - (b) submit an application to the controlling authority for a temporary population certificate.
- (2) The application submitted in terms of section (1)(a) must comply with the following–
 - (a) the tent must be erected at least 4,5 metres from a boundary, combustible store or any combustible material and the controlling authority may require that this distance be increased should the situation so require;

- (b) where tents are erected adjacent to one another, an unobstructed minimum distance of 4,5 metres must be provided between them and, where applicable, between the stakes and guidelines of the adjacent tents, in order to ensure emergency vehicle access;
- (c) the requirements set out in the National Building Regulations (T1) must be complied with in the following instances–
 - (i) where the population of a tent exceeds 25 people;
 - (ii) where a tent is occupied during the hours of darkness;
 - (iii) for seating arrangements and aisle dimensions; and
 - (iv) for the provision of fire extinguishers;
- (d) the population density of a tent must comply with the National Building Regulations (A21);
- (e) no cooking may be carried out in a tent occupied by the public and, where cooking is required, it must be carried out in a separate tent or an area to which the public does not have access;
- (f) no open fire is permitted in a tent, and any other flame emitting device, such as a candle, lantern or torch, is only permitted in a tent after approval has been granted by the controlling authority;
- (g) no open fire or flame is permitted within five metres of a tent, stake or guideline of a tent;
- (h) smoking is prohibited in a tent and a “**No Smoking**” sign must be prominently displayed at each entrance and must comply with SABS 1186: Part 1, as amended or updated;

- (i) lighting and wiring installed in a tent must comply with the requirements set out in SABS 0142, as amended or updated, and in such a manner that direct contact is not made with combustible material and the radiated heat does not pose an ignition hazard.

- (3) Notwithstanding the provisions of the sub-sections (1) and (2), the controlling authority may request the applicant to fulfil additional requirements for the erection and usage of a tent.

CHAPTER 3

FIRE SAFETY EQUIPMENT

19. Fire extinguishers

- (1) Fire extinguishers must be provided and installed on premises, as required by the controlling authority and in accordance with the National Building Regulations (T1) and (T2).

- (2) Fire extinguishers must be maintained strictly in accordance with the requirements of the Occupational Health and Safety Act, SABS 1475: Part 1, SABS 1571, SABS 1573 and SABS 0105: Part 1, as amended or updated.

- (3) A juristic or a natural person may not fill, recharge, recondition, modify, repair, inspect or test a fire extinguisher in terms of SABS 1475: Part 1, as amended or updated, unless such a person is the holder of a permit issued by the South African Bureau of Standards or certificate of competence issued by the South African Qualifications Certification Committee.

- (4) The owner or person in charge of the premises may not allow a fire extinguisher to be filled, recharged, reconditioned, modified, repaired, inspected or tested by a person not in possession of a permit or certificate mentioned in sub-section (3).
- (5) When the controlling authority finds that a fire extinguisher has been filled, recharged, reconditioned, modified, repaired, inspected or tested by a person not in possession of a permit mentioned in sub-section (3), the controlling authority must instruct the owner or person in charge of such premises to have the work carried out by a person who is in possession of such a permit or certificate.
- (6) When, in the opinion of the controlling authority, a fire extinguisher is unsafe or ineffective, by reason of deterioration, design or construction, the controlling authority must instruct the owner or the person in charge of the premises to have the appliance inspected and tested in terms of SABS 1475: Part 1 and SABS 1571, as amended or updated.
- (7) A fire extinguisher may not be removed from the premises for filling, recharging, reconditioning, modification, repair, inspection or testing unless the appliance is replaced temporarily with a similar appliance in good working condition.
- (8) A fire extinguisher may not be installed, dismantled, recharged, disconnected, serviced, modified, repaired or tested in an area where such activity would create a danger or hazard.

20. Testing and maintenance of fire protection systems

- (1) A fire protection system must be tested and maintained on a regular basis and the owner or person in charge of the premises must keep a detailed record of the testing and maintenance of the system.

- (2) A person may not test a fire protection system before notifying the occupants of the premises concerned of the starting and completion times of the test, and where applicable the parties who monitor the fire protection system.
- (3) A fire protection system designed for detecting, fighting, controlling and extinguishing a fire must be maintained in accordance with the National Building Regulations (T2), read in conjunction with a recognised national code or standard, and, in the absence of a national code or standard, an applicable international code or standard must be used.
- (4) A fire protection system may not be installed, dismantled, recharged, disconnected, serviced, modified, repaired or tested in any area where such action would create a danger or hazard.
- (5) The person carrying out the maintenance of a fire protection system must inform the owner or person in charge of the premises, in writing, of any defects discovered, maintenance performed or still outstanding, and where the person in charge has received such notice, he or she must without delay inform the owner accordingly.
- (6) The owner or person in charge of the premises must immediately notify the controlling authority when the fire protection system, or a component thereof, is rendered inoperable or taken out of service and must notify the controlling authority as soon as the system is restored.
- (7) The owner or person in charge of the premises must take all steps deemed necessary by the controlling authority to provide alternative equipment to maintain the level of safety within the premises.

21. Interference with and access to fire protection systems and fire extinguishers

A person is not permitted to render less effective, inoperative, inaccessible, or tamper and interfere with a fire extinguisher or fire protection system, except as may be necessary during emergencies, maintenance, drills or prescribed testing.

22. Fire alarms and fire hydrants

- (1) Without compensation to the owner of the premises concerned, the controlling authority may cause:
 - (a) a fire alarm;
 - (b) a transmission instrument for calls of fire or other emergency; or
 - (c) a transmission instrument for warning residents of a fire or other emergency,to be affixed to any building, wall, fence, pole or tree.
- (2) Without compensation to the owner of the premises concerned, the controlling authority may cause the position of a fire hydrant, fire alarm or any other fire protection information to be marked on any building, wall, fence, pole, tree, road, pavement or hydrant cover with a board, metal plate or painted marker or by any other means.
- (3) The controlling authority may at any time cause a fire alarm, other transmission instrument mentioned in sub-section (1), board, metal plate or painted marker to be removed without compensating an owner of the premises concerned.

- (4) An unauthorised person is prohibited from removing, defacing, altering, tampering or damaging a fire alarm, other transmission instrument mentioned in sub-section (1), board, metal plate or painted marker.
- (5) A person may not render less effective, inoperative, inaccessible, or tamper and interfere with a fire hydrant.

CHAPTER 4

PUBLIC SAFETY

23. Prevention and control of over-crowding

- (1) Prior to the usage of any premises for entertainment or public assembly, the owner or person in charge of such premises must submit an application for a population certificate to the controlling authority, as may be prescribed.
- (2) The controlling authority may request additional information from the applicant for purposes of determining the application.
- (3) Notwithstanding the provisions in sub-section (1), the controlling authority may instruct the owner or person in charge of the premises to apply for either a temporary or a permanent population certificate, should the premises be used in respect of any other occupancy contemplated in the National Building Regulations (A20).
- (4) A temporary population certificate is valid for a period not exceeding 30 calendar days.
- (5) The controlling authority must refuse to issue the temporary or permanent population certificate if the premises do not comply with the requirements

of the National Building Regulations (T1), and where the controlling authority is of the opinion that non-compliance can be remedied, he or she must instruct the owner or person in charge of the premises, in writing, to take all reasonable steps to render the premises safe prior to the usage of the premises and the issuing of the temporary or permanent population certificate.

- (6) If at any time the controlling authority becomes aware that the usage of the premises is not in accordance with the temporary or permanent population certificate, then he or she must act in terms of this by-law.
- (7) A temporary or permanent population certificate is valid only for the premises or portion of the premises for which it was issued, and when changes of occupancy occur or alterations are made to the premises for which the certificate was issued, the owner or person in charge of the premises must reapply for the certificate in accordance with sub-section (1).
- (8) A temporary or permanent population certificate must be displayed in a clearly visible and conspicuous position in or on the premises for which the certificate was issued.
- (9) The owner or the person in charge of the premises must prevent over-crowding by limiting the maximum population to that which is specified on the temporary or permanent population certificate.
- (10) A person must vacate any premises that are over-crowded when instructed to do so by the controlling authority, the owner or person in charge of the premises.

24. Availability of a service

- (1) When the controlling authority is of the opinion that a service is required to be available during a function in a place used for entertainment or public assembly, he or she may provide, in the interest of public safety and subject to the exigencies of the service, one or more members, a vehicle, one or more items of equipment, or any other aspect of a service to be available at the premises for the duration of the function or part thereof.
- (2) When the availability of a service during a function in a place used for entertainment or public assembly involves costs, the costs incurred by the Municipality may be recovered from the person in charge of the function in accordance with this by-law.

25. Formulation of an emergency evacuation plan

- (1) The owner or person in charge of a school, hospital, residential institution, hotel, guest house, hostel or other similar occupancy which has a population in excess of 25 persons (including staff), must formulate an emergency evacuation plan, detailing the appropriate action to be taken by the staff or the occupants in the event of a fire or other threatening danger.
- (2) When the controlling authority is of the opinion that it is necessary, he or she may order the owner or person in charge of the premises, other than those contemplated in sub-section (1), to formulate an emergency evacuation plan detailing the appropriate action to be taken by the staff or the occupants in the event of a fire or other threatening danger.
- (3) The plan mentioned in sub-sections (1) and (2) must be revised if an aspect thereof is no longer applicable or if the building for which the plan was designed has changed.

- (4) The emergency evacuation plan must be tested in its entirety at a maximum of six-monthly intervals or when the plan has been revised, and a record of the testing must be kept in a register.
- (5) The register mentioned in sub-section (4) must contain the following information—
 - (a) the date and time of the test;
 - (b) the number of participants;
 - (c) the outcome of the test and any corrective actions required; and
 - (d) the name and signature of the person supervising the test.
- (6) The register, together with the emergency evacuation plan, must be available on the premises for inspection by the controlling authority.
- (7) The controlling authority may evaluate the formulation and implementation of the emergency evacuation plan and may officially communicate any recommendations or remedial actions to improve or rectify faults in the plan.

26. Displaying of escape route plans

- (1) In a hospital, residential institution, hotel, guest house, hostel or other similar occupancy designed or intended for or used by patients, residents or transient persons, irrespective of the population, the escape route plan must be displayed in a conspicuous position in any room designed for sleeping purposes.

- (2) The displaying of escape route plans for any other premises is subject to the approval of the controlling authority.

27. Barricading of vacant buildings

The owner or person in charge of a building or portion thereof, which is vacant, must remove all combustible waste or refuse therefrom and lock, barricade or otherwise secure all windows, doors and other openings in the building to the satisfaction of the Municipality, in order to prevent the creation of a fire hazard caused by the entering of an unauthorised person.

CHAPTER 5

HOUSEKEEPING

28. Combustible waste and refuse

- (1) The owner or person in charge of premises or a portion thereof must not allow combustible waste or refuse to accumulate in any area or in any manner so as to create a fire hazard or other threatening danger.
- (2) Combustible waste and refuse must be properly stored or disposed of to prevent a fire hazard or other threatening danger, as prescribed in any legislation that deals with the storage and disposal of that specific type of combustible waste and refuse, or, in the absence of such legislation, as determined by the controlling authority.

29. Dust

The owner or person in charge of premises or a portion thereof may not allow the accumulation of dust in quantities sufficient to create a fire or other threatening danger and must store or dispose of the dust as prescribed in any legislation that deals with the storage and disposal of that specific type of dust.

30. Combustible or flammable substances and cleaning compounds

- (1) Notwithstanding anything to the contrary contained in any other law, only approved water-based solutions or detergents, floor-cleaning compounds and grease absorbents must be used for cleaning purposes.
- (2) The use of sawdust or similar combustible materials to soak up combustible or flammable substances spilled or dropped in the course of a process is prohibited.

31. Accumulations in chimneys, flues and ducts

The owner or person in charge of any premises or a portion thereof must not allow soot or any other combustible substance to accumulate in a chimney, flue or duct of the premises in such quantities or in such a manner as to constitute a fire hazard or other threatening danger.

32. Sources of ignition

- (1) Smoking, the carrying of matches, the use of heating or other flame emitting-devices, or the use of any spark-producing equipment is prohibited in areas containing combustible or inflammable substances, and, where equipment or tools are necessary to conduct or maintain an

operation, such equipment or tools must be intrinsically safe and specifically designed for that purpose.

- (2) Hot ashes, cinders or smouldering coals must be placed in a non-combustible container and the container must be placed on a non-combustible surface or stand.
- (3) An adequate distance, as deemed appropriate by the controlling authority, must be ensured and maintained between combustible substances and heating or lighting equipment or other sources of ignition.
- (4) Any portable heater must be secured so that it cannot be overturned and the controlling authority may prohibit the use of a portable heater in respect of occupancies or situations where such use or operation would present a fire hazard or other threatening danger.

33. Smoking

- (1) If conditions exist where smoking will create a fire hazard on any premises, smoking shall be prohibited and “**No Smoking**” signs must be displayed, as directed by the controlling authority, and the signs must comply with SABS 1186: Part 1, as amended or updated.
- (2) A person may not remove a “**No Smoking**” sign.
- (3) A person may not light or smoke a cigar, cigarette, pipe, tobacco or other substance, or ignite or otherwise set fire to other material, or hold, possess, throw or deposit any lighted or smouldering substance in any place where expressly prohibited.

- (4) Where smoking is allowed, provision must be made for the safe disposal of the smoking material and matches to prevent the creation of a fire hazard or other threatening danger.
- (5) A person may not throw, put down or drop a burning match, burning cigarette, or other burning material or any material capable of spontaneous combustion or self-ignition in a road or any other place.

34. Electrical fittings, equipment and appliances

- (1) A person may not cause or permit an electrical supply outlet to be overloaded.
- (2) A person may not cause or permit an electrical appliance or extension lead to be used in a manner which is likely to create a fire hazard or other threatening danger.

35. Flame-emitting device

A person may not cause or permit a flame-emitting device, such as a candle, lantern or torch, but not limited thereto, to be used in a manner which is likely to create a fire hazard or other threatening danger.

CHAPTER 6

FIRE HAZARDS

36. Combustible material

- (1) A person may not store, transport, use or display, or cause or permit to be stored, transported, used or displayed, whether inside or outside any

premises, any combustible material or a flammable substance in quantities or in a position or in a manner likely to cause or create a fire hazard or other threatening danger.

- (2) The owner or person in charge of any premises may not permit vegetation to grow or accumulate thereon, or other combustible material to accumulate thereon, in a manner likely to cause a fire hazard or other threatening danger.

37. Lighting of fires and burning of combustible material on premises

- (1) The lighting of fires, burning of combustible material and the disposal of combustible material by burning is prohibited on any premises, save in the circumstances set out in this chapter.
- (2) A person may only light a fire or use a flame-emitting device for the purpose of preparing food or other domestic activity, in a manner which will not cause a fire hazard or other threatening danger or where such a fire is not precluded by any other legislation.
- (3) The owner or person in charge of any premises used in respect of an occupancy or entertainment or public assembly must ensure that a cooking fire or flame-emitting device is placed in a designated area so as to prevent a fire hazard or other threatening danger.
- (4) No person may burn any combustible refuse, combustible waste, grass, or garden cuttings on any premises unless the owner or person in charge has applied for and obtained the prior written permission of the controlling authority.
- (5) For purposes of sub-section (4), the controlling authority may—

- (a) investigate the premises to verify that the intended burning will not contravene any provision of this by-law;
 - (b) call for more information from the owner or person in charge;
 - (c) request the owner or person in charge to render the premises safe and compliant with the provisions of this by-law before granting any written permission;
 - (d) grant the written permission for which application was made, subject to any conditions which the controlling authority deems necessary; and
 - (e) refuse or withdraw such written permission in the event that circumstances change.
- (6) Any written permission granted under sub-section (5) shall be valid for no more than 14 days, unless the controlling authority expressly indicates otherwise.

38. Other restrictions on lighting of fires and burning

- (1) No person may light a fire or burn combustible material on a public road or at a public place except in a designated area.
- (2) Burning for agricultural activities may take place on state land, a farm, a small holding, or land within a proclaimed township that is not utilised for residential purposes, provided that prior written approval is obtained from either the controlling authority or the fire protection association.

CHAPTER 7

FLAMMABLE SUBSTANCES

39. Application of this chapter

Notwithstanding the provisions in either the Hazardous Substances Act or the Occupational Health and Safety Act, this chapter regulates flammable substances in the area of jurisdiction of the Municipality so as to prevent and reduce fire hazards or other threatening dangers.

40. Storage and use of a flammable substance

- (1) Prior to the construction of a new installation or the alteration of an existing installation, whether temporary or permanent, for the storage of a flammable substance, the owner or person in charge of the premises must submit a building plan to the Municipality, in accordance with the National Building Regulations, and a copy of the approved plan must be available at the site where the installation is being constructed.
- (2) Prior to the commissioning of an above-ground or underground storage tank installation, liquid petroleum gas installation or associated pipe work, the owner or person in charge of the premises must ensure that it is pressure-tested in accordance with the provisions of the National Building Regulations (T1), S.A.B.S. 0131: Parts 1 and 2, S.A.B.S. 089: Part 3 and S.A.B.S. 087: Parts 1,3 and 7 (whichever is applicable), as amended or updated, in the presence of the controlling authority.
- (3) Notwithstanding sub-section (2), the controlling authority may require an existing above-ground or underground storage tank installation, liquid

petroleum gas installation or associated pipe work, to be pressure-tested in accordance with the provisions of the National Building Regulations (T1).

- (4) The controlling authority must be notified at least 48 hours prior to any pressure test conducted in terms of sub-section (3).
- (5) Prior to any alteration of the premises that will have an impact on the fire safety of an existing above-ground or underground storage tank installation, liquid petroleum gas installation or associated pipe work, the owner or person in charge of the premises must notify the controlling authority, who may call for the premises or installation to be rendered safe.
- (6) The owner or person in charge of the premises may not store or use—
 - (i) a flammable gas in excess of 19 kilogrammes;
 - (ii) a flammable liquid of a danger group; or
 - (iii) a flammable liquid in excess of 200 litres,unless he or she has obtained a flammable substance certificate from the controlling authority.

41. Flammable substance certificate

- (1) The owner or person in charge of any premises, who requires a flammable substance certificate mentioned in terms of this by-law, must submit an application to the controlling authority, as may be prescribed.
- (2) The controlling authority may request additional information from the applicant for purposes of determining the application.

CONTINUES ON PAGE 130 - PART 2



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

**Provincial Gazette
Igazethi Yephondo
Provinsiale Koerant
(Extraordinary)**

Vol. 23

BISHO/KING WILLIAM'S TOWN
29 MARCH 2016
29 MAART 2016

No. 3643

PART 2 OF 3

We all have the power to prevent AIDS



**AIDS
HELPLINE**

0800 012 322

DEPARTMENT OF HEALTH

Prevention is the cure

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

ISSN 1682-4556



9 771682 455006

03643



- (3) The controlling authority must refuse to issue the flammable substance certificate if the premises does not comply with the requirements of the National Building Regulations (T1) or any additional requirements set out in this by-law.
- (4) If the controlling authority is of the opinion that non-compliance can be remedied, then he or she must instruct the owner or person in charge of the premises, in writing, to take all reasonable steps to render the premises safe prior to the issuing of the certificate.
- (5) A flammable substance certificate must be renewed annually, on or before the date indicated on the flammable substance certificate, and whenever the quantity or class of the flammable substance is to be changed or when any alteration of the premises will have an impact on fire safety, as contemplated in terms of this by-law.
- (6) If at any time the controlling authority becomes aware that the usage of the premises is not in accordance with the flammable substances certificate, he or she must act in terms of sections 6, 7 or 8 of this by-law.
- (7) Notwithstanding the provisions contained in sub-section (6), if in the opinion of the controlling authority, a flammable substance is stored or utilised for any process or in a manner which is hazardous to life or property, or an installation is unauthorised, then an order may be issued for the removal of the flammable substance or installation from the premises.
- (8) A supplier may not supply flammable substances to the owner or person in charge of any premises, unless the owner or person in charge of the premises is in possession of a valid flammable substance certificate issued by the controlling authority.

- (9) A flammable substance certificate is valid only for–
- (a) the installation for which it was issued;
 - (b) the state of the premises at the time of issue; and
 - (c) the quantities stated on the certificate.
- (10) The flammable substance certificate must be available on the premises for inspection at all times.
- (11) The controlling authority must keep records of all premises in respect of which a flammable substance certificate has been issued, amended or renewed.

42. Permanent or temporary above-ground storage tank for a flammable liquid

- (1) A temporary above-ground storage tank, other than a tank at a bulk storage depot, may be permitted at the discretion of the controlling authority and on the merits of the situation, provided that the following requirements are met–
- (a) it must have a capacity not exceeding 9,000 litres and shall not be used for the storage of flammable substances with a flash point below 40° C;
 - (b) it shall not be on the premises for a period exceeding six months;
 - (c) the entire installation must comply with SABS 0131: Part 1 or S.A.B.S. 0131: Part 2, whichever is applicable and as updated and amended;

- (d) written application, together with a plan, must be forwarded to the controlling authority at least 14 days prior to the erection of the tank;
and
 - (e) written permission must be obtained from the controlling authority prior to the erection of the tank.
- (2) If a larger capacity above-ground storage tank is required or if the tank is to be a permanent installation, then an acceptable and rational design, based on a relevant national or international code or standard, must be submitted to the Municipality for approval in terms of the National Building Regulations (T1).
- (3) The design requirements and construction of a permanent tank must be in accordance with relevant national or international codes or standards.
- (4) The rated capacity of a permanent or temporary tank must provide sufficient ullage to permit expansion of the product contained therein by reason of the rise in temperature during storage.
- (5) A permanent or temporary tank must be erected at least 3,5 metres from boundaries, buildings and other flammable substances or combustible materials.
- (6) A permanent or temporary tank must be located on firm, level ground and the ground must be of adequate strength to support the mass of the tank and contents.
- (7) A permanent or temporary tank must have a bund wall.
- (8) Adequate precautions must be taken to prevent spillage during the filling of a tank.

- (10) Sufficient fire extinguishers, as determined by the controlling authority, must be provided in weatherproof boxes in close proximity to a tank.
- (11) Symbolic safety signs, depicting “**No Smoking**”, “**No Naked Lights**” and “**Danger**”, must be provided adjacent to a tank, and the signs must comply with SABS 1186: Part 1, as amended or updated.
- (12) The flammable liquid in a tank must be clearly identified, using the Hazchem placards listed in SABS 0232: Part 1, as amended or updated.
- (13) An electrical or an internal combustion-driven pump must be equipped and so positioned as to eliminate the danger of flammable liquid being ignited.
- (14) The electrical installation associated with the above ground storage tank must comply with SABS 0108 and SABS 089: Part 2, as amended or updated.

43. Underground storage tank for a flammable liquid

The installation of underground storage tanks, pumps, dispensers and pipe work at service stations and consumer installations must be in accordance with National Building Regulations (T1) read in conjunction with SABS 0400, SABS 089: Part 3 and SABS 0131: Part 3, as amended or updated.

44. Bulk storage depot for flammable substances

The handling, storage and distribution of flammable substances at bulk depots must be in accordance with the National Building Regulations (T1), read in conjunction with SABS 089: Part 1, as amended or updated.

45. Small installations for liquid petroleum gas

Liquid petroleum gas installations, involving gas storage containers of individual water capacity not exceeding 500 litres and a combined water capacity not exceeding 3,000 litres per installation, must be installed and handled in accordance with SABS 087: Part 1, as amended or updated.

46. Liquid petroleum gas installation in mobile units and small non-permanent buildings

Any liquid petroleum gas installation in a mobile unit or a small non-permanent building shall be in accordance with SABS 087: Part 2, as amended or updated.

47. The fuelling of forklift trucks and other liquid petroleum gas operated vehicles

The fuelling of forklift trucks and other liquid petroleum gas operated vehicles shall be in accordance with SABS 087: Part 8, as amended or updated.

48. The storage and filling of refillable liquid petroleum gas containers

Storage and filling sites used for refillable liquid petroleum gas containers of a capacity not exceeding nine kilogrammes must be in accordance with SABS 087: Part 7, as amended or updated.

49. Bulk storage vessel for liquid petroleum gas

The layout, design and operation of installations for the storage of a bulk liquid petroleum vessel and allied facilities must be in accordance with the National Building Regulations (T1), read in conjunction with SABS 087: Part 3, as updated or amended.

50. Termination of the storage and use of flammable substances

- (1) If an above-ground or underground tank installation, liquid petroleum gas installation or associated pipe work is no longer required for the storage or use of a flammable substance, then the owner or person in charge of the premises on which the installation was erected must—
- (a) within seven days of the cessation, notify the controlling authority in writing thereof;
 - (b) within 30 days of the cessation, remove the flammable substance from the installation and render it safe;
 - (c) within six months of the cessation, remove the installation, including any associated pipe work, from the premises entirely, unless the controlling authority otherwise instructs; and
 - (d) restore any a public footpath or roadway, which may have been disturbed by the removal, to the satisfaction of the Municipality, within a period of seven days of the completion of the removal of the installation.
- (2) If the removal of an underground tank installation detrimentally affects the stability of the premises, then the owner or person in charge of the installation must apply in writing to the controlling authority to fill the tank with liquid cement slurry.

51. Reporting accidents

If an accident occurs which involves a flammable substance and results in a fire, an explosion, spillage or loss of a flammable substance, as well as personal injury or death, then the owner or person in charge of the premises must immediately notify the controlling authority.

52. Flammable stores

- (1) The construction of a flammable store must be in accordance with the National Building Regulations (T1), read in conjunction with SABS 0400, as amended or updated.
- (2) The floor must be of concrete construction or other impermeable material and must be recessed below the door level or incorporate a sill.
- (3) The recess or sill must be of such a depth or height that in the case of spillage it will be capable of containing the quantity of flammable liquid, as indicated on the flammable substance certificate, and an additional 10% of the quantity mentioned on the certificate.
- (4) Notwithstanding the National Building Regulations (T1), read in conjunction with SABS 0400, as amended or updated—
 - (a) the roof assembly of a flammable store must be constructed of a concrete slab capable of providing a two-hour fire resistance when it forms part of another building;
 - (b) the ventilation of a flammable store must be achieved by the use of air bricks located in the external walls, at the ratio of one air brick nominally above the sill level and one air brick located in the top third

of the wall per 5 m² of wall area or part thereof, so that vapour cannot accumulate inside the store;

- (c) the air bricks must be covered both internally and externally with closely-woven, non-corrodible wire gauze of at least 1,100 meshes per metre; and
 - (d) the wire gauze must be held in position by metal straps, a metal frame or cement.
- (5) When required by the controlling authority, the flammable store must be ventilated by a mechanical ventilation system, approved by the Municipality, and must comply with the following requirements–
- (a) the ventilation system is to be intrinsically safe, provide 30 air changes per hour and must operate continuously;
 - (b) the fan extraction point must be nominally above sill level and must discharge through a vertical metal duct, terminating at least one metre above roof height or at least 3,6 metres above ground level, whichever is the greater;
 - (c) ducting material that is external to the store, but communicates with the remainder of the building, must be fitted with a fire damper of two hour -fire resistance at the point of exit from a flammable store; and
 - (d) the ducting must be as short as possible and must not have sharp bends.
- (6) Notwithstanding the National Building Regulations (T1), read in conjunction with SABS 0400, as amended or updated, a flammable store door must be constructed of material with a fire resistance of two hours,

- provided that all relevant safety distances are complied with, and the door must open outwards.
- (7) When required by the controlling authority, a flammable store door must be a D-class fire door, which complies with SABS 1253, as amended or updated.
- (8) Notwithstanding the National Building Regulations (T1), read in conjunction with SABS 0400, as amended or updated, artificial lighting in the flammable store must be by electric light, having vapour-proof fittings wired through a seamless steel conduit and the switches operating the lights must be located outside the store.
- (9) No other electrical apparatus may be installed in the flammable store.
- (10) A flammable store must be provided with a foam inlet consisting of a 65 millimetre male instantaneous coupling and mild steel pipe-work leading to the inside thereof and the foam inlet must be identified by means of a sign displaying the words "**Foam Inlet**" in 100 millimetre block letters.
- (11) Racking or shelving erected in the flammable store must be of non-combustible material.
- (12) The flammable store must be identified by the words, "**Flammable Store - Bewaarplek vir Vlambare Vloeistowwe - Isitoro Indawo Yokugcina Izixhobo Ezithatha Lula Umlilo**", and the permissible quantity allowed within the flammable store, indicated in 100 millimetre block letters on both the inside and outside of all doors communicating directly with the store.
- (13) The owner or person in charge of a flammable store must ensure that the flammable store doors are kept locked when the store is not in use.

- (14) A person shall not enter a flammable store or cause or permit it to be entered without the permission of the owner or person in charge of the premises.
- (15) Sufficient fire extinguishers, as determined by the controlling authority, must be mounted on the external wall of the flammable store in a conspicuous and easily accessible position.
- (16) Any hand tool used in the flammable store must be intrinsically safe.
- (17) A person may not use or permit a flammable store to be used for any purpose other than that indicated on the flammable substance certificate, unless the store is not in use as a flammable store and the controlling authority has been notified in terms of the following procedure—
- (a) within seven days of the cessation, notify the controlling authority in writing thereof;
 - (b) within 30 days of the cessation, remove the flammable substance from the flammable store and render it safe; and
 - (c) within 30 days of the cessation, remove all signage.
- (18) Subject to the provisions in this section, the controlling authority may call for additional requirements to improve the fire safety of a flammable store.

53. Container handling and storage

- (1) All flammable substance containers must be kept closed when not in use.
- (2) A person may not extract flammable liquids from a container of a capacity exceeding 20 litres, unless the container is fitted with an adequately sealed pump or tap.

- (3) Flammable liquid containers must be labelled and marked with words and decals, which indicate the flammable liquids contained therein as well as the hazard of the liquids.
- (4) Flammable substance containers must be declared gas or vapour -free by a competent person before any modifications or repairs are undertaken.
- (5) All flammable substance containers must be manufactured and maintained in such a condition as to be reasonably safe from damage and to prevent leakage of flammable substances or vapours therefrom.
- (6) An empty flammable liquid container must be placed in a flammable store.
- (7) Where a flammable store is not available for the storage of empty flammable liquid containers, the controlling authority may permit such storage in the open; provided that—
 - (a) the storage area must be in a position and of sufficient size which, in the opinion of the controlling authority, will not cause a fire hazard or other threatening danger;
 - (b) the storage area is well ventilated and enclosed by a wire mesh fence and—
 - (i) the fence supports are of steel or reinforced concrete;
 - (ii) it has an outward opening gate that is kept locked when not in use; and
 - (iii) when the floor area exceeds 10 m², an additional escape gate is installed, fitted with a sliding bolt or other similar locking device that can be opened from the inside without the use of a key;

- (c) the storage area is free of vegetation and has a non-combustible firm level base;
 - (d) a two metre distance around the perimeter of the fenced area is clear of grass, weeds and similar combustible materials;
 - (e) when the storage area has a roof, the construction of the roof and supporting structure must be of non-combustible material;
 - (f) open flames, welding, cutting operations and smoking is prohibited in or near the storage area and signage is prominently displayed on the fence and complies with SABS 1186: Part 1, as amended or updated; and
 - (g) fire-fighting equipment is installed, as determined by the controlling authority.
- (8) An empty flammable liquid container must be securely closed with a bung or other suitable stopper.

54. Spray rooms and booths

A spray room, booth or area designated for the application of a flammable liquid must be constructed and equipped in such a manner as to comply with the general safety regulations promulgated in terms of the Occupational Health and Safety Act.

55. Liquid petroleum gas containers

- (1) A liquid petroleum gas container must be manufactured, maintained and tested in accordance with SABS 087: Part 1 and SABS 019, as amended or updated.

- (2) A liquid petroleum gas container must be used and stored in such a manner as to prevent damage or leakage of liquid or vapour therefrom.
- (3) A liquid petroleum gas container of a capacity not exceeding nine kilogrammes must be filled and stored in accordance with SABS 087: Part 7, as amended or updated.

CHAPTER 8

TRANSPORTATION OF DANGEROUS GOODS

56. Dangerous goods certificate

- (1) The operator of a vehicle designed for the transportation of dangerous goods may not operate such a vehicle in the jurisdiction of the controlling authority, unless he or she does so in accordance with the provisions of the National Road Traffic Act.
- (2) An operator of a vehicle mentioned in sub-section (1) must submit an application to the controlling authority for a dangerous goods certificate, as may be prescribed.
- (3) The controlling authority may request additional information from the applicant.
- (4) The controlling authority must refuse to issue a dangerous goods certificate if a vehicle does not comply with the requirements of SABS 087: Part 4, SABS 089: Part 1, SABS 0230, SABS 1398, or SABS 1518, whichever is applicable to the vehicle, and, if the controlling authority is of the opinion that non-compliance can be remedied, then he or she must instruct an operator of a vehicle, in writing, to take all reasonable steps to

remedy the non-compliance prior to the use of the vehicle in accordance with sub-section (1) and the dangerous goods certificate.

- (5) A dangerous goods certificate must be renewed annually, on or before the date indicated on the dangerous goods certificate or whenever major maintenance or repairs have been performed on the vehicle.
- (6) If, at any time, the controlling authority becomes aware that the usage of a vehicle is not in accordance with the dangerous goods certificate, then he or she must enforce the provisions of this by-law and act in terms of sections 6, 7 and 8, as may be applicable.
- (7) A consignor may not supply a flammable substance to an operator of a vehicle mentioned in sub-section (1), unless the operator is in possession of a valid dangerous goods certificate issued by the controlling authority.
- (8) A consignee may not receive a flammable substance from an operator of a vehicle mentioned in sub-section (1), unless the operator meets the requirement in sub-section (7).
- (9) A dangerous goods certificate is valid only for—
 - (a) the vehicle for which it was issued;
 - (b) the state of the vehicle at the time of issue; and
 - (c) the quantities stated on the certificate.
- (10) The dangerous goods certificate must be available in the vehicle mentioned in sub-section (1) for inspection at all times.
- (11) The controlling authority must keep records of all vehicles in respect of which a dangerous goods certificate has been issued, amended or renewed.

CHAPTER 9

GENERAL PROVISIONS

57. State bound

This by-law binds the state and any person in the service of the state.

58. Offences and penalties

Any person who contravenes any of the provisions of this by-law or fails to comply therewith, or who contravenes or fails to comply with any order made hereunder or any notice served in connection herewith, is guilty of an offence and upon conviction shall be liable for—

- (a) a fine or imprisonment, or both such fine and such imprisonment;
- (b) in the case of a continuing offence, an additional fine or an additional period of imprisonment or both such additional fine and imprisonment for each day on which such offence is continued; and
- (c) a further amount equal to any costs or expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

59. Short title

This by-law shall be known as the Fire Safety By-law, 2015.

PROVINCIAL NOTICE 47 OF 2016
FUNERAL UNDERTAKERS BY-LAW

[Local Authority Notice No. ____]

[Date of Commencement: ____]

ELUNDINI LOCAL MUNICIPALITY FUNERAL UNDERTAKERS BY-LAW

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, 1996, the Funeral Undertakers By-law.

Arrangement of sections

1. Definitions
2. Purpose of the By-law
3. Preparation and storage of corpses
4. Exemptions
5. Application for the issue or transfer of a certificate of competence
6. Issue or transfer of a certificate of competence
7. Transfer and validity

8. Issue of a provisional certificate of competence
9. Duties of holder
10. Suspension or revocation of a certificate of competence or a provisional certificate of competence
11. Location
12. Requirements relating to funeral undertaker's premises
13. Hygiene
14. Penalties
15. Short title and commencement

1. Definitions

Unless the context otherwise indicates—

“the Act” means the National Health Act, 2003 (Act No.61 of 2003), and any expression or term to which a meaning has been assigned in the Act shall have such meaning for purposes of this By-law;

“certificate of competence” means the a document issued in terms of section 6;

“Council” means the municipal council of the Elundini Local Municipality and includes the administration of the Elundini Local Municipality or any other body acting by virtue of any power lawfully delegated to it, including any official to whom the Council has delegated any powers or duties with regard to this By-law;

“existing funeral undertaker’s premises” means a funeral undertaker’s premises that was being used as such on the date of commencement of this By-law;

“funeral undertaker’s premises” means a premises that is used for the preparation and ~~or~~ storage of corpses for burial or cremation;

“health nuisance” means a situation, or state of affairs, that endangers life or health or adversely affects the well-being of a person or community;

“health officer” means a person appointed as a health officer in terms of the National Health Act, 2003 (Act No. 61 of 2003);

“holder” means the person in whose name a certificate of competence has been issued;

“land use provisions” means the provisions contained in any legislation or policy that regulate the use of land falling within the jurisdiction of the Municipality;

“Municipality” means the Elundini Local Municipality;

“preparation” means any action aimed at the preparation of a corpse for a funeral or for cremation, export or other disposal and shall include the embalming of such corpse for the said purpose, and **“prepare”** and any word derived therefrom shall have a corresponding meaning; and

“provisional certificate of competence” means the a document contemplated in section 8.

2. Purpose of the By-Law

The purpose of the By-law is to promote the achievement of a safe and clean environment for the benefit of all residents within the area of jurisdiction of the Municipality.

3. Preparation and storage of corpses

Unless otherwise provided in this By-law, no person shall prepare or store any corpse except at a funeral undertaker's premises in respect of which a valid certificate of competence has been issued and which remains in effect.

4. Exemptions

- (1) Council may, in terms of a certificate of exemption, exempt any person from complying with any provision of this By-law where, in the reasonable opinion of the Council, such non-compliance does not or will not create a health nuisance.
- (2) An exemption shall be subject to such conditions and shall be valid for such period as Council may stipulate in the certificate of exemption.

5. Application for the issue or transfer of a certificate of competence

- (1) Any person wishing to apply for the issue or transfer of a certificate of competence in respect of a funeral undertaker's premises shall, not less than 21 days before submitting his or her application to Council, cause a notice of his or her intention to be published in English, Afrikaans and isiXhosa in a newspaper that circulates in the area in which such premises will be or are situated.

-
- (2) Such notice shall contain information to the effect that an application for the issue or transfer of a certificate of competence in terms of this By-law is to be submitted to Council and that any person who wishes to object thereto shall lodge with Council his or her written objection, including his or her reasons therefor, within 21 days of the date of publication of such notice.
- (3) An application for the issue or transfer of a certificate of competence shall be made in writing by the applicant or his or her authorized representative to Council, in such format as may be prescribed.
- (4) An application for the issue or transfer of a certificate of competence shall be accompanied by—
- (a) a description of the premises and the location thereof, including equipment, storage facilities, preparation areas and toilet facilities;
 - (b) a complete building plan of the proposed construction of any buildings on a scale of 1:100, including the effluent disposal system, as contemplated in terms of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);
 - (c) a general plan of the premises, indicating adjacent premises already occupied by the applicant or other persons, and the purpose for which the premises is being utilized or is intended to be utilized;
 - (d) the particulars of any person other than the applicant who prepares or will prepare corpses on the premises;

- (e) a contingency plan for the storage of corpses in the event of a refrigeration or cold-room breakdown or general electrical power failure;
 - (f) a copy of a suitable cleansing and disinfection programme; and
 - (g) details of any person responsible for the proper removal, transportation and disposal of such waste as may be generated at the premises as a result of the preparation and storage of corpses.
- (5) When considering an application for the issuing or transfer of a certificate of competence, Council may request any such further information as may be necessary from the applicant or his or her representative.
- (6) Council shall not issue or transfer a certificate of competence unless a complete inspection of the premises concerned has been carried out by a health officer appointed by a Council and his or her report and recommendations have been placed before Council for consideration.

6. Issue or transfer of a certificate of competence

When Council is satisfied that the premises concerned—

- (a) complies with all requirements laid down in this By-law and other applicable legislation;
- (b) is in all respects suitable for the preparation of corpses; and
- (c) will not be offensive to any occupants of premises in the immediate vicinity of such premises,

it may, on such conditions as it may determine in respect of the funeral undertaker's premises concerned, issue a certificate of competence in the name of the applicant in such form as it may determine or may, by endorsement, transfer an existing certificate of competence to a new holder, as the case may be.

7. Transfer of certificate of competence and validity

A certificate of competence, excluding a provisional certificate of competence, shall, on endorsement by Council, be transferable from one holder to another and such certificate shall, if so endorsed, be valid from the date on which it was issued until it is revoked or suspended in terms of this By-law.

8. Issue of a provisional certificate of competence

- (1) Notwithstanding the fact that Council is not satisfied that a funeral undertaker's premises, in respect of which a certificate of competence has been applied, does not meet the requirements contained in (a), (b) and (c) of section 6, Council may, in the case of an existing funeral undertaker's premises and subject to such conditions as Council may determine, issue a provisional certificate of competence in respect of such premises.
- (2) A certificate referred to in sub-section (1) will only be issued if Council is satisfied that the use of such funeral undertaker's premises does not and will not create a health nuisance; provided that the certificate will be issued for a maximum period of six months to enable the applicant to alter such premises in order to comply with the provisions of this By-law.

- (3) If, after the period referred to in subsection (2), the premises does not comply with provisions of this By-law, Council may revoke the certificate.

9. Duties of holder

- (1) The holder shall immediately inform Council in writing if there are any changes in the particulars or circumstances supplied to Council in the application for ~~of~~ the issue or transfer of a certificate of competence.
- (2) A body shall not be disposed of by a holder, his or her employees or any other person under the holder's control, in any place or premises other than a cemetery or crematorium, registered in terms of the applicable legislation relating to cemeteries and crematoria.
- (3) The holder shall comply with the provisions of this By-law, any applicable legislation and such conditions as may be imposed by Council.

10. Suspension or revocation of a certificate of competence or a provisional certificate of competence

- (1) If, on the strength of an inspection report or recommendation by a health officer or duly delegated official, there is reason to suspect that—
 - (a) a funeral undertaker's premises concerned is used in such a way as to create a health nuisance or that conditions that constitute a health nuisance have been or are being created at the funeral undertaker's premises;

- (b) the premises concerned is being used in contravention of the provisions of the National Health Act, 2003 (Act No. 61 of 2003), this By-law or other applicable legislation; or
- (c) any conditions imposed by the certificate of competence or provisional certificate of competence have been or are being infringed,

then Council may suspend or revoke a certificate of competence or provisional certificate of competence in accordance with the provisions of sub-section (2).

(2) Subject to sub-section (1), Council may—

- (a) in relation to conditions referred to in sub-section (1)(a) where, in its opinion, the health nuisance in question is a real health nuisance, suspend or revoke a certificate of competence or provisional certificate of competence for such period as Council may determine, to enable the holder to remove the health nuisance;
- (b) in relation to a contravention or infringement referred to in sub-section (1)(b) or (c), suspend the certificate of competence or provisional certificate of competence for such period as Council may determine, to enable the holder to comply with the applicable legislation or conditions imposed; and
- (c) if the holder fails to comply within the period stipulated by Council upon the suspension of a certificate of competence or provisional certificate of competence, then Council may revoke the certificate without notice.

- (3) The suspension or revocation of a certificate of competence or a provisional certificate of competence by Council shall be done by delivery to the holder of a notice to that effect.
- (4) The suspension or revocation of a certificate of competence or provisional certificate of competence in terms of this By-law shall have the effect that, from the date of the notice of suspension or revocation—
- (a) no preparation of any corpse shall be performed on the premises concerned;
 - (b) no corpse shall be received for preparation on the premises concerned; and
 - (c) no corpse shall be preserved on the premises concerned; and
- every corpse shall immediately be removed to a mortuary under the control of the national, provincial or local government, or to any other lawful funeral undertaker's premises; provided that this section shall not be construed as restricting any other business activity pertaining to the funeral undertaking business, including the sale of coffins and policies.
- (5) Where Council is of the opinion that a condition that gave rise to the revocation of a certificate of competence or provisional certificate of competence was corrected after such revocation, it shall, on written application made by or on behalf of the holder, repeal such revocation and endorse the certificate accordingly.

11. Location

- (1) The location of any funeral undertaker's premises along or beside a main road or other major thoroughfare, falling within Council's municipal boundaries, is prohibited: provided that—
 - (a) it may be located along or beside a secondary road or such other thoroughfare as may be permissible in terms of Council's land use provisions; and
 - (b) the said prohibition shall not apply to premises upon which any work not constituting either the preparation or storage of corpses, but which forms part of the normal business operations of a holder, is conducted.
- (2) No logo or other signage, advertising a funeral undertaker's premises, may be displayed along or beside a main road or major thoroughfare, as described in sub-section (1).
- (3) This section shall not apply to any existing funeral undertaker's premises for a period of 12 months after the date upon which this By-law commences.

12. Requirements relating to funeral undertaker's premises

- (1) Provision for the following shall be made at a funeral undertaker's premises—
 - (a) a preparation room for the preparation of corpses;

- (b) change-rooms, separate for each gender, for the use of employees;
- (c) appropriate and suitable facilities for—
 - (i) the refrigeration of corpses;
 - (ii) the washing and cleansing of utensils and equipment inside the building;
 - (iii) the cleansing of vehicles on the premises; and
 - (iv) the loading and unloading of corpse as contemplated in sub-section (6).
- (2) No room at a funeral undertaker's premises shall be used for any purpose other than that for which it is intended.
- (3) The preparation room shall
 - (a) be so designed as to—
 - (i) be separated from all other rooms on the premises so as not to communicate directly with any office or any other room: provided that, where a preparation room on any existing funeral undertaker's premises so communicates, the entrance thereto shall be so concealed that the interior thereof is completely out of sight of any person in such office or other room;
 - (ii) enable obnoxious odours and vapors to be adequately treated or dissipated; and

- (iii) be sufficiently ventilated and lighted;
- (b) have a floor–
- (i) covering an area of not less than 16 m² for the first table of the kind referred to in sub-section (3)(e) and 8 m² for each additional table;
 - (ii) constructed of concrete or similar waterproof material, with a smooth non-slippery surface that is easy to clean, and sloped at an angle to ensure that any run-off will drain into a disposal system approved by Council; and
 - (iii) which, if it is replaced or laid after the date of commencement of this By-law, shall be provided with a half-round filling where it meets the walls;
- (c) have walls, the inner surfaces of which having a smooth finish and which are covered with a light-coloured and washable paint or other suitable, smooth, waterproof, light-coloured and washable material;
- (d) be provided with a ceiling not less than 2,4 m above the floor level, which ceiling shall be dust-proof and which shall be covered with a light-coloured and washable paint;
- (e) contain not less than one table of stainless or glazed earthenware or other suitable material, equipped with a raised rim on the outside, a tap with cold running water to which a flexible pipe can be connected, and a drainage opening connected to an approved disposal system;

- (f) contain not less than one wash-basin for each table, made of stainless steel or other suitable material, with a working surface of the same material, taps with hot and cold running water, and a drainage opening permanently connected to an approved disposal system, and which shall be provided with disposable towels, a nailbrush and soap;
 - (g) have not less than one tap with running water to which a flexible pipe, long enough to reach all corners of such room, can be connected for cleaning the interior surfaces; and
 - (h) have door openings that are not less than 0,82 m in width and 2,00 m in height so that corpses can be taken into and out of such room without any difficulty.
- (4) Each change-room shall contain at least the following–
- (a) one hand-basin with hot and cold running water for every six employees;
 - (b) disposable towels, soap, nailbrushes and disinfectant; and
 - (c) not less than one toilet for every 15 male employees and not less than one toilet for every 15 female employees employed at the funeral undertaker's premises: provided that, where a separate urinal for men forms part of such facilities, one toilet plus one separate urinal shall be permissible for every 30 men.
- (5) Refrigeration facilities, such as refrigeration or cold chambers for the keeping of corpses, shall be installed inside or in close proximity to a preparation room and–

-
- (a) where a refrigerators is used, it shall be—
- (i) constructed of a material that does not absorb moisture;
 - (ii) provided with removable trays;
 - (iii) so designed as to drain into an approved drainage system;
and
 - (iv) easy to clean;
 - (v) of such a nature that the surface temperature of any corpse shall be no higher than 4° C within three hours of its having been received on the premises and no higher than 15° C during preparation;
- (b) an accurate thermometer must be provided at the refrigerator or cold chamber and must be operational at all times;
- (c) where a cold chamber is used, it shall comply with sub-section (3)(a), (b)(ii), (c), (d) and (h) and shall be provided with shelves manufactured from a material that does not absorb moisture and that is easy to clean; and
- (d) corpses shall not be stored on top of each other but must be stored individually on the trays or shelves.
- (6) The cleansing, loading and unloading facilities shall consist of a paved area, screened from public view, with a drainage system approved by Council.

- (7) The loading and unloading of corpses and the cleaning of vehicles shall not take place anywhere except in the area contemplated in subsection (6).
- (8) A funeral undertaker's premises must be rodent-proof.

13. Hygiene

- (1) All waste generated as a result of the activities conducted at a funeral undertaker's premises must be stored, removed, transported and disposed of in accordance with South African National Standard (SANS) 10248:2004, as amended or updated.
- (2) A holder shall—
 - (a) provide clean protective clothing, consisting of—
 - (i) surgical gloves;
 - (ii) gumboots;
 - (iii) plastic aprons, so designed that the front hangs over the top of the gumboots;
 - (iv) face masks; and
 - (v) overcoats or overalls to all employees, who shall, at all necessary times, wear such clothing;
 - (b) keep a funeral undertaker's premises free animals, insects, and pests at all times;

- (c) immediately after the preparation of any corpse, clean all working areas or surfaces where the corpse was prepared;
- (d) wash, clean and disinfect–
 - (i) all equipment used for the preparation of a corpse, immediately after use;
 - (ii) all protective clothing that is used on the premises on a daily basis;
- (e) keep a funeral undertaker's premises clean and tidy at all times; and
- (f) if a corpse has been transported without a moisture-proof covering, then wash, clean and disinfect the loading space of the vehicle concerned after such corpse has been removed.

14. Penalties

Any person who contravenes any of the provisions of this By-law or fails to comply therewith, or who contravenes or fails to comply with any notice or certificate issued or served in connection herewith, is guilty of an offence and upon conviction shall be liable for ~~to~~–

- (a) a fine or imprisonment, or both such fine and such imprisonment;
- (b) in the case of a continuing offence, an additional fine or an additional period of imprisonment or both such additional fine and imprisonment for each day on which such offence is continued; and

- (c) a further amount equal to any costs or expenses found by the court to have been incurred by Council as result of such contravention or failure.

15. Short title and commencement

This By-law shall be known as the Funeral Undertakers By-law, 2015 and shall take effect upon the date of publication in the Provincial Gazette, subject to any provisions contained herein.

PROVINCIAL NOTICE 48 OF 2016

JOE GQABI DISTRICT MUNICIPALITY

BY-LAW ON THE SALE OF LIQUOR AND THE REGULATING OF TRADING HOURS FOR LICENCED UNDERTAKINGS AND MATTERS INCIDENTAL THERETO

To provide for the control of undertakings for selling liquor to the public in order to ensure a safe and healthy environment in the Elundini. Municipal Area; to provide for hours of trade in liquor by licensed undertakings that sell liquor to the public; and to provide for matters incidental thereto.

Preamble

WHEREAS a municipality has competence in terms of Section 156(1) (a) read with Part B of Schedule 5 to the Constitution of the Republic of South Africa, 1996, to control undertakings that sell liquor to the public;

WHEREAS a municipality may, in terms of Section 156(2) of the Constitution, make and administer by-laws for the effective administration of the matters which it has the right to administer;

WHEREAS it is the intention of the municipality to only permit the sale of liquor from correctly zoned premises in terms of the applicable zoning schemes of the municipality; Under provisions of sections 22(2)(d) and 42(b) of the Eastern Cape Liquor Act, 2003 (Act 10 of 2003), the Elundini. Municipality has an obligation to regulate trading hours, during which liquor may be sold on premises, where on site and off site consumption of liquor takes in the demarcated municipal area.

WHEREAS it is the intention of the municipality to set trading hours for all licensed undertakings situated within the Elundini. Municipal area that sell liquor to the public;

AND NOW THEREFORE, BE IT INACTED by the Elundini Municipality, as follows:

1. Definitions

In this By-law, unless the context indicates otherwise –

“affected person” means a person whose existing rights will be affected, negatively or positively, by the granting of a liquor license;

“Authorized official” means any person authorized by the municipality to implement and enforce compliance with this **“Sale of Liquor and Regulating of Trading Hours for Licensed Undertakings and Matters”** and includes any Peace Officer appointed in terms of the Criminal Procedure Act, Act 51 of 1977.

“backpackers lodge” means a building where lodging is provided per bed or room and such lodging may incorporate cooking, dining and communal facilities or communal areas for the use by lodgers, together with such outbuildings which are normally associated therewith, but does not include a hotel, dwelling house, second dwelling house or group house;

“bed and breakfast” means a dwelling-house, or a second dwelling house attached to the main dwelling-house, in which the owner supplies lodging and meals for compensation by transient guests who have permanent residence elsewhere, provided that –

- a) in the case where the second dwelling house is attached to the main dwelling-house, the primary use of the main dwelling-house shall remain for the accommodation of a single family;
- b) no more than three (3) rooms per land unit may be used for the accommodation of paying guests or lodgers; and
- c) the property complies with the applicable zoning scheme for a bed and breakfast establishment.

“Club” includes a sports club, community or service club, or any other amenity or facility that sells liquor to its members or invited guests;

“Council” means the municipal council of Kouga Municipality;

“Conducting business” means the selling of liquor and associated items such as soft drinks, snacks, tobacco products etc. from licensed premises;

“Designated official” means a person who has been appointed by the municipality to implement any specific duty relative to this by-law;

“Guest house” means a dwelling house or second dwelling consisting of not more than 15 rooms or 30 guests and which –

- a) is in an establishment which exceeds the restrictions of a bed and breakfast establishment;
- b) is used for the purpose of supplying lodging and meals to transient guest for compensation; and
- c) may include facilities for business meetings or training sessions of guests on the property.

“Hotel” means a property used to provide accommodation and meals for transient guests and may include –

- a) a restaurant or restaurants which forms part of the hotel;
- b) conference and entertainment facilities that are subservient and ancillary to the dominant use of the property as a hotel;
- c) premises which are licensed to sell liquor for consumption on the property; and
- d) a motel.

“Licensed Undertaking” means any licensed premises, business or outlet from which liquor is sold and includes the following:

- a) Guest house that sells liquor to its guests only;
- b) A bed and Breakfast establishment that sells liquor to its guests only; and
- c) A backpacker’s lodge that sells liquor to its guests.

“Law Enforcement Liaison Forum” means a forum, represented by a designated official and any law enforcement agencies who will evaluate each notice of application for registration in terms of section 22(2)(d)(i) of the Act.

“Liaison Forum” means forum, represented by holders of licensed undertakings who will from time to time put forward proposals, regarding this By-Law to the Municipal Manager.

“liquor” means any liquid or substance containing more than 1% of alcohol by volume or mass, but excludes –

- a) methylated spirits

- b) medicine which is subject to registration in terms of the Medicines and Related Substances Act, 1965 (Act 101 Of 1965); and
- c) any other liquid substances containing alcohol which are not intended for human consumption.

“Liquor Authority” means the Eastern Cape Liquor Authority established by Section 2 (1) of the Act;

“municipality” means the Elundini Municipality, established in terms of Section 12 of the Municipal Structures Act, 117 of 1998.

“Municipal Manager” means the Municipal Manager of a Municipality, appointed in terms of section 82 of the Local Government: Municipal Structures Act, Act 117 of 1998 and includes any person acting in his/her position.

“Off-consumption” means a license issued by the Eastern Cape Liquor Board that permits the sale of liquor that is going to be consumed off the premises of sale and is generally granted to shops, liquor producers’ and bottle stores. In this case liquor may not be sold in quantities of less than 200ml, or in containers with a capacity greater than five liters. All containers in which liquor is sold must be properly and securely sealed.

“On-consumption” means a license, issued by the Easter Cape Liquor Board that permits the sale and consumption of liquor on the licensed undertaking and includes hotels, clubs, theatres, restaurants and casinos.

“Peace Officer” means a person appointed, who may issue a fine, in terms of the Criminal Procedures Act, Act 51 of 1997.

“Place of entertainment” mean a place used predominantly for commercial entertainment which may attract relatively large numbers of people, operate outside normal business hours and generate noise from music or revelry on a regular basis, and includes a cinema, theatre, amusement park, dance hall, gymnasium, pool or billiard-room or any other similar place.

“Premises” means any private or public land registered at the Deeds Office.

“Residential premises” means an erf that is situated in an area the has been designated for residential purposes in term of the municipality’s zoning schemes;

“Regulation” means any regulations in terms of the Eastern Cape Liquor Act, Act 10 of 2003.

“Room service” means a call-up service provided by a hotel, a bed and breakfast establishment or a guest house for registered paying guests and includes a mini bar or self-help facility situated in guest rooms.

“**Tavern**” means a licensed undertaking where the sale and consumption of liquor takes place on the licensed premises and includes pubs and night clubs hotels, theatres restaurants and casinos.

“**The Act**” means the Eastern Cape Liquor Act, 2003 (Act no. 10 of 2003) and includes any regulation or notice made or issued under the act.

“**Trade**” means the buy and sell of goods or services.

“**Trader**” means a person who has been registered to trade sell.

“**Trading hours**” means the time when the licensed undertaking opens and ceases to trade and operates. The licensed undertaking shall be closed, to the public or community, in accordance with the closing time as referred to in Schedule 1.

“**Sell**” means the barter or exchange, offer, agree or attempt to sell, expose, send, forward or deliver for sale, cause or permit to be sold or offered for sale or hand over in exchange of any liquor.

“**Ward Committee**” means a committee as contemplated in the Local Government: Municipal Structures Act, Act 117 of 1998.

“**Ward Councillor**” means a councillor as contemplated in the Local Government: Municipal Structures Act, Act 117 of 1998.

“**Zoning scheme**” means the zoning schemes applicable to the Municipality’s area of jurisdiction.

2. **Application of By-laws**

These By-laws apply to all premises on which liquor is sold within the municipality’s area of jurisdiction

3. **Municipal Manager consultative meetings: Application for registration as a Licensed Undertaking**

- (1) Upon receipt of notification to the Ward Councillor, the Ward Councillor shall make a copy of the application within one week and make such copy available to the Municipal Manager. The Municipal Manager shall within one (1) week upon receipt of such notification consult with the Law Enforcement Liaison Forum for any comments.
- (2) The Law Enforcement Liaison Forum shall conduct a physical site inspection and shall submit their reports to the Municipal Manager within two (2) weeks. The Municipal Manager shall ensure that these reports are attached in the Item that will be tabled before Council for consideration.

4. Ward Committee consultative meetings: Application for registration as a Licensed Undertaking

- (1) A Ward Committee must, upon receipt of a notice of application for registration, hold a consultative meeting with the owners of immovable property in the immediate vicinity of premises for which an application has been received to discuss and solicit their views with regard to the application as is required in terms of regulation 22(2)(d)(1) of the Act.
- (2) The Ward Committee must compile a report and submit it to the municipality,stipulating the date, time, the names and the addresses of the people who attended the consultative meeting, indicate whether it objects to or supports the application and what additional conditions it proposes, if any, not later than thirty (30) days upon receipt of such notice of application for registration.
- (3) The Municipality must keep a record of all reports submitted to it by a Ward Committee in a register, which register shall be controlled by the Designated Official, who will be responsible for all administrative procedures to take the application to finality.
- (4) The Municipality must consider the report submitted to it by a ward committee in terms of regulation 4(2) of this by-law, and submit recommendations to the Eastern Cape Liquor Board regarding the application for registration in terms of Section 20 of the Act, taking in consideration the reports received from the Law Enforcement Liaison Forum referred to in section 3
- (5) For the purpose of considering a report as contemplated for in section 4, a ward councilor shall have a physical site visit. A Ward Councillor may request an official to undertake an investigation, or request any further information that could have a bearing on the outcome of the application.

5. Recommendations by Ward Committee

- (1) A Ward Committee may **not** make any recommendations in respect of any application received where the premises for which the application is made is situated within a radius of 100 meters of any school or church.
- (2) A Ward Committee may **not** make any recommendations in respect of any application received where the applicant is not a South African citizen.
- (3) The Ward Committee may request the municipality to act on any complaints received from the community for any nuisance caused by any liquor undertaking.

6. General trading conditions

- (1) No liquor may be sold to persons under the age of 18.

- (2) No persons under the age of 18 may be allowed into any tavern.
 - (3) No person may sell liquor from an RDP house and or any structure not suited in terms of the municipal Building Regulation.
 - (4) A Trader, who has been granted consent in terms of section 8, must display such form at a conspicuous place of the licensed undertaking for the Peace Officer to see upon inspection.
 - (5) Separate toilet facilities, catering for both genders, shall be made available to patrons in exclusion of the dwelling facilities.
 - (6) No loud music shall be played at the licensed undertaking. Music played shall not be audible beyond the boundary perimeter of the licensed undertaking. Such complaint will be dealt with under the "Prevention of Public Nuisances and keeping of Animals" By-Law.
 - (7) The business of the applicant, seeking consent, shall not impact negatively on the surrounding neighbours and shall ensure that cars parked by patrons, do not obstruct entry into neighbours driveways.
 - (8) No drinking shall take place outside the licensed undertaking
 - (9) The owner must ensure that the patrons inside the licensed undertaking are secured.
 - (10) The registered holder or owner or any person responsible for the licensed undertaking shall ensure that no fire arms and/or any kind of weapon may find their way into the licensed undertaking.
 - (11) The owner or registered person shall apply to all requirements and conditions, as may be required from the Fire Department. Failure to comply may lead to closure of the licensed undertaking till such time when the Fire Department is satisfied.
 - (12) The Municipality reserves the right to withdraw any consent or recommendation made to the Eastern Cape Liquor Board should the trader fail to adhere to the conditions of this By-Law read in conjunction with the provisions of the Eastern Cape Liquor Act, Act 10 of 2003.
- 6. Trading hours for consumption of liquor on licensed premises i.e. night club, sports bar, sports club, pool bar, discotheque, jazz club, escort agency, pub, bar, casino restaurant guest house, hotel and motel.**
- (1) Licensed undertakings regulated in terms of section 20(b) of the ECLB may sell liquor for consumption on licensed premises situated within the area of jurisdiction of the Municipality as set out in Schedule 1.

(2) A hotel or licensed guest house may provide a room service 24 hours per day for seven days per week.

(3) Public holidays are excluded from opening; however, the licensed undertaking may apply for "Application To Sell Liquor Outside Trading Hours" as provided for in Schedule 2 of this By-Law.

7. Trading days and hours for consumption of liquor off licensed premises

(1) Licensed Undertakings, licensed, to sell liquor by the Liquor Licensing Authority in terms of section 20(a) of the Act, may sell liquor for consumption from the licensed premises of such undertakings situated within the area of jurisdiction of the Municipality during the hours as set out in the Schedule 1

8. Application to sell liquor outside trading hours provided for in Schedule 2

(1) The municipality may, on application, grant written consent to a licensed undertaking to sell liquor at hours other than those stipulated in Schedule 1 of this by-law. Such approval must be obtained **at least fourteen (14) days** prior to commencing any trading within the amended trading hours.

(2) A licensed undertaking who wishes to deviate from the trading hours as provided for in Schedule 1 must apply to the municipality in writing by completing the application form contained in Schedule 2.

(3) The municipality may, after consideration of the application, refuse or approve the application and should the application be approved the municipality may impose any conditions or restrictions it may deem necessary and record these in section C of the application form contained in Schedule 2.

(4) A trader who has been granted consent in terms of subsection (3), must display, in a conspicuous place on the premises, a copy of the form on which the consent of the Municipality has been recorded.

(5) A trader who contravenes subsection (1) or (4), or who sells liquor in contravention of a condition or restriction imposed in terms of subsection (3), or who displays a forged form, shall be guilty of an offence.

9. Offences and penalties

(1) A person who contravenes any sections of this By-law shall be guilty of an offence.

(2) A person who commits an offence referred to in section 9(1) shall on conviction be liable to a fine not exceeding R30 000,00 or to a term of imprisonment not exceeding three years, or both such fine and such imprisonment.

- (3) In the case of a complaint received for loud music, such complaint will be dealt with in accordance to the "Prevention of Public Nuisances and Keeping of Animals" By-Law.
- (4) In the case of a continuing breach of this by-law the Municipality has the right to withdraw its support for the license and request the Liquor Board to terminate the license.

10. Liaison Forum

- (1) The municipality may establish one or more liaison forums in a community for the purposes of obtaining community participation with regard to the matters dealt with in this by-law.
- (2) "Law Enforcement Liaison Forum" means an independent forum, represented by a designated official, SAPS, Local Fire Department, Municipal Building Inspectorate, Local Disaster Department, office of the Eastern Cape Liquor Board, Department of Safety and Liaison and or any other law enforcement agency who will assist the municipality in:
 - a) the evaluation of application notices to register as "Licensed Undertaking/s", based on a report from:
 - (i) SAPS referring to crime rate in area of application with a recommendation to approve or disapprove.
 - (ii) The Fire Department regarding conditions and stipulations as required. The report shall include issues such as number of patrons against the floor size, escape routes, natural light or any other issue to ensure the safety of patrons. The report shall indicate whether the application to register as a licensed undertaking should be approved or disapproved.
 - (iii) The Building Inspectorate shall submit in its report whether the property is indeed registered as private property and whether the process of "zoning" is required in terms of the municipal zoning scheme.
 - (iv) In cases where food is to be prepared, a report from the Health Practitioner shall be submitted with recommendations-

together with the copy of the "Application to register as a licensed undertaking" at least two (2) weeks after the application is received and be submitted to the Municipal Manager who will ensure that all the reports including the report from the Ward Councillor as indicated in section 4 (2) will be presented to the next Council Meeting for consideration.

- b) including “applications to trade outside the trading hours” by making proposals,
- (3) “Liaison Forum” means an independent forum, represented by holders of licensed undertakings who will from time to time put forward proposals, regarding this By-Law to the Municipal Manager.
- A “Liaison Forum” may consist of –
- (a) a member of members of an interest group, or an affected person;
 - (b) a designated official or officials of the municipality; and
 - (c) a the Ward councilor.
- (4) The municipality may, when considering an application in terms of this By-law, request the input of a liaison forum.
- (a) A liaison forum may on its own initiative submit any relevant input to the municipality for consideration.

11. Noise Pollution

All complaints received relative to noise will be dealt with in terms of section 3(r) of the “Prevention of Public Nuisances and Keeping of Animal” by-law.

12. Cleanliness of premises

All issues relative to the keeping of premises clean and free of bottles, cans, plastic containers etc. will be dealt with in terms of the Public Health by-law.

Residential premises

The municipality may designate different trading hours and may impose specific conditions on trade for licensed undertakings that are situated in a residential area.

13. Appeal

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

14. Short title and commencement/review or repeal

These By-laws may be cited as Municipality By-law on the sale of Liquor and the regulating of Trading Hours for licensed undertakings and matters incidental thereto and comes into force upon publication in the Provincial Gazette.

- a. This by-law will be reviewed as and when necessary and any amendments made will be effective from the date that it is published in the Provincial Gazette;
- b. This by-law will remain in force in its entirety until it is amended, replaced or repealed.

SCHEDULE 1

TYPES OF REGISTRATION	EXAMPLES OF OUTLETS OR ESTABLISHMENT	APPROVED TRADING HOURS
Registration in terms of S20(a) of the Act for the retail sale of liquor for consumption off the premises where liquor is sold	Retail warehouse, retail liquor or bottle store, shop, off sales etc.	Monday – Saturday 08h00 – 20h00 Sunday 09h00 – 18h00
Registration in terms of S20 (b) of the Act for the retail sale of liquor for consumption on the premises where liquor is sold. Category 1	Clubs Nightclub, pool bars, pubs, place of entertainment.	Sunday – Thursday 10h00 -24h00 Friday - Saturday 10h00 – 02h00
Registration in terms of S20(b) of the Act for the sale of liquor for consumption on the premises where liquor is sold. Category 2	Hotels and restaurants	Monday – Friday 09h00 – 24h00 Saturday & Sunday 09h00 – 24h00
Registration in terms of S20(c) of the Act for the retail sale of liquor for consumption on and off	Taverns	Off consumption Monday - Saturday 09h00 – 20h00 Sunday

the premises where liquor is sold		10h00 - 22h00 On consumption Monday - Thursday 10h00 - 24h00 Friday – Saturday 10h00 - 02h00 Sunday 10h00 – 22h00
Registration in terms of S20 (d) of the Act for the retail sale of liquor for entertainment special event.	Concert, Festival, sporting and entertainment events	Trading hours to be determined by the Law Enforcement Liaison Forum.
Registration in terms of S20 (e) of the Act for micro manufacturing	Wholesale, warehouse and micro manufacturing	Monday – Friday 09h00 – 18h00 Saturday 09h00 - 15h00

SCHEDULE 2

APPLICATION TO SELL LIQUOR OUTSIDE TRADING HOURS

A. APPLICANT

Name:

I.D. Number:

Address:

.....

Telephone no.:

B. PARTICULARS

Address (street name and number) of the premises on which the liquor will be sold or supplied:

Reason why this application is made: (What is the event?)
.....

Date and hour for which is applied for. (Be specific, e.g. 14H00 till 15H00 on 30 June 2013)

Anticipated volume of liquor that will be consumed:

Nature of liquor that will be sold or supplied:

Attachments as requested by Council:

- 1) Please attach a copy of Form 4 "CERTIFICATE OF REGISTRATION" as issued by the Eastern Cape Liquor Board and
- 2) Please attach a copy of Form 21 "CERTIFICATE OF APPOINTMENT OF A NATURAL PERSON TOMANAGE A BUSINESS" as issued by the Eastern Cape Liquor Board
- 3) Please attach written confirmation of customer's booking event.

Please be advised that:

- 1) All applications should be made at least **14 days** prior to the event applied for.
- 2) Consent will only be considered with inputs from the Law Enforcement Agencies as referred to in section 10 (2) b)
- 3) Consent or approval, should any be granted, will be issued in writing before the event as applied for. Should you not have received a written consent before the event, consider your application as declined.

- 4) A person who commits an offence referred to in section 9(1) shall on conviction be liable to a fine not exceeding **R30 000,00** or to a term of imprisonment not exceeding three years, or both such fine and such imprisonment.

Signed.....
(Applicant)

Date.....

**PROVINCIAL NOTICE 49 OF 2016
LIVESTOCK TRADING BY-LAW**

[Local Authority Notice No.____]

[Date of Commencement: ____]

ELUNDINI LOCAL MUNICIPALITY LIVESTOCK TRADING BY-LAW

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, 1996, the Livestock Trading By-law.

Arrangement of sections

1. Definitions
2. Purpose of the By-law
3. Regulation of trade in livestock
4. Transportation of livestock
5. Prohibition of slaughter of livestock and exemptions
6. Removal and impoundment
7. Authority to issue notice in terms of the CPA
8. Penalties
9. Short title and commencement

1. Definitions

In this By-law, unless the context otherwise indicates, the following terms shall have the meanings ascribed to them:

“**abattoir**” means a slaughter facility in respect of which a registration certificate has been issued in terms of section 8(1) of the Meat Safety Act, 2000 (Act No. 40 of 2000), as amended and updated from time to time, and according to which a grading has been determined in terms of section 8(2);

“**authorised official**” means an employee of the Municipality who is duly authorised by the municipality to perform a function or exercise a power for the implementation of this By-law;

“**CPA**” means the Criminal Procedure Act, 1977 (Act 51 of 1977), as amended and updated from time to time and including all notices and regulations published in terms thereof;

“**livestock**” means any animal referred to in Schedule 1;

“**livestock product**” means any by-product obtained from the carcass of livestock, other than the meat thereof;

“**meat**” means those parts of slaughtered livestock which are ordinarily intended for human and animal consumption and which have not undergone any processing other than deboning, cutting up, mincing, cooling or freezing, and includes meat which–

(a) as been treated with a substance that does not substantially alter the original characteristics thereof; and

(b) assumes its original characteristics after a substance referred to in paragraph (a) has physically been removed therefrom;

“municipal police service” means the municipal police service of the municipality, if any, established in terms of section 64A of the South African Police Service Act, 1995 (Act 68 of 1995);

“Municipality” means the Elundini Local Municipality, established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in terms of this By-law by virtue of a power vested in the Municipality and delegated to such political structure, political office bearer, councillor, agent or employee;

“open space”, in relation to a land area, means land set aside or to be set aside for use by the community as a recreation area, irrespective of the ownership of such land;

“organ of state” has the meaning ascribed to it in terms of section 239 of the Constitution of the Republic of South Africa, 1996;

“public place” means any open or enclosed place, park, street, road or thoroughfare or other similar area of land shown on a general plan or diagram which is for use by the general public and is owned by or vests in the ownership of the Municipality, and includes a public open space and a servitude for any similar purpose in favour of the general public;

“premises” means any building, structure, enclosure or dwelling, but excludes a farm, small-holding or similar, such as is used for agricultural purposes;

“sale” includes an agreement to sell, and any offer, advertisement, exposure, transfer of ownership, conveyance or delivery for sale, exchange or disposal in any manner, whether for any consideration or otherwise, and **“sell”** has a corresponding meaning;

“slaughter” means the killing of an animal and the performance of the usual accompanying acts in connection therewith in order to obtain meat and livestock products therefrom;

“transport” means, for purposes of this By-law, to carry, lead or take livestock from one place to another, by vehicle or on foot, and **“transportation”** shall have a corresponding meaning;

“urban area” means land that is developed or capable of being developed and which falls within the edge or limit of a city, town, village or other settlement situated within the Municipality; and

“veterinarian” means a veterinarian as defined in section 1 of the Veterinary and Para-Veterinary Professions Act, 1982 (Act No. 19 of 1982), as amended and updated from time to time.

2. Purpose of the By-law

The purpose of the By-law is to regulate the trade in livestock within the municipal boundaries and to promote a clean and healthy environment for the residents of the Municipality.

3. Regulation of trade in livestock

(1) No person may–

(a) keep livestock on any premises or public place for purposes of sale;
or

(b) sell livestock within any urban area.

(2) Notwithstanding the provisions of sub-section (1), a person may keep and sell livestock on any land specifically designated by the

Municipality for such purposes, subject to any guidelines or policy developed by the Municipality in that regard.

- (3) A person may make written application to the Municipality for exemption from the provisions of sub-section (1), provided that such application is accompanied by sufficient reasons to enable the Municipality to take a decision.
- (4) The Municipality must communicate its decision, in relation to the application contemplated in sub-section (3), to the applicant in writing and within a reasonable period after receipt of the written application.

4. Transportation of livestock

The transportation of livestock in an urban area is prohibited, provided that—

- (a) livestock may be carried or taken by vehicle through an urban area, on a temporary basis and *en route* to any destination outside the urban area; and
- (b) nothing shall prevent a person from transporting livestock in an urban area—
 - (i) for *bona fide* treatment by a veterinarian; or
 - (ii) to premises upon which the livestock will be slaughtered for own consumption or for cultural or religious purposes.

5. Prohibition of slaughter of livestock and exemptions

(1) No person may—

- (a) slaughter any livestock on premises other than an abattoir;

- (b) permit the slaughter of livestock on any premises under his or her control, unless the premises is an abattoir;
 - (c) sell or provide meat unless it has been slaughtered at an abattoir.
- (2) Sub-section (1) does not apply to the slaughter of livestock for own consumption or for cultural or religious purposes.
- (3) No meat or livestock product obtained from any slaughtered livestock, as contemplated in terms of sub-section (2), may be sold to any person.

6. Removal and impoundment

- (1) An authorised official may remove and impound any livestock—
- (a) which he or she reasonably suspects is intended to be sold or has been sold in contravention of this By-law; and
 - (b) which he or she finds at any premises within the urban area.
- (2) An authorised official, acting in terms of this By-law, shall –
- (a) keep a proper record of any livestock so removed and must inform the person apparently in control of such livestock of the procedure to be followed for reclaiming the livestock and the venue where such livestock will be impounded; and
 - (b) immediately deliver the livestock to the municipal pound or such other venue suitable for impoundment and located outside the urban area.

- (3) Any livestock so removed and impounded—
- (a) may be sold by public auction within a reasonable time after the impoundment thereof: provided that such livestock shall, subject to the provisions of sub-section (4), at any time prior to the disposal or selling thereof, be returned on proof of ownership; and
 - (b) shall, subject to the provisions of sub-section (4), be returned within a period of one week of the date upon which such proof is presented.
- (4) In the case of the sale of any impounded livestock by the Municipality, the proceeds of such sale, less any reasonable expenses incurred, shall be paid to the person who was the owner of such livestock when it was impounded: provided that such proceeds shall be forfeited to the Municipality in the event that the owner fails to claim the proceeds within three months of the date on which such livestock was sold.
- (5) The owner of any livestock which has been removed, impounded, sold or disposed of, as contemplated in this section, shall be liable for all reasonable expenses incurred by the Municipality in connection with such removal, impoundment, sale or disposal.

7. Authority to issue written notice in terms of the CPA

- (1) An authorized official or member of the municipal police service may issue a written notice to any person who is alleged to have contravened the provisions of this By-law, such notice having the legal effect of a written notice issued in terms of section 56 of the

CPA, provided that the provisions of sub-sections (2) to (4), hereunder, are satisfied.

- (2) For the purposes of sub-section (1), an authorised official must be a peace officer in terms of section 334 (1) of the CPA.
- (3) Any notice issued in terms of sub-section (1) must comply with the requirements of section 56 (1) of the CPA and shall –
 - (a) specify the name, the residential address and the occupation or status of the person;
 - (b) call upon such person to appear at a place and on a date and at a time specified in the written notice to answer a charge of having contravened this By-law;
 - (c) contain an endorsement in terms of section 57 of the CPA that the person may admit his or her guilt in respect of the contravention in question and that he or she may pay a stipulated fine in respect thereof without appearing in court; and
 - (d) contain a certificate under the hand of the authorised official that he or she has handed the original of such written notice to the person in question and that he or she has explained to such person the import thereof.
- (4) The issuing of any notice in terms of sub-section (1) must be done in accordance with any set of procedures or guidelines that may have been prepared and adopted by the Municipality.

8. Penalties

- (1) Any person who contravenes or fails to comply with any provision of this By-law shall be guilty of an offence and shall be

liable, upon conviction, for payment of a fine or imprisonment or a combination of both.

- (2) In the case of a continuing offence, a person shall be liable, upon conviction, for payment of an additional fine or an additional period of imprisonment or a combination of both for each day on which such offence is continued.

9. Short title and commencement

This By-law shall be called the Livestock Trading By-law, 2014 and commences on the date of promulgation in the *Provincial Gazette*.

Schedule 1

Animals to which this By-law applies (Section 1)

Domesticated animals

Bovine animals (including the species, *bubalus bubalis* and *bison bison*)

Donkey

Duck

Farmed deer

Fowl

Goat

Goose

Guineafowl

Horse

Kangaroo

Mule

Ostrich and other related *ratite* species

Partridge

Pheasant

Pig

Pigeon

Quail

Rabbit

Sheep

Turkey

Wild game

Blesbuck (*Damaliscus dorcas philipsi*)

Blue wildebeest (*Connochaetes taurinus*)

Buffalo (*Syncerus caffer*)

Burchell's zebra (*Equus burchelli*)
Crocodile (*Crocodylus niloticus*)
Eland (*Taurotragus oryx*)
Elephant (*Loxodonta africana*)
Gemsbuck (*Oryx gazela*)
Gray Rhebok (*Pelea capreolus*)
Hippopotamus (*Hippopotamus amphibious*)
Impala (*Aepyceros*)
Kudu (*Tragelaphus stepsiceros*)
Mountain Reedbuck (*Redunca fulvorufula*)
Springbuck (*Antidorcas marsupialis*)
Zebra (*Diplodus trifasciatus*)

PROVINCIAL NOTICE 50 OF 2016**TRAFFIC BY-LAW****Local Authority Notice No.____****Date of Commencement: _____****ELUNDINI LOCAL MUNICIPALITY TRAFFIC BY-LAW**

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 (Act No. 108 of 1996), the Traffic By-Law.

Arrangement of sections**Chapter 1: Definitions**

1. Definitions

Chapter 2: General Provisions Relating to Use of Roads**Part 1: Pedestrians**

2. Duties of pedestrians

Part 2: Traffic Lanes

3. Use of traffic lanes
4. Vehicle not to be driven on sidewalk or footpath

Part 3: Parking

5. Control of parking
6. Parking in loading zone
7. Parking at bus stop
8. Parking in public road
9. Parking upon traffic island
10. Parking by dealer
11. Parking of repaired vehicle
12. Parking of heavy vehicles and caravans
13. Exemption of medical practitioners and nurses from parking restrictions

Part 4: Obstruction on and Work in Public Roads and Public Places, and Water Discharged onto Public Road

14. Obstruction
15. Damage to public road, and excavation in public road
16. Damage to or destruction of public road surface
17. Work in public road or public place
18. Work done within two metres of public road
19. Bridges and crossings over gutters and sidewalks
20. Building materials in public roads and public places
21. Discharge of water on public road
22. Overflow of water into public roads and public places

Part 5: Escorting of Abnormal Vehicles, Events, Processions, and Shows

23. Escort of abnormal vehicles
24. Races and sports events

- 25. Processions and gatherings
- 26. Control of amusement shows and devices
- 27. Tariffs for assistance with events gatherings in general

Part 6: Animals and Animal Drawn Vehicles

- 28. Animal and animal drawn vehicle on public road

Part 7: Collections and Handbills

- 29. Collections and distribution of handbills

Part 8: Trolleys

- 30. Trolleys

Part 9: Wires and Fencing

- 31. Barbed wire, dangerous and electrical fencing

Part 10: Miscellaneous Prohibitions

- 32. Cleaning, repairing and cleanliness of public road
- 33. Loitering and queuing on public road
- 34. Poison in public roads or public places
- 35. Skating, games and nuisances
- 36. Advertisements visible from public road
- 37. Trees
- 38. Dumping of waste
- 39. Article placed in building facing public road
- 40. Outspanning in public roads
- 41. Openings and doors on public roads

42. Miscellaneous prohibitions

Part 11: Closure and Constructions and Naming of Public Roads, Numbering of Premises, and Direction of Traffic

43. Closure of public roads and public places

44. Construction, maintenance, naming and declaration of public roads and public places

45. Numbering of premises

Chapter 3: Parking Meters

46. Municipality may install parking meters

47. Method of parking

48. Payment for parking

49. Municipality may prevent parking at parking bay

50. Tampering with parking meter

51. Prescribed coin only to be deposited

52. Unlawful operation of parking meter

53. Unlawful parking

54. Exemptions

Chapter 4: Parking Grounds

Part 1: General Provisions

55. Municipality not liable for loss or damage

56. Interference with attendant

57. Payment of prescribed fee

- 58. Trading
- 59. Observance of signs
- 60. Parking and removal of vehicle
- 61. Abandoned vehicle
- 62. Damage to notices
- 63. Negligent and dangerous driving
- 64. Entering or remaining in parking ground
- 65. Tampering with vehicle
- 66. Defacing coupon
- 67. Defective vehicle
- 68. Cleaning of vehicle
- 69. Refusal of admission
- 70. Parking hours and classes of vehicles
- 71. Reservation by Municipality

Part 2: Mechanically Controlled Parking Ground

- 72. Parking of vehicle in mechanically controlled parking ground
- 73. Removal of vehicle from mechanically controlled parking ground

Part 3: Pay and Display Parking Ground

- 74. Parking of vehicle in pay and display parking ground
- 75. Miscellaneous offences in respect of pay and display parking ground

Chapter 5: Parking Attendants

- 76. Prohibition
- 77. Registration of organisation by Municipality

78. Conditions
79. Registration fee payable
80. Garments and identification of parking attendants
81. Conduct of organisations
82. Conduct of parking attendants
83. Cancellation or suspension of registration
84. Vicarious responsibility and liability of organization

Chapter 6: Taxis and Buses

Part 1: Special Parking Places for Taxis, Permits and Decals

85. Special parking places for taxis
86. Application for taxi rank permit
87. Issuing of taxi rank permit
88. Renewing of taxi rank permit
89. Temporary substitution of taxi rank permit
90. Transfer of taxi rank permit
91. Issue, display and duplication of decals
92. Payment of taxi rank-permit fees
93. Amendment of particulars of taxi rank permit
94. Outstanding payments
95. Taxi rank permit for partnership
96. Taxi rank-permit to be produced on demand
97. Suspension or withdrawal of taxi rank permit
98. Procedure for proposed suspension or withdrawal of taxi rank permit
99. Change of address
100. Amendment of the particulars on a taxi rank permit

Part 2: Taxi Associations, Taxi Forum, and Taxi Facilities

- 101. Taxi forum
- 102. Classes of taxi facilities
- 103. Taxi parking
- 104. Use of taxi ranks
- 105. Prohibition on parking of taxi at stopping place
- 106. Regulation and control of taxi facilities
- 107. Servicing and washing taxis at taxi facilities

Part 3: General Use and Operation of Taxis

- 108. Preventing engagement of taxi
- 109. Conveying dangerous or offensive articles in taxis
- 110. Disinfecting taxi after conveying passengers with infectious or contagious diseases
- 111. Boarding and alighting of taxis
- 112. Queues at facilities
- 113. Payment of fares
- 114. Rights and duties of passengers when a taxi becomes defective
- 115. Animals
- 116. Actions prohibited on a taxi
- 117. Behaviour prohibited at taxi rank

Part 4: Metered Taxis

- 118. Taximeters
- 119. Metered fares
- 120. Tariffs to be displayed on taxis

- 121. Position of meter
- 122. Operation of meter
- 123. Meter indicators
- 124. Starting of meter
- 125. Taxi called but not engaged
- 126. Meter seals to be kept intact
- 127. Meter tolerances
- 128. Interference with meter prohibited
- 129. Meters liable to be tested at any time
- 130. Charge for testing meters
- 131. Meters may be condemned
- 132. Taxi signs for metered taxis

Part 5: Bus Facilities and Permits, and Operation of Buses

- 133. Establishment of bus facilities
- 134. Application and issue of bus permits, fees, display of decals, suspension and withdrawal of permit
- 135. General use and operation of buses
- 136. Distinguishing of demarcated stops and stands for buses
- 137. Duty of driver to stop
- 138. Boarding and alighting from bus
- 139. Parking at stopping places for buses and destination signs

Part 6: Enforcement

- 140. Permit to be produced on demand
- 141. Unauthorised handing over or abandonment of bus or taxi
- 142. Enforcement of right of entry

Part 7: Miscellaneous Provisions

- 143. Change of address of permit holder
- 144. Property left in passenger-carrying vehicles
- 145. Obeying and interfering with officer
- 146. Exemptions
- 147. Municipality may act to recover costs
- 148. Presumptions
- 149. Penalties
- 150. Savings and transitional provisions
- 151. Short title and Commencement

Chapter 1: Definitions**1. Definitions**

In these by-laws –

- (a) words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates; and
- (b) a word or expression that has been defined in the National Road Traffic Act, 1996 Act No. 93 of 1996, has that meaning, unless it has been defined in these by-laws, or unless the context otherwise indicates –

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

"approved" means approved by the Municipality and **"approval"** has a corresponding meaning;

"authorised officer" means an inspector of licences, examiner of vehicles, examiner for driver's licences, traffic warden or a traffic officer, and includes any other person whom the Minister by regulation has declared to be an authorised officer;

"authorized official" means any employee of the Municipality who is acting within the scope of his duties on behalf of the Municipality and who is in uniform or with distinctive badge and appointment certificate of his office;

"authorised person" means a person nominated by an organization and authorised by the Municipality;

"balcony" means a platform projecting from a wall, enclosed by a railing, balustrade or similar structure, supported by columns or cantilevered out and accessible from an upper-floor door or window;

"bib" or **"jacket"** means a garment which fits around the chest of a person, which garment has a recognizable insignia identifying the person as a parking attendant and which is approved by the Municipality;

"bridge" means a bridge as contemplated in the National Road Traffic Act, 1996 Act No. 93 of 1996;

"bus" means a motor vehicle designed or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, 1996 Act No. 93 of 1996, to carry more than 35 seated persons, excluding the driver, and includes a bus train;

"bus facility" means a stand or demarcated stopping place where passengers may board or alight from a bus for which a permit has been issued;

"bus train" means a bus which –

- (a) consists of two sections that connect to form a unit;
- (b) can swivel in a horizontal plane at the connections between such sections;
- (c) is designed or adapted solely or principally for the conveyance of the driver and at least 100 other persons; and
- (d) has a continuous passageway over its length;

"caravan" means any vehicle permanently fitted out for use by persons for living and sleeping purposes, whether or not such vehicle is a trailer;

"Chief Traffic Officer" means the Municipality's Chief Traffic Officer to whom any function, power or duty has been delegated, and includes any other officer under his control;

"combined parking meter" means an appliance in which more than one parking meter is contained;

"dealer" means a person who, for gain, carries on the business selling, buying, exchanging or garaging vehicles;

"decals" means a colour-coded sticker or other means of identification issued by the Municipality to the holder of a taxi rank permit;

"demarcated parking bay" means a place referred to in section 80A of the National Road Traffic Act, 1996 Act No. 93 of 1996, as a space laid out and marked in a public road or public place, the time and occupation by which a vehicle is intended to be recorded by a parking meter;

"demarcated stopping place or stand" means the stand for a bus as contemplated in section 137;

"donation" means any amount of money that a driver gives to a parking attendant on a voluntary basis for services rendered by the parking attendant;

"driver" has the meaning assigned to it by the National Road Traffic Act, 1996 Act No. 93 of 1996;

"examiner of vehicles" means an examiner of vehicles registered and appointed in terms of Chapter 11 of the National Road Traffic Act, 1996 Act No. 93 of 1996;

"firearm" means a firearm as contemplated in the Firearms Control Act, 2000 Act No. 60 of 2000;

"footpath" means that portion or lateral extremities of the public road which, although not actually defined or made, is habitually used by pedestrians as a sidewalk;

"goods vehicle" means a motor vehicle other than a motor car or bus, designed or adapted for the conveyance of goods on a public road and includes a truck, tractor, motor cycle or motor tricycle;

"heavy motor vehicle" means a motor vehicle or a combination of motor vehicles the gross vehicle mass of which vehicle or combination of vehicles exceeds 3,500kg;

"holding area", in relation to a taxi, means a place, other than a rank, where a taxi remains until space for it is available at a rank or stopping place;

"marshal" means a person who arranges passenger and vehicle related procedures at taxi facilities;

"mechanically controlled parking ground" means a parking ground to which entry is controlled by a mechanism, such as a boom, which opens on the insertion of money into a vending machine;

"metered parking bay" means a parking bay in respect of which a parking meter has been installed;

"metered parking ground" means a parking ground or any part thereof where parking is controlled by means of a parking meter or meters;

"metered taxi" means a motor car designed for conveying not more than five people, including the driver, which must be fitted with a taximeter as contemplated in Chapter 4;

"midi-bus" means a motor vehicle designed or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, 1996 Act No. 93 of 1996, to carry from 19 to 35 seated persons, excluding the driver;

"mini-bus" means a motor vehicle designed or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, 1996 Act No. 93 of 1996, to carry from nine to 18 seated persons, excluding the driver;

"Minister" means the Minister of Transport;

"motor car" means a motor vehicle, other than a motor cycle, motor tricycle or motor quadrucycle as defined in the National Road Traffic Act, 1996 Act No. 93 of 1996, designed or lawfully adapted by a registered manufacturer in compliance with the Act to carry not more than eight persons, excluding the driver;

"motor vehicle" means any self-propelled vehicle and includes-

(a) a trailer; and

- (b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor, but does not include –
- (i) a vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or
 - (ii) a vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person;

"Municipality" means the Elundini Local Municipality, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the Municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"operate", in relation to a vehicle, means to use or drive a vehicle or to permit a vehicle to be used or driven on a public road, or to have or to permit a vehicle to be on a public road;

"operator" means a public transport operator as defined in the National Road Traffic Act, 1996 Act No. 93 of 1996, being a person carrying on the business of a public passenger road transport service;

"owner" in relation to a vehicle, means –

- (a) the person who has the right to the use and enjoyment of a vehicle in terms of common law or a contractual agreement with the titleholder of such vehicle;
- (b) a person referred to in paragraph a, for any period during which such a person has failed to return that vehicle to the titleholder in accordance with the contractual agreement referred to in paragraph a; and
- (c) a person who is registered as such in accordance with Section 14 of the National Road Traffic Act, 1996 Act No. 93 of 1996;

"park" means to keep a motor vehicle, whether occupied or not, stationary for longer than is reasonably necessary to actually load or unload people or goods,

but does not include keeping a vehicle stationary owing to a cause beyond the control of the person in charge of the vehicle;

"parking attendant" means a person in the employ of an organization to render a parking attendant service to drivers in a public place or on a public road, and includes a car watcher;

"parking bay" means a demarcated area within which a vehicle is to be parked in terms of these by-laws, demarcated as such upon the surface of a parking ground or a floor thereof;

"parking ground" means any area of land or any building set aside by the Municipality as a parking ground or garage for the parking of vehicles therein by members of the public, whether or not charges are prescribed by these by-laws for the use thereof;

"parking meter" means a device commissioned in terms of these by-laws, registering and visibly recording the parking time either by means of a meter affixed to the device or on a parking meter ticket issued by the device or any other device by which parking time can be recorded whether operated by an authorized official or not;

"parking period" means that period including a period reflected on a parking meter on any one day during which a vehicle is permitted to park in a parking ground or parking bay or as indicated by a road traffic sign;

"particulars" means any form of information of a person or business and includes the name, surname, company name, residential, business or e-mail address, telephone, cellular or fax number or any other such information;

"passenger" means any person in or on a vehicle, but does not include the driver or the conductor;

"passenger-carrying motor vehicle" means a taxi or a bus used or designed to convey passengers for reward;

"pay and display machine" means a machine installed at a pay and display parking ground for the sale of coupons;

"pay and display parking ground" means a parking ground in which a parking coupon must be obtained from a parking coupon vending machine which is situated inside the parking ground;

"prescribed" means determined by resolution of the Municipality, and in relation to a fee, means as set out in the tariff policy of the Municipality;

"prescribed coin" means a coin of the Republic of South Africa being legal tender in terms of the South African Mint and Coinage Act, 1964 Act No. 78 of 1964, of the denomination indicated on the parking meter concerned;

"public place" means any square, park, recreation ground, sports ground, sanitary lane or open space which has-

- (a) in connection with any subdivision or layout of land into erven, been provided, reserved or set apart for use by the public or the owners or occupiers of such erven, whether or not it is shown on a general plan, plan of subdivision or diagram;
- (b) at any time been dedicated to the public;
- (c) been used by the public without interruption for a period of at least thirty years, or
- (d) at any time been declared or rendered such by the Municipality or other competent authority;

"public road" means any road, street, cycle path, thoroughfare or any other place, and includes –

- (a) the verge of any such public road;
- (b) any footpath, sidewalk or similar pedestrian portion of a road reserve;
- (c) any bridge, ferry or drift traversed by any such public road;
- (d) any other object belonging to such public road, which has at any time been –
 - (i) dedicated to the public;
 - (ii) used without interruption by the public for a period of at least thirty years;
 - (iii) declared or rendered such by the Municipality or other competent authority; or
 - (iv) constructed by a local authority;

- (e) any land, with or without buildings or structures thereon, which is shown as a public road on –
- (i) any plan of subdivision or diagram approved by the Municipality or other competent authority and acted upon; or
 - (ii) any general plan as defined in the Land Survey Act, 1997 Act No. No. 8 of 1997, registered or filed in a deeds registry or Surveyor General's office, unless such land is on such plan or diagram described as a private public road;

"regulation" means a regulation under the National Road Traffic Act, 1996 Act No. 93 of 1996;

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

"security officer" means a security officer as defined in Private Security Industry Regulation Act 2001 Act No. 56 of 2001;

"security service provider" means a security service provider as defined in Private Security Industry Regulation Act 2001 Act No. 56 of 2001;

"semi-trailer" means a trailer having no front axle and so designed that at least 15% of its tare is super-imposed on and borne by the vehicle drawing such trailer;

"sidewalk" means that portion of a public road between the outer boundary of the roadway of a road and the boundary lines of adjacent properties or buildings which is intended for the use of pedestrians;

"skateboard" means a device, which includes mainly a flat object mounted on wheels, which is designed in such a manner as to provide room for only one person to stand or squat and is as such propelled by means of either human power or gravitation or both;

"special parking place" means a rank or stand established by the Municipality on a public road within the Municipality for the parking or standing of passenger-carrying motor vehicles;

"stand", in relation to a bus, means the place where a bus route starts or ends;

"stop" in relation to a taxi stopping on a public road, means to keep a taxi, whether occupied or not, stationary for a period of time no longer that is

reasonably necessary for the actual loading or unloading of persons or goods, but does not include any such stopping by reason of a cause beyond the control of the driver of such taxi;

"stopping place", in relation to –

- (a) a taxi, means the place designated by the Municipality where a taxi may stop to pick up or drop off passengers; and
- (b) a bus, means a demarcated stop where a bus may stop to pick up or drop off passengers;

"tare", in relation to a motor vehicle, means the mass of such a vehicle ready to travel on a road and includes the mass of -

- (a) any spare wheel and of all other accessories and equipment supplied by the manufacturer as standard for the particular model of motor vehicle concerned;
- (b) anything which is a permanent part of the structure of such vehicle;
- (c) anything attached to such vehicle so as to form a structural alteration of a permanent structure; and
- (d) the accumulators, if such vehicle is self-propelled by electrical power, but does not include the mass of -
 - (i) fuel; and
 - (ii) anything attached to such vehicle which is not of the nature referred to in subsection (a) or (b);

"taxi" means a motor vehicle which plies for hire, is operated for reward, and includes –

- (a) a mini-bus, a midi-bus, motor tricycle or motor quadrocycle; and
- (b) a metered taxi;

"taxi association" means a taxi association recognized as such by the Municipality and the Eastern Cape Province;

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

"taxi operator" means the person responsible for the use of the taxi, provided that in terms of Chapter IV of the National Road Traffic Act, 1996 Act No. 93 of 1996, it means the person who has been registered as the operator of such vehicle;

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

"temporary taxi facility" means a taxi facility contemplated in section 1042;

"trailer" means a vehicle which is not self-propelled and designed or adapted to be drawn by a motor vehicle, but does not include a side-car fitted to a motor cycle;

"tri-cycle" means a three-wheeled cycle exclusively designed or prepared for the conveyance of goods and propelled solely by human power;

"token" in respect of a trolley, means a sign on which the name or trade name and the address of the owner appears;

"trolley" means any push trolley or push cart which is placed at the disposal of the public as buyers by any business undertaking or shop and which is used by the public to convey their purchases;

"vehicle" means a device designed or adapted mainly to travel on wheels, tyres or crawler tracks and includes such a device which is connected with a draw-bar to a breakdown vehicle and is used as part of the towing equipment of a breakdown vehicle to support any axle or all the axles of a motor vehicle which is being salvaged other than such a device which moves solely on rails;

"veranda" means a structure in the nature of a roof attached to or projecting from the façade of a building and supported along its free edge by columns or posts;

"voucher" means a document, approved by the Municipality and containing the information reflected in the document, which is handed by a parking attendant to a driver informing the driver of the particulars of the attendant's organization and emergency telephone numbers and requesting a donation regarding the service;

"watercourse" means a watercourse as defined in section 1 of the National Water Act, 1998 Act No. 36 of 1998.

"work" means work of any nature whatsoever undertaken on any land within the area of jurisdiction of Elundini Local Municipality and, without in any way limiting the ordinary meaning of the word, includes the erection of a new building or alterations or additions to any existing building, the laying of cables and pipes, the dumping of building or other material anywhere in a public road or public place, or delivery to or removal from any site of any soil or material of any nature whatsoever.

Chapter 2: General Provisions Relating to Use of Roads

Part 1: Pedestrians

2. Duties of Pedestrians

- (1) Where a marked pedestrian crossing exists at an intersection, a pedestrian may cross the intersection only within the marked pedestrian crossing.
- (2) Where a traffic control light signal "robot" which embodies pedestrian signals operates at an intersection, a pedestrian may not commence to cross the roadway in a pedestrian crossing at the intersection while the red light of a pedestrian signal is displayed in the direction opposite to that in which he is proceeding.
- (3) Where no pedestrian signals are operating at an intersection, but such intersection is controlled by a traffic control light signal, a pedestrian may not commence to cross the roadway in a pedestrian crossing at the intersection while the red light of the traffic control light signal is displayed in the direction opposite to that in which he is proceeding.
- (4) Where a traffic control light signal which embodies pedestrian signals are operating at a pedestrian crossing elsewhere than at an intersection, a pedestrian may commence to cross the roadway only in the pedestrian crossing when the green light of the pedestrian signal is displayed in the direction opposite to that in which he is proceeding.

- (5) A pedestrian, when crossing the roadway within a demarcated pedestrian crossing, whether at an intersection or otherwise, must walk on the left of the pedestrian crossing.
- (6) No person or persons may, after being requested by a police officer to move on or disperse –
 - (a) sit or lie on a sidewalk, footpath or public road; or
 - (b) stand or congregate or walk so as to obstruct the movement of traffic or to the annoyance or inconvenience of the public.
- (7) No pedestrian may carelessly, negligently or recklessly disregard or endanger his own safety or the safety of a person or vehicle using a public road.

Part 2: Traffic Lanes

3. Use of Traffic Lanes

- (1) Where a roadway has been demarcated into traffic lanes, the driver of a vehicle –
 - (a) must drive so as to be entirely within a single traffic lane; and
 - (b) may not cause or permit his vehicle to encroach over a lane line which demarcates a traffic lane, except when moving from one lane into or across another.
- (2) Except when overtaking another vehicle proceeding in the same direction or when making a right-hand turn at an intersection or into a private driveway, the following vehicles must be driven in the left-hand traffic lane available for traffic or as close as practicable to the left edge of the roadway:
 - (a) a vehicle proceeding along a public road which is demarcated into traffic lanes at less than the normal speed of traffic at the time and place and under the conditions then existing;
 - (b) an animal-drawn vehicle;
 - (c) a bicycle; and
 - (d) a heavy motor vehicle.

(3) No person may turn any vehicle that draws a semi-trailer, trailer or combination of vehicles at any crossing for the purpose of driving in the opposite direction.

4. Vehicle not to be Driven on Sidewalk or Footpath

A person may not drive, draw or propel a vehicle, excluding a perambulator or invalid's chair, upon a footpath or sidewalk designed for use by pedestrians, except when it is necessary to do so to cross by the shortest route a footpath or sidewalk for the purpose of entering or leaving property abutting thereon.

Part 3: Parking

5. Control of Parking

Whenever the public or a number of persons are entitled or allowed to use, as a parking place, an area of land, including land which is not part of a public road or a public place, an authorised official may, in cases of emergency or when it is desirable in the public interest, direct and regulate traffic thereon.

6. Parking in Loading Zone

(1) Subject to subsections (2) and (3), no person who operates or who is in charge of a vehicle on a public road may allow the vehicle to remain stationary in a loading zone –

(a) between the hours of 07:00 and 17:00 on Mondays to Fridays, except where such day is a Public Holiday;

(b) between the hours of 07:00 to 12:00 on Saturdays, except where such day is a Public Holiday; or

(c) between other restricted hours as may be specified in respect of a particular loading zone by a road traffic sign or marking.

(2) No person who operates or who is in charge of a vehicle on a public road may allow a vehicle, other than a goods vehicle, to remain stationary in a

loading zone for more than five minutes continuously and only while actually loading or off-loading persons or goods and while a licensed driver is in attendance at the vehicle.

- (3) No person who operates or who is in charge of a vehicle on a public road may allow a goods vehicle to remain stationary in a loading zone for more than 30 minutes continuously and only while the vehicle is being actually loaded or unloaded.
- (4) The driver of a vehicle, other than a goods vehicle, stationary in a loading zone must immediately remove the vehicle from the loading zone upon being directed to do so by an authorised official, even if the vehicle has not been stationary therein for longer than the maximum period allowed in respect of a vehicle of that class.
- (5) The Municipality may exempt any person from the provisions of this section upon receipt of a written application, accompanied by reasons, provided that any exemption so granted shall be subject to such conditions as may be determined by the Municipality.

7. Parking at Bus Stop

No person, who operates or who is in charge of a vehicle on a public road, may in the case of a vehicle other than a bus allow the vehicle to remain stationary in a bus stop between the hours of 06:00 and 18:00.

8. Parking in Public Road

- (1) No person who operates or who is in charge of a vehicle on a public road may park the vehicle in any public road within the municipal area for a period beyond that indicated on a road traffic sign relevant to the specific area.
- (2) No person may, without the written consent of the Municipality, park a heavy motor vehicle designed, adapted or used for the conveyance of goods, between the hours of 19:00 and 05:00 anywhere in the municipal area, except on private land or on those portions of public roads on which there have not been displayed road traffic signs regulating parking.

- (3) Application for consent must be made on the form provided for this purpose by the Municipality.

9. Parking upon Traffic Island

No person may park a vehicle upon a traffic island, unless directed or instructed to do so by an authorised official.

10. Parking by Dealer

(1) No dealer may park or allow to be parked in a public road within the municipal area, in the course of the dealer's business carried on by him, a vehicle which –

- (a) has been placed in his custody;
- (b) is under his control; or
- (c) is in his possession for the purpose of sale, exchange or garaging.

(2) Subsection (1) does not apply if at the time the vehicle is –

- (a) being used for demonstration or testing purposes; or
- (b) in the course of being delivered to the owner or purchaser thereof.

11. Parking of Repaired Vehicle

No person responsible for the control of a business of recovering or repairing vehicles may park, cause or permit to be parked, in any public road or place within the municipal area any vehicle that is in an obvious state of disrepair which has been placed in his charge in the course of the business of recovering or repairing.

12. Parking of Heavy Vehicles and Caravans

(1) No person may, for an uninterrupted period exceeding two hours, except on places reserved for the parking of heavy vehicles, park on a public road within the municipal area -

- (a) a motor vehicle with a tare exceeding 3500 kg;
 - (b) a trailer;
 - (c) a semi-trailer, or
 - (d) a caravan.
- (2) Whenever a vehicle is parked in contravention of subsection (1), it is deemed that such vehicle has been parked by the owner thereof, unless the contrary is proved.

13. Exemption of Medical Practitioners and Nurses from Parking Restrictions

- (1) Subject to subsection (2), a registered general medical practitioner or registered nurse to whom a badge has been issued in terms of subsection (5) are exempt from the provisions of any law relating to parking in force in the Municipality when using on bona fide professional domiciliary visit in a motor vehicle on which is displayed a badge conforming with the requirements of subsection (3) issued to him by the Municipality.
- (2) An exemption contemplated in subsection (1) does not apply to the stopping of a vehicle or the parking of a vehicle in a bus stop or across an entrance.
- (3) A badge issued in terms of subsection (5) must be displayed on a windscreen sticker badge displaying on the face thereof –
- (a) a serial number; and
 - (b) the name of the person to whom it is issued.
- (4) The badge must be displayed on the lower left corner of the windscreen and must have a pocket in which the person contemplated in subsection (1) inserts a white card showing the address at which the holder of the badge is actually making a professional domiciliary visit at the time the motor vehicle to which it is affixed is parked and the address shown on the card must be easily legible from outside the vehicle.
- (5) Written application for the issue of a badge must be made to the Municipality and if the Municipality approves the application it must issue a badge bearing a registered serial number to the applicant.

- (6) The Municipality must keep a register in which it records the serial number allocated by it of the badge, the issue of which has been authorised by it, and the name of the holder.
- (7) The Municipality may issue a duplicate badge.
- (8) Where the Municipality has reason to believe that any holder of a badge is abusing a privilege conferred by a badge, it may withdraw the badge from the holder and the privileges conveyed by the badge must thereupon cease.
- (9) Application for a badge must be made on a form provided for this purpose by the Municipality.
- (10) No person may display a forged badge or a badge which was not issued by the Municipality.

Part 4: Obstruction on and Work in Public Roads and Public Places and Water Discharged onto Public Road

14. Obstruction

- (1) No person may deposit or cause to be deposited or leave or cause to be left sand, stone, earth, bricks, timber, lime, cement or other building or excavated material of whatever nature on a portion of a public road, sidewalk or footpath, unless it is deposited within an enclosure in respect of which the written consent of the Municipality has first been obtained.
- (2) Subject to section 17, no person may erect or cause to be erected a hoarding on a portion of a public road, sidewalk or footpath without the written consent of the Municipality first having been obtained.
- (3) Except with the written permission of the Municipality, and subject to such conditions as may be determined by the Municipality, no person may –
 - (a) deposit or leave any goods or articles in a public road or public place, or in an area designated therefore, other than for a reasonable period during the course of the loading, off-loading or removal thereof; or
 - (b) in any way obstruct the pedestrian traffic on a sidewalk by bringing or allowing to be brought or parked thereon any object or vehicle other

than a perambulator or wheel-chair which is being used for the conveyance of children or the disabled; or

- (c) cause or allow any blind, awning, cord or other object to project or to be stretched over or onto a public road.
- (4) If a person causes an obstruction on a public road or public place, an authorised official may instruct the person to refrain from causing an obstruction or to remove the obstruction.
- (5) Should a person fail or neglect to remove, or to cease causing the obstruction contemplated in subsection (4), the authorised official may take such steps as may be necessary to remove the obstruction or to prevent its continuance and the Municipality may recover the cost of the removal of the obstruction from that person.
- (6) If a person causing an obstruction cannot be found, an authorised officer may take such steps as may be necessary to remove the obstruction or to prevent its continuance.
- (7) Application for permission as contemplated in subsection (3) must be made on a form provided for this purpose by the Municipality.

15. Damage to Public Road and Excavation in Public Road

- (1) No person may place upon or off-load on a public road any matter or thing which is likely to cause damage to the public road, unless the person has taken reasonable precautions to protect the surface of the public road against damage.
- (2) Subject to subsection (4), no person may deface, tamper, damage, remove, or in any way interfere with municipal property or work on or along any public road.
- (3) No person may in any way deface, mark or paint any public road or part of the public road without the prior written consent of the Municipality.
- (4) Unless authorised to do so in terms of these by-laws or the Municipality's by-laws on work in road reserves, no person may –

- (a) make or cause to be made any hole, trench, pit or tunnel on or under any public road; or
 - (b) remove any soil, metal or macadam from the public road.
- (5) No person may –
 - (a) make, construct, reconstruct, or alter a public road or sidewalk except with the written permission of the Municipality and otherwise than in accordance with the requirements prescribed by the Municipality;
 - (b) construct, subject to the Municipality's by-laws pertaining to encroachments, a verandah, stoep, steps or other projection or erect a post in a public road or public place except with the written permission of the Municipality; or
 - (c) except with the written permission of the Municipality –
 - (i) use a balcony or verandah erected beyond the boundary line of a public road or public place for purposes of trading or the storage of goods, or for the washing or drying of clothes thereon; or
 - (ii) enclose or partition, as a living or bedroom, a balcony or verandah erected beyond the boundary line of a public road or public place or portion thereof.
- (6) A person who is the owner of land on which any work is done is liable for any damage to any portion of a public road or public place caused by or in connection with the execution of such work by such owner, his employee or any independent contractor acting on behalf of such owner.
- (7) When any work which has to be undertaken on any land entails the driving of a vehicle over a kerb, sidewalk or road verge, the owner of such land may not commence, or allow any other person to commence any such work, unless and until the owner or person has deposited with the Municipality an amount sufficient to cover the cost of repairing any damage which may be caused to any portion of such public road or public place as a result of, or in connection with, the execution of such work by such owner, his employee or any independent contractor or acting on behalf of such owner.
- (8) After completion of the work contemplated in subsection (7), the Municipality may itself undertake the repair of any portion of such public road or public

place as may have been damaged by such work and set off the cost of such repairs against such deposit.

- (9) If the cost contemplated in subsection (8) is less than the amount of the deposit, the Municipality must refund the balance to the depositor, but if the amount of the deposit does not cover such cost, the owner is liable for the difference, which becomes payable on receipt of an account specifying the additional amount due.
- (10) No person other than an authorised official of the Municipality in the performance of his duties may apply, mark, paint or draw lines, marks, words, signs or advertisements on the surface of a public road or public place.
- (11) Application for consent contemplated in subsection (3), (4) or (5) must be made on a form provided for this purpose by the Municipality.

16. Damage to or Destruction of Public Road Surface

- (1) No person may –
 - (a) use a vehicle or allow it to be used in any public road or public place if such vehicle is in such a defective condition that it will or may cause damage to any public road or public place; or
 - (b) drive push, roll, pull or propel any object, machine or other material through or along a public road or public place in such a way, or while such object, machine or material is in such a condition, as may damage, break or destroy the surface of the public road or public place in any way.
- (2) If the Municipality identifies a person who, as a result of the actions referred to in subsection (1), has damaged, broken or destroyed the surface of a public road or public place, the cost of repairs, as determined by the Municipality, may be recovered from the offender.

17. Work in Public Road or Public Place

- (1) No person may undertake any work in a public road or public place without the prior written permission of the Municipality first having been obtained.
- (2) The Municipality, when granting permission in terms of subsection (1), may impose any such conditions and fees as it may deem necessary.
- (3) A person referred to in subsection (2) must pay the prescribed fee as set out in the Municipality's tariff policy.
- (4) A person may by means of a written application, in which the reasons are given in full, apply to the Municipality for exemption from any condition contemplated in subsection (2).
- (5) The Municipality may –
 - (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
 - (b) alter, or cancel any exemption or condition in an exemption; or
 - (c) refuse to grant an exemption.
- (6) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the Municipality under subsection (2); provided that the exemption lapses if an activity is commenced before such undertaking has been submitted to the Municipality.
- (7) An exemption lapses immediately if any condition of thereof is not complied with immediately.

18. Work done within two metres of Public Road

- (1) A person who wishes to –
 - (a) erect, remove, alter, repair or paint a building or structure or a part of a building or structure; or

- (b) carry out any excavation on land, which is within two metres of a public road must, before he commences with the work, enclose or cause to be enclosed by means of an enclosure a space in front of the building, structure or land.
- (2) If the enclosure occupies or projects over a portion of a public road, the person must apply to the Municipality for permission, and if he is not the owner of the building, structure or land on which the work is done or is to be done, the owner must countersign the application.
- (3) The Municipality may determine what portion of a public road is necessary for the purpose of carrying out the work and in all cases where it so determines that the public road may be used for such carrying out of the work, grant to the person contemplated in subsection (2) permission in writing specifying:
- (a) The portion in front of the building, structure or land which may be occupied for such purpose;
 - (b) The nature of the enclosure and, where applicable, the nature of a hoarding, fence, scaffolding or planked shed, or of an overhanging or covering;
 - (c) The precise position of that part of the public road where the enclosure, hoarding, fence, scaffolding, planked shed, an overhanging or covering is permitted;
 - (d) The period for which the permit is granted; and
 - (e) The conditions under which the permit is granted.
- (4) A person referred to in subsection (2) must pay the prescribed fee as set out in the Municipality's tariffs policy.
- (5) The Municipality reserves the right to withhold the permission required in terms of this section until –
- (a) all prescribed fees have been paid, where applicable; and
 - (b) the person contemplated in subsection (2) accepts the permission without objection, which acceptance is taken to indicate that all kerbs, gutters and

other works were in good order and condition on the date of the permission.

- (6) Application for permission must be made on a form provided for this purpose by the Municipality.

19. Bridges and Crossings over Gutters and Sidewalks

(1) No private crossing, pathway, bridge or culvert may be made or built to or in front of any dwelling or other premises in any public road or public place except with the written permission of the Municipality, and subject to the requirements prescribed by the Municipality.

(2) Application for permission must be made on the form provided for this purpose by the Municipality.

20. Building Materials in Public Roads and Public Places

(1) No person may bore or cut stone or bricks, slake or sift lime, or mix building materials, or store or place building materials or any other materials in a public road or public place except with the written permission of the Municipality and subject to the requirements prescribed by the Municipality.

(2) Application for permission must be made on the form provided for this purpose by the Municipality.

21. Discharge of Water on Public Road

(1) No person may, without prior written permission of the Municipality –

(a) lead or discharge water on, over or across a public road; or

(b) by any means whatever, raise the level of water in a river, dam or watercourse so as to cause interference with or endanger a public road

(2) A person who wishes to perform an action as contemplated in subsection (1) must submit to the Municipality an application that contains full technical details of the proposed action and the Municipality may refuse or grant permission.

- (3) Should the Municipality, in respect of the permission contemplated in subsection (2) –
- (a) refuse such permission, it must supply the person with the written reasons for the refusal; or
 - (b) grant such permission, it may do so subject to such conditions, requirements or specifications which it may determine in each individual case.
- (4) The Municipality may, subject to any law which may be applicable and after obtaining permission of the owner and the occupier of the land concerned, if any –
- (a) deviate a watercourse, stream or river if the deviation is necessary for –
 - (i) the protection of a public road or structure related to a public road; or
 - (ii) the construction of a structure connected with or belonging to a public road; and
 - (b) divert storm water from or under a public road onto private property other than land containing buildings, other structures or improvements.
- (5) The Municipality must compensate the owner or occupier of the land for damage caused as a result of acting under subsection (3), with an amount agreed upon between the Municipality and the owner or occupier.
- (6) Application for permission must be made on a form provided for this purpose by the Municipality.

22. Overflow of Water into Public Roads and Public Places

No person may cause or allow any water other than rainwater to flow into a public road or public place.

Part 5: Escorting of Abnormal Vehicles, Events, Processions and Shows**23. Escort of Abnormal Vehicles**

- (1) Escort, by traffic officers, of a vehicle that is abnormally large, or that transports unsafe loads will be provided by the Municipality on application.
- (2) Subject to section 27, escort tariffs are charged per hour or part thereof per authorized officer and are calculated from the time as stipulated on the prescribed form until completion of the escort, provided that 30 minutes before commencement and 30 minutes after completion are included.
- (3) Escorts will only be supplied if all the requirements of the National Road Traffic Act, 1996 Act No. 93 of 1996 are complied with.
- (4) Application for escorting by traffic officers in terms of subsection (1) must be submitted to the Municipality on a form provided for this purpose by the Municipality at least 14 days prior to date on which the escorting is required.

24. Races and Sports Events

- (1) An application for permission to hold a race or sports event on any public road must be submitted by the organiser of the race or sports event to the Municipality –
 - (a) in writing on the form provided for this purpose by the Municipality;
 - (b) at least 60 days prior to the envisaged event.
- (2) No person may hold a race or sports event on any public road without the permission contemplated in subsection (1) having been granted by the Municipality.
- (3) Assistance by traffic officers may be provided by the Municipality on application, as contemplated in subsection (1).
- (4) The person contemplated in subsection (1) must pay to the Municipality the required tariffs and deposit as contemplated in section 27 for the costs to be incurred during the race or sports event

25. Processions and Gatherings

- (1) Subject to the provisions of subsection (7), no person in a public road or public place may, without the written permission of the Municipality and in terms of subsections (2) and (3) –
 - (a) hold, organise, initiate or control a procession or gathering; or
 - (b) dance or sing or play a musical instrument;
 - (c) do anything which is likely to cause a gathering of persons or the disruption or obstruction of traffic; or
 - (d) use any loudspeaker or other device for the reproduction or amplification of sound.
- (2) Any person who intends to perform or carry out any one or more of the actions described in subsection (1) in any public road or public place must apply to the Municipality for permission on a form provided for this purpose by the Municipality, which application must reach the Municipality at least seven days before the date upon which any one or more of such actions is or are intended to be performed or carried out.
- (3) Notwithstanding the provisions of subsection (2), no person who intends participating actively in a procession or gathering in any public road need apply to the Municipality for permission thereto and it is not illegal for such persons to participate actively in such procession or gathering if the organiser, promoter or controller thereof has obtained the permission of the Municipality.
- (4) An application made in terms of subsection (2) must contain the following:
 - (a) Full details of the name, address and occupation of the applicant;
 - (b) Full details of the public road or public place where or route along which any one or more of the actions prescribed in subsection (1) is or are intended to be performed or carried out, proposed starting and finishing times or any one or more of the aforesaid actions and, in the case of processions and gatherings, the number of persons expected to attend; and

- (c) general details of the purpose of any one or more of the aforesaid actions intended to be performed or carried out.
- (5) Any application submitted in accordance with subsection (2) must be considered by the Municipality.
- (6) If any one or more of the actions to be performed or carried out as proposed in such application is or are likely to be in conflict with the interests of public peace, good order or safety, the Municipality may grant permission for the performance or carrying out of any one or more of such actions subject to such conditions as the Municipality may deem necessary to uphold public peace, good order or safety.
- (7) The Municipality may refuse to grant permission for the performance or carrying out of any one or more of the actions described in subsection (1), if the performance or carrying out of such an action or is or are in conflict with the interests of public peace, good order or safety.
- (8) The Municipality may withdraw any permission granted in terms of subsection (4), if, as a result of further information the performance or carrying out of the action or actions in question will be in conflict with the interests of public peace, good order or safety.
- (9) The provisions of this section do not apply to –
- (a) a wedding or funeral processions; and
 - (b) a gathering or demonstration as contemplated by the Regulation of Gatherings Act, 1993 Act No. 205 of 1993, in which case the provisions of the Act will be applicable.
- (10) Assistance by traffic officers will be provided by the Municipality on application, as contemplated in subsection (2).
- (11) The person contemplated in subsection (2) must pay, where applicable, to the Municipality the required tariffs and deposit as contemplated in section 28 for the costs to be incurred during the race or sports event.

26. Control of Amusement Shows and Devices

- (1) No person may set up or use in any public road or public place any circus, whirligig, roundabout or other side-show or device for the amusement or recreation of the public –
 - (a) except with the written permission of the Municipality first having been obtained and subject to such conditions as may be determined by the Municipality;
 - (b) unless suitable sanitary conveniences for both sexes of the staff have been provided; and
 - (c) if it is in any way dangerous or unsafe for public use.
- (2) An application for permission to act in terms of subsection (1) must be submitted in writing by the owner or organiser of the circus, whirligig, roundabout or other side-show or device to the Municipality on the form provided for this purpose by the Municipality at least 60 days prior to the date on which the circus, whirligig, roundabout or other side-show or device will be set up.
- (3) Assistance by traffic officers may be provided by the Municipality on application, as contemplated in subsection (2).
- (4) The person contemplated in subsection (2) must, where applicable, pay to the Municipality the required tariffs and deposit as contemplated in section 27 for the costs to be incurred during the duration of the circus, whirligig, roundabout or other side-show or device.
- (5) An authorised official of the Municipality must, for the purposes of inspection at all reasonable times have free access to such circus, whirligig, roundabout or other side-show or device.

27. Tariffs for Assistance with Events and Gatherings

- (1) The payment of deposits and tariffs to the Municipality are subject to the following:
 - (a) The Municipality must determine the estimated tariffs and a deposit equal to these tariffs in respect thereof must be paid in cash or by bank-guaranteed cheque at the date of application as contemplated in section 234, 241 or 2, 25 10 or 11, or 263 or 4;
 - (b) Any mutual adjustment must be made after conclusion of the sporting event, procession or gathering, or the setting up of the circus, whirligig, roundabout or other side-show or device, as soon as the actual costs have been determined by the Municipality;
 - (c) The Municipality may in its sole discretion exempt an applicant from the payment of the tariffs and the deposit upon written reasons being provided to the Municipality prior to the commencement of the escorting, race or sporting event, procession or gathering, or the set up of the circus, whirligig, roundabout or other side-show or device.
 - (d) In the event that the Municipality is unable to grant exemption for whatever reason prior to the commencement of the escorting, race or sporting event, procession or gathering, or the set up of the circus, whirligig, roundabout or other side-show or device the applicant must pay the tariffs, which will, if exemption is granted thereafter, be refunded to the applicant;
 - (e) The Municipality may approve the appointment of marshals and prescribe their responsibilities and attire to perform functions on public roads or public places; and
 - (f) The Municipality must prescribe the minimum number of marshal's required to assist at a race or sporting event, procession or gathering, or the set up of the circus, whirligig, roundabout or other side-show or device racing event, sporting event, procession and a gathering in general.
- (2) Subsection (1) does not apply to a funeral procession.

Part 6: Animals and Animal Drawn Vehicles**28. Animals and Animal Drawn Vehicle on Public Road**

- (1) The Council may, by resolution, determine portions of public roads that will be closed to animals and animal drawn vehicles.
- (2) No person may drive or cause to be driven an animal drawn vehicle along or through the portions of a public road that have been closed as contemplated in subsection (1).
- (3) No person may on a public road shoe, clean, dress, train, break-in or turn loose an animal.
- (4) No person who owns or who is in charge of an animal which is on a public road, may leave the animal on the public road if the animal is severely injured, feeble, emaciated, diseased or dying, except for the purpose of seeking assistance for the removal of the animal.
- (5) No person who owns or who is in charge of livestock may allow the livestock to be at large on a public road within the municipal area of the Municipality, and an authorised official may take any such live stock to a place designated by the Municipality.
- (6) No owner of an animal or person –
 - (a) in charge of any wild or ferocious animal, may allow such animal at any time to be insufficiently attended or at large in any public road or public place or may keep any such animal in such a manner as to be a danger or annoyance to the public;
 - (b) may allow, permit or cause any animal to graze or stray in or about any public road or public place; or
 - (c) may in any way obstruct the pedestrian traffic on a sidewalk by bring or allowing to be brought thereon any animal.
- (7) No person may –

- (a) simultaneously drive or be in control of more than one animal-drawn vehicle in a public road or public place;
 - (b) drive or be in control of an animal-drawn vehicle in a public road or public place if he is under 16 years of age; or
 - (c) if he is in control of an animal-drawn vehicle in a public road, allow a person under 16 years of age to drive or be in control of such vehicle.
- (8) A person who contravenes a provision of this section is liable, in addition to payment of the penalty, to pay to the Municipality the cost incurred by it through the authorised official acting in accordance with subsection (4).

Part 7: Collections and Handbills

29. Collections and Distribution of Handbills

- (1) No person may, except with the written permission of the Municipality first having been obtained, and subject to such conditions as determined by the Municipality –
- (a) collect or attempt to collect money in a public road or public place or organise or in any way assist in the organisation of such collection;
 - (b) collect from door to door, beg or solicit or accept alms; or
 - (c) distribute a handbill or similar advertising material or cause it to be distributed in any public road or public place, or place any handbill or similar advertising material or cause it to be placed on or in any vehicle.
- (2) An application for permission in terms of subsection (1) must contain the following information and declarations:
- (a) The name, address and a recent photograph of the applicant and any other person being in full age who is or are singularly or jointly responsible for the organisation, conduct and control of any such activity as contemplated in subsection (1)(a) to (c);

- (b) the day on which and the hours between which the activity contemplated in paragraph a is to be undertaken;
 - (c) the portion or portions of the Municipality wherein the activity contemplated in paragraph a is to be undertaken;
 - (d) the object or objects for which the activity contemplated in paragraph a is to be undertaken or any funds, where applicable, from the proceeds of the activity are to be applied;
 - (e) whether the entire amount of funds contemplated in subsection (2)(d) is to be handed over without deduction of any kind whatsoever;
 - (f) that no child under the age of sixteen years will be employed or engaged in activity contemplated in subsection (2)(a);
 - (g) that no the activity contemplated in subsection (2) a is to be undertaken before 7:00.and after 18:00, unless prior written approval for the extension of those hours has been granted by the Municipality; and
 - (h) If the activity relates to an activity contemplated in subsection (1)(a), proof that the organisation or person intending to hold the public road collection is authorised to collect a contribution in terms of the Non-profit Organisations Act, 1997 Act No. 71 of 1997, or the Fund Raising Act, 1978 Act No. 107 of 1978, as the case may be.
- (3) An application fee as determined by the Municipality may be levied in respect of any application in terms of subsection (1)(c).
- (4) Every organisation or person holding a public road collection is entitled to use collection boxes that identify with that organization or person and the Municipality's collection boxes may be used upon payment of the prescribed fee if any organisation or person requires collection boxes.

Part 8: Trolleys**30. Trolleys**

- (1) The owner of a trolley must affix an identifying token in a conspicuous position on the trolley.
- (2) The owner or the person who controls or has the supervision over a trolley or who offers it to be used by a person, or who uses it for any purpose whatsoever, may not leave or abandon it or permit it to be left or abandoned on a public road.
- (3) A trolley that has been left or abandoned on a public road may be removed, or caused to be removed, by an authorised official and be placed under the care of the official in charge of a municipal store which was established by the Municipality for the purpose.
- (4) The official in charge of the store must store a trolley which has been placed under his care at the municipal store and the Municipality must publish once every month a notice in two newspapers circulating within the municipal area, which states –
 - (a) the name of the owner of the trolley, if known;
 - (b) the number of trolleys of the owner being so stored;
 - (c) that the trolley may be claimed by the owner from the Municipality on payment of the prescribed fee for storage and on proof of ownership; and
 - (d) that a trolley that has not been claimed after a period of three months from the date of publication of the notice may be sold by the Municipality by public auction.
- (5) The proceeds of the public auction in terms of subsection (4)(d) is revenue in favour of the Municipality for the following costs incurred by the Municipality to defray expenses:
 - (a) The removal of such supermarket trolley;

- (b) The keeping of the supermarket trolley in custody;
 - (c) The endeavour to trace the owner; and
 - (d) The cost of the public auction.
- (6) The balance, if any, of the proceeds of a public auction contemplated in subsection (5) must be refunded to the owner of the supermarket trolley.
- (7) The Municipality is not liable for the theft, damage to or loss of any trolley while the trolley is stored in the municipal store or when sold by public auction.

Part 9: Wires and Fencing

31. Barbed Wire, Dangerous and Electrical Fencing

- (1) No person may erect or cause or permit to be erected along a public road or public place, or may have along a public road or public place, an electrified fence, electrified railing or other electrified barrier, unless –
- (a) the electrified fence, electrified railing or other electrified barrier is erected on top of a wall which may not be less than two metres high and built of brick, cement, concrete or similar material;
 - (b) the electrified fence, electrified railing, or other electrified barrier is designed and installed in accordance with a standard issued in terms of the Standards Act, 1993 Act No. 29 of 1993; and
 - (c) the person has obtained the prior written consent of the Municipality in terms of the National Building Regulations and Building Standards Act, 1977 Act No. 103 of 1977.
- (2) A person who wishes to erect an electrified fence, electrified railing or other electrified barrier as contemplated in subsection (1), must submit to the Municipality an application for permission, which application contains full technical details of the proposed electrified fence, electrified railing or other electrified barrier and the Municipality may refuse or grant the permission.

- (3)** Should the Municipality –
- (a)** refuse permission to an applicant to erect an electrified fence, electrified railing or other electrified barrier as contemplated in subsection (1), it must supply the person in writing with the reasons for the refusal.
 - (b)** grant the permission, it may do so subject to conditions, requirements or specifications which it may determine in each individual case.
- (4)** Subsections (1) and (2) apply to an owner or occupier of an agricultural holding or farm land as well.
- (5)** No owner or occupier of land may erect or cause or permit to be erected along a public road or public place a barbed-wire fence, railing, paling, wall or other barrier which is or may become a danger to a member of the public using the public road or public place, by reason of –
- (a)** spikes or other sharp or pointed protrusions; or
 - (b)** the nature of its construction or design.
- (6)** Subsection (5) does not apply to an owner or occupier of an agricultural holding or farm land.
- (7)** Application for permission must be made on a form provided for this purpose by the Municipality.
- (8)** No person may erect or cause or permit to be erected along a public road or public place, or who has along a public road or public place, an electrified fence, electrified railing or other electrified barrier without having first obtained the prior written consent of the Municipality in terms of subsection (1)(c); or
- (9)** A fence contemplated in subsection 8 must comply with all specifications or conditions prescribed or imposed in terms of subsection (1)(b).

Part 10: Miscellaneous Prohibitions**32. Cleaning, Repairing and Cleanliness of Public Road**

- (1) No person may clean any part of a vehicle, or wash, dry or paint any article or object on any public road.
- (2) No person may repair any part of a vehicle on any public road, except when minor repairs necessitated by a temporary or sudden stoppage of the vehicle need to be done for the purpose of setting the vehicle in motion.
- (3) No person may spill, drop or place or permit to be spilled, dropped or placed, on any public road any matter or substance that may interfere with the cleanliness of the public road, or cause or is likely to cause annoyance, danger or accident to a person, animal, vehicle or other traffic using the public road.
- (4) A person who performs an action contemplated in subsection (3) must immediately remove or cause to be removed the matter or substance from the road
- (5) If the person contemplated in subsection (4) fails to remove the matter or substance, the Municipality may remove the matter or substance and recover the cost of removal from the person.

33. Loitering and Queuing on Public Road

- (1) No person may –
 - (a) lie or sit so as to obstruct traffic on a public road;
 - (b) loiter or walk, or otherwise act on a public road in a manner that may obstruct traffic; or
 - (c) stand or congregate, except when forming part of a queue, on a public road within 20 metres of the entrance to a place of public

entertainment so as to obstruct traffic or a person proceeding to, attending at, or departing from the place of entertainment.

- (2) A person performing any of the prohibited acts mentioned in subsection (1) must, upon instruction by an authorised official, cease doing so.

34. Poison in Public Roads or Public Places

No person other than an official of the Municipality or an authorised person who administers legally approved weed-killers or poisons, may use, set or cast poison in any public road or public place.

35. Skating, Games, and Nuisances

- (1) No person may, except with the written permission of the Municipality first having been obtained –
- (a) skate on roller skates or a skate board or a similar device in or on a public road or public place or in or upon an area where skating is prohibited by an applicable road traffic sign; or
 - (b) roll any hoop, or fly any kite, throw or hit stones or balls, or use any bow and arrow or catapult, or by any means discharge any missile upon, over, or across any public road.
- (2) No person may –
- (a) play cricket or football or any game, or indulge in any pastime whatsoever in or upon any public road, except on such places as the Municipality may set apart for the purposes of a particular game, sport or pastime; or
 - (b) do anything in a public road or public place which may endanger the life or safety of any person, animal or thing or create a nuisance, obstruction or annoyance to the public.
- (3) Application for permission in terms of subsection (1) must be made on the form provided for this purpose by the Municipality.

36. Advertisements Visible from Public Road

- (1) Subject to the Municipality's by-law pertaining to the display of advertising signs, no person may display any advertisement, placard, poster or bill in or upon a vehicle parked on a public road except with the written permission of the Municipality and subject to such conditions as may be determined by the Municipality.

37. Trees

- (1) No person may –
- (a) plant a tree or shrub in a public road or public place, cut down a tree or a shrub in a public road or public place or remove it there from, except with the written permission of the Municipality;
 - (b) climb, break or damage a tree growing in a public road or public place; or
 - (c) in any way mark or paint any tree growing in a public road or public place or, subject to the Municipality's by-laws pertaining to the display of advertising signs, attach any advertisement thereto.
- (2) Any tree or shrub planted in a public road or public place is the property of the Municipality.
- (3) Whenever there is upon any property any tree or other growth which interferes with overhead wires or is a source of annoyance, damage, danger or inconvenience to persons using a public road or public place, the Municipality may by notice in writing order the owner or occupier of such property to prune or remove such tree or growth to the extent and within the period specified in such notice.
- (4) If any person fails to comply with a notice in terms of subsection (3), the Municipality may itself prune or remove the tree or growth at the expense of the person on whom the notice was served.

38. Dumping of Waste

Subject to the Municipality's dumping, littering and waste collection by-laws, no person, except with the written permission of the Municipality and subject to such conditions as may be determined by the Municipality, may –

- (a) dump, leave or accumulate any garden refuse, motor vehicle wrecks, spare parts of vehicles, building or waste materials, rubbish or any other waste products in any public road or public place; or
- (b) permit any such objects or substances to be dumped or placed in a public road or public place from premises owned or occupied by him .

39. Article Placed in Building Facing Public Road

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

40. Outspanning in Public Roads

- (1) No person may outspan or allow to be outspanned in any public road or public place any vehicle drawn by animals, or detach or leave in any public road or public place any trailer, caravan or vehicle which is not self-propelled.
- (2) The provision contemplated in subsection (1) does not apply when such vehicle is being loaded or unloaded.

41. Openings and Doors on Public Roads

- (1) No person may leave open –
 - (a) any entrance from the public road; or
 - (b) any vault, cellar, basement, or underground room without a sufficient fence or handrail to prevent persons from falling into such

vault or leave any door or other covering on such vault in a defective condition.

- (2) No person may leave any manhole or opening in an unsafe condition.
- (3) No person may open or remove any manhole cover without the written authority of the Municipality or unless such opening or removal is in the executing of his duty.

42. Miscellaneous Prohibitions

- (1) No person may, in a public road or public place –
 - (a) sing an obscene or profane song;
 - (b) use profane, foul, indecent or obscene language;
 - (c) use threatening, abusive or insulting words or make gestures or behave in a manner with intent to cause a breach of the peace or whereby a breach of the peace is likely to be occasioned;
 - (d) erect a tent or place a chair or any article for the purpose of a funeral, party or any other event without the prior written permission of the Municipality;
 - (e) use or drive or cause or permit to be used or driven a cart of the type known as a "soap box cart" or any other cart of the like nature, otherwise than in the course of or for the purpose of business; provided that the Municipality may permit the use of a cart in connection with an organised sports event, game, or race;
 - (f) operate a motor vehicle in such a manner as to cause excess noise which can be avoided by the exercise of reasonable care on his part;
 - (g) place a rope, wire or pole, or hang or place anything whatsoever on, under or across the public road without the prior written permission of the Municipality;
 - (h) cling to or attach himself or a pedal cycle, motor cycle, coaster or similar device to any other moving vehicle when travelling on the

public road upon a pedal cycle, motor cycle, coaster or similar device;

- (i) appear unclothed or appear without being clothed in such a manner as decency demands.
- (j) urinate, excrete or behave in an indecent manner by exposing his person in view of a public road;
- (k) make use of an indecent gesture;
- (l) commit, solicit or provoke a person to commit a riotous, disorderly or indecent act;
- (m) operate a rickshaw or similar carriage;
- (n) ride on a pedal cycle or tri-cycle at night that is not –
 - (i) clearly visible from a distance of not less than 50m; and
 - (ii) equipped with a lamp emitting white light to the front and a lamp emitting red light to the back of such cycle;
- (o) use or permit to be used –
 - (i) any cycle excluding a tricycle, to carry goods exceeding 50kg in mass; or
 - (ii) any tricycle to carry goods exceeding 110kg in mass;
- (p) carry any other person upon the handlebars, frame or tank of a cycle or motorcycle, or ride in above manner upon any such vehicle.
- (q) carry or convey through the carcass of an animal or any garbage, night soil, refuse, litter, rubbish, manure, gravel or sand, unless –
 - (i) it is properly covered; and
 - (ii) it is conveyed in such type of container or in such a manner as will not allow any offensive liquids or parts of the load to be spilt in the public road or public place;
- (r) dry or spread washing on a fence on the boundary fence;
- (s) beat or shake any carpet, rug or mat, except doormats shaken or beaten before 08:00 in the morning;

- (t) carry any large bundle or basket or any pointed or edged tools not properly protected, or any ladder, plank or pole or any bag of soot, lime or other offensive substance, or other package or thing calculated to obstruct, inconvenience, or annoy pedestrians upon any footpath, except for the purpose of loading or unloading any vehicle or when necessarily crossing the footpath;
 - (u) deface, damage or in any way interfere with any notice board, road traffic sign, public road name board or other similar sign or any hoarding which has been erected in a public road or public place by or with the permission of the Municipality;
 - (v) sleep in a vehicle other than a motor vehicle parked in a taxi rank or on some other stand duly allocated by the Municipality;
 - (w) erect any shelter;
 - (x) wash or dry clothes, blankets or any other domestic articles;
 - (y) fight or act in a riotous manner;
 - (z) discharge a firearm, airgun or air-pistol;
 - (aa) annoy or inconvenience any other person by yelling, shouting or making any noise in any manner whatsoever;
 - (bb) solicit or importune any person for the purpose of prostitution or immorality;
 - (cc) engage in gambling;
 - (dd) use intoxicating liquor or drugs;
 - (ee) wash himself; or
 - (ff) spit.
- (2) Application for permission in terms of subsection (1)(d), (e) and (g) must be made on the form provided for this purpose by the Municipality.

Part 11: Closure and Constructions and Naming of Public Roads, Numbering of Premises and Direction of Traffic

43. Closure of Public Roads and Public Places

- (1) No person may, without the approval of the Municipality, close or barricade any public road or public place or restrict access thereto.
- (2) The Municipality may permanently close or divert any public road or public place or part thereof or restrict access to any public road or public place.
- (3) When the Municipality decides to act in terms of subsection (2), it must give notice of such intention in terms of its communication policy and in the absence of such policy the Municipality must give notice of its intention in a local newspaper in at least two official languages.
- (4) Any objection against the intended action must be delivered in writing to the Municipality within 30 days from the date of notification in terms of subsection (3).
- (5) The Municipality may, without complying with the provisions of subsection (3) –
 - (a) temporarily close a public road or public place –
 - (i) for the purpose of or pending the construction, reconstruction, maintenance or repair of such public road or public place;
 - (ii) for the purpose of or pending the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure, works or service alongside, on, across, through, over or under such public road or public place –
 - (aa) if such public road or public place is dangerous to traffic;
 - (bb) by reason of any emergency or public event which requires special measures for the control of traffic or special provision for the accommodation of crowds; or

- (iii) for any other reason which renders the temporary closing of such public road necessary; and
 - (b) temporarily divert a public road which has been closed in terms of subsection a.
- (6) The Municipality may, for general information, place a notice of such temporary closure in terms of subsection (5) in a local newspaper.
- (7) Application for permission in terms of subsection (1)(d), (e) and (g) must be made on the form provided for this purpose by the Municipality.

44. Construction, Maintenance, Naming and Declaration Of Public Roads and Public Places

- (1) The Municipality may -
 - (a) make, construct, reconstruct, alter and maintain a public road or public place; and
 - (b) name and re-name public roads or public places.
 - (c) declare any land or portion of land under its control to public road, or any public road or portion thereof to be a public place;
 - (d) declare any private public road or portion thereof to be a public road, or any place or portion thereof to be a public place.
- (3) When the Municipality decides to act in terms of subsection 1, it must give notice of such intention in a local newspaper in at least two official languages.
- (4) Any objection against the intended action must be delivered in writing to the Municipality within 30 days from the date of notification in terms of subsection (3).

45. Numbering of Premises

- (1) The Municipality may prescribe by notice in writing to the owner of any premises that a number allocated to such premises by the Municipality

must be displayed, and the owner of such premises must, within 30 days of the date of such notice, display the allocated number on the premises.

- (2) A number displayed as contemplated by subsection 1 must –
 - (a) be displayed in a conspicuous position on the premises and must at all times be visible and legible from the adjacent public road; and
 - (b) be replaced by the owner of the premises as often as it gets obliterated, defaced or illegible.
- (3) The Municipality may allocate and re-allocate numbers to properties abutting on public roads and public places.

Chapter 3: Parking Meters

46. Municipality May Install Parking Meters

- (1) The Municipality may by resolution install or cause to be installed in a public road or place in the municipal area –
 - (a) a parking meter at a demarcated parking bay; or
 - (b) a combined parking meter at demarcated parking bays.
- (2) The Municipality must install a parking meter contemplated in subsection 1 upon the kerb, footpath or sidewalk which adjoins the parking bay or bays in respect of which it is installed.
- (3) A parking meter must –
 - (a) clearly indicate the time allowed for parking in the parking bay;
 - (b) clearly indicate the prescribed coin or coins which may be deposited in the appropriate slot of the meter;
 - (c) clearly display a notice which indicates that no parking may take place in the parking bay if the meter is out of order; and
 - (d) be fitted with an easily visible device the "indicator" which must indicate clearly, as the case may be –

- (i) the time allowed for parking when the prescribed coin has been inserted;
 - (ii) that the time allowed for parking has expired; or
 - (iii) that the parking meter has not been set in operation
- (4) In the instance where a parking meter is not automatically activated by the insertion of a prescribed coin, a notice which indicates the kind of action to be taken in order to set the meter in operation once the prescribed coin has been inserted must be clearly displayed on the parking meter.
- (5) In the instance where a meter is out of order, an authorised official may securely place over the meter a hood carrying in legible letters the words: "Out of order. Do not park in this bay".

47. Method of Parking

No driver or person in charge of a vehicle may park the vehicle –

- (a) in a metered parking bay across a painted line marking the bay or in such a position that the vehicle is not entirely within the area demarcated as a metered parking bay;
- (b) in a metered parking bay which is already occupied by another vehicle; or
- (c) in a metered parking bay in contravention of a road traffic sign which prohibits the parking or stopping of vehicles in the public road or portion of the public road concerned.

48. Payment for Parking

- (1) When a vehicle is parked in a metered parking bay, the driver or person in charge of the vehicle must –
- (a) immediately deposit or cause to be deposited in the parking meter which adjoins the parking bay or bays in respect of which it is installed the prescribed coin or coins as indicated on the meter for the period of time during which he desires to park his vehicle in the bay; and

- (b) set the meter in operation either by inserting the prescribed coin in the appropriate slot of the parking meter, or where applicable, in accordance with the instructions appearing on the parking meter.
- (2) On completion of the actions prescribed in subsections (1), the metered parking bay may be lawfully occupied by the vehicle during the period which is indicated on the parking meter, but no longer.
- (3) A driver or person in charge of a vehicle may, without payment, park the vehicle during such time if any as may be indicated on the parking meter as being unexpired from its previous use.
- (4) Subject to the provisions of subsection (3), the driver or person in charge of a vehicle may again, when the authorised period of parking has expired, immediately set the parking meter in operation as set out in subsection (1), and after the meter has been set in operation, the vehicle may lawfully occupy the parking bay for the further period indicated on the parking meter.
- (5) No person may, either with or without the insertion of a fresh coin in the parking meter, leave a vehicle parked in a parking bay for a continuous period exceeding the maximum permissible parking time as indicated on the meter.
- (6) Subject to the provisions of subsection (5), no driver or person in charge of a vehicle may cause, allow, permit or suffer the vehicle to be or remain parked in a metered parking bay while the indicator of the parking meter shows that –
- (a) the time has expired; or
- (b) the parking meter has not been set in operation either by the insertion of the prescribed coin or, where applicable in accordance with the instructions appearing on the parking meter.
- (7) No driver or person in charge of a vehicle may cause, allow, permit or suffer the vehicle to be or remain parked in the parking bay for a continuous period exceeding the period which was indicated by the indicator of the parking meter when such vehicle was parked in the said parking bay if a parking meter cannot be set in operation despite

compliance or attempted compliance with the procedure prescribed in subsection (1).

- (8) No driver or person may cause, allow, permit or suffer a vehicle to be or remain parked in the parking bay if –
- (a) the indicator shows that –
 - (i) the time has expired;
 - (ii) the parking meter has not been set in operation; or
 - (b) a hood has been placed over the parking meter as envisaged in section 465.

49. Municipality may Prevent Parking at Parking Bay

- (1) An officer authorised by the Municipality to display road traffic signs may, whenever necessary or expedient to do so in the interests of the movement or control of traffic, place or erect a traffic sign or signs indicating "No Stopping" or "No Parking" at a parking bay or bays.
- (2) No person may stop or park a vehicle or cause or permit a vehicle to be stopped or parked in a parking bay or bays –
- (a) while the sign contemplated in subsection (1) is so placed or erected; or
 - (b) during any period when the stopping or parking of a vehicle in the public road or portion of the public road concerned is prohibited in terms of such traffic sign,

50. Tampering with Parking Meter

- (1) No person may misuse a parking meter or interfere or tamper or attempt to misuse, interfere or tamper with the working operation or mechanism of a parking meter.
- (2) No person may, without authority from the Municipality, affix or attempt to affix or place a placard, advertisement, notice, list, document board or thing on a parking meter.

- (3) No person may paint, write upon or disfigure a parking meter.

51. Prescribed Coin only to be Deposited

No person may deposit or cause to be deposited in a parking meter anything whatever other than the prescribed coin or coins.

52. Unlawful Operation of Parking Meter

No person may operate or attempt to operate a parking meter by any means other than as prescribed in these by-laws.

53. Unlawful Parking

- (1) No person may cause, allow, permit or suffer any vehicle to be parked in a metered parking bay, except as permitted by the provisions of these by-laws.
- (2) Where any vehicle is found to have been parked in contravention of these by-laws, it is deemed to have been parked or caused to be parked or allowed to have been parked by the person in whose name the vehicle is registered unless and until he adduces evidence to the contrary.

54. Exemptions

- (1) Notwithstanding any other provision in these by-laws, the driver or person in charge of the following vehicles may, subject to the provisions of this section, park in a metered parking bay without payment of the prescribed fee:
- (a) A vehicle used as an ambulance and being at the time used on urgent ambulance service;
- (b) a vehicle used by a fire brigade for attendance at fires and being at the time used by the brigade in carrying out its duties; and

- (c) a vehicle used by a member of the South African Police Service and being at the time used in connection with the execution of urgent police duties.
- (2) Subject to any time limits or restrictions regarding the stopping or parking of vehicles as are prescribed by any other law or by-laws or by-laws, a metered parking bay may be occupied without charge on –
 - (a) Sundays and Public Holidays;
 - (b) Saturdays after 13h00; and
 - (c) any other day of the week during the period from 17h00 to 08h00 on the following day.

Chapter 4: Parking Grounds

Part 1: General Provisions

55. Municipality not liable for Loss or Damage

The Municipality is not liable for the loss of or damage howsoever caused, to any vehicle, or any accessories or contents of a vehicle which has been parked in a parking ground.

56. Interference with Attendant

No person may obstruct, hinder or in any manner interfere with an authorised official who is the attendant of the parking grounds in the exercise of his duties under these by-laws.

57. Payment of Prescribed Fee

- (1) A person making use of a parking ground or parking bay must, where fees have been determined in respect of the parking ground or parking bay, pay the prescribed fee.

- (2) The Municipality may in respect of a parking ground controlled by the issue of coupons, issue at the prescribed fee a coupon which entitles the holder for one calendar month or any lesser period stated in the coupon to park a vehicle in the ground, if a parking bay is available, at the times stated in the coupon.
- (3) The Municipality may issue to any of its officials a coupon which entitles the holder, when using a vehicle regarding the business of the Municipality, to park the vehicle in a parking ground specified, if space in the parking ground is available.
- (4) A coupon issued under subsection (2) or (3) –
 - (a) may not, without the prior written consent of the Municipality –
 - (i) be transferred to any other person; or
 - (ii) be used in respect of a vehicle other than the specified vehicle; and
 - (b) must be affixed by the holder of the coupon to the vehicle in respect of which it is issued in such manner and place that the written or printed text of the coupon is readily legible from the outside of the vehicle.
- (5) Application for consent contemplated in subsection (4) a must be made on a form provided for this purpose by the Municipality.

58. Trading

No person may, upon a parking ground carry on any business, trade or calling or perform any act in connection therewith.

59. Observance of Signs

A person in a parking ground must observe and comply with any traffic or other sign, notice or surface marking which is placed or displayed on the parking ground for the purpose of directing and regulating vehicles using the parking ground or the entrance or exit to the parking ground.

60. Parking and Removal of Vehicle

- (1) No person may, in any parking ground –
 - (a) park a vehicle otherwise than in compliance with an instruction or direction given by an authorised official; or
 - (b) introduce or remove a vehicle otherwise than through an entrance or exit to the parking ground demarcated for that purpose.
- (2) Where parking bays have been demarcated in a parking ground, no person having control or charge of a vehicle may park the vehicle –
 - (a) in a place on the parking ground which is not a demarcated parking bay, unless instructed to do so by the authorised attendant at the parking ground;
 - (b) in a parking bay across a painted line marking the bay or in such a position that the vehicle is not entirely within the area demarcated as a parking bay; or
 - (c) in a parking bay which is already occupied by another vehicle.
- (3) No person may park a vehicle on a sidewalk or a roadway within a parking ground.
- (4) No person may in a parking ground park a vehicle in a manner which obstructs or inconveniences other users of the parking ground.
- (5) No person may park or cause or permit a vehicle other than a vehicle as defined in the National Road Traffic Act, 1996 Act No. 93 of 1996, to be parked or to be or remain in a parking ground.

61. Abandoned Vehicle

- (1) The Municipality may remove, to the Municipality's pound, a vehicle which has been left in the same place in a parking ground for a continuous period of more than seven days.
- (2) The Municipality must take all reasonable steps to trace the owner of a vehicle which was removed in terms of subsection 1, and if the owner of

the vehicle or the person entitled to possession of the vehicle cannot be found within a period of 90 days after the vehicle has been removed, the Municipality may, subject to the provisions of subsection 3, sell the vehicle at a public auction.

- (3)** The Municipality must, 14 days before the auction contemplated in subsection (2), publish or cause to be published in at least two newspapers circulating within the municipal area, a notice of the auction.
- (4)** If the owner or the person entitled to possession of the vehicle claims the vehicle before the auction commences, the vehicle may not be sold at the auction and the person must pay to the Municipality all prescribed fees payable in terms of these by-laws and the applicable costs in terms of subsection (5).
- (5)** The proceeds of a sale concluded in terms of this section must be applied first in payment of the fees referred to in subsection (4) and thereafter to defray the following:

 - (a)** The costs incurred in endeavouring to trace the owner in terms of subsection (2);
 - (b)** the costs of removing the vehicle;
 - (c)** the costs of publishing the notice of the auction;
 - (d)** the costs of effecting the sale of the vehicle; and
 - (e)** the costs, calculated at a rate determined by the Municipality, of keeping the vehicle in the pound, and the balance, if any, of the proceeds must be paid, upon claim, to the owner of the vehicle or the person entitled to the vehicle if he can prove his right to the vehicle.
- (6)** If no claim is established within one year of the date of the sale, the balance of the proceeds contemplated in subsection (5) is forfeited to the Municipality.
- (7)** No person may leave a vehicle in the same place in a parking ground for a continuous period of more than seven days.

62. Damage to Notices

No person may remove, mutilate, obscure or in any manner damage or interfere with a notice, notice-board, sign or other thing placed by the Municipality on a parking ground.

63. Negligent and Dangerous Driving

No person may, on a parking ground, drive a vehicle negligently or in a manner dangerous to the public or to another vehicle.

64. Entering or Remaining in Parking Ground

- (1) No person may enter, remain or be on a parking ground otherwise than for –
- (a) the purpose of parking on the parking ground a vehicle; or
 - (b) lawfully removing from the parking ground a vehicle, in respect of which he has paid the prescribed parking fee.
- (2) This section does not apply to a person in the company of a person who is parking or removing a vehicle.

65. Tampering with Vehicle

No person may, on a parking ground, without reasonable cause or without the knowledge or consent of the owner or person in lawful charge of a vehicle, in any way interfere or tamper with the machinery, accessories, parts or contents of the vehicle, or enter or climb upon the vehicle or set the machinery of the vehicle in motion.

66. Defacing Coupon

No person may in a parking ground with intent to defraud the Municipality forge, imitate, deface, mutilate, alter or make a mark upon a parking coupon issued in terms of these by-laws.

67. Defective Vehicle

- (1) No person may park or cause or permit a vehicle which is mechanically defective or for any reason incapable of movement, to be parked or to be or remain in a parking ground.
- (2) If a vehicle, after having been parked in a parking ground, develops a defect which renders it immobile, the person in charge must take all reasonable steps to have the vehicle repaired if minor emergency repairs can be effected or removed within a reasonable time.

68. Cleaning of Vehicle

No person may in a parking ground clean or wash a vehicle.

69. Refusal of Admission

- (1) An authorised official may refuse to admit into a parking ground a vehicle which, together with its load is longer than five metres, or is by reason of its width or height likely to cause damage to persons or property or to cause an obstruction or undue inconvenience.
- (2) No person may disregard an authorised official's refusal contemplated in subsection (1).

70. Parking Hours and Classes of Vehicles

- (1) The Municipality may, subject to the provisions of these by-laws, permit the parking on a parking ground during the hours when the parking ground is open for parking of such classes of vehicles as it may determine.
- (2) The Municipality must, in a notice posted at the entrance to the parking ground, set out the classes of motor vehicles which may be parked in the parking ground, and the opening and closing hours of the parking ground.
- (3) The Municipality may, notwithstanding a notice posted in terms of subsection (2), by notice exhibited on a parking ground, close the parking

ground or a portion of a parking ground, either permanently or for a period stated in the notice, for the parking of vehicles.

- (4) No person may park a vehicle or allow a vehicle to remain parked on a parking ground or portion of a parking ground which has been closed under subsection (3), or at any time other than during the hours for the parking of vehicles on the parking ground as determined by the Municipality from time to time.
- (5) No person may park on the parking ground a vehicle which is not of the class or classes which may use the parking ground for parking as set out in the notice erected at the entrance to the parking ground.
- (6) No person may, unless he is the holder of a parking coupon issued in terms of these by-laws authorising him to do so, park a vehicle or cause or permit it to be parked in a parking ground before the beginning or after the expiry of the parking period determined for the parking ground.

71. Reservation by Municipality

- (1) The Municipality may by notice exhibited in the parking ground reserve a portion of a parking ground for the parking of vehicles owned by the Municipality or vehicles used by members of its staff on the business of the Municipality.
- (2) No person may park a vehicle in a portion reserved for the parking of vehicles owned by the Municipality, or for members of Municipality's staff.

Part 2: Mechanically Controlled Parking Ground

72. Parking of Vehicle in Mechanically Controlled Parking Ground

- (1) A person who enters a mechanically controlled parking ground in a vehicle must, after the vehicle has been brought to a standstill and in accordance with the instructions which are displayed on the parking coupon vending machine, obtain a parking coupon which is issued by the machine before he –

- (a) parks a vehicle;
 - (b) causes or permits a vehicle to be parked; or
 - (c) allows a vehicle to be parked.
- (2) A person contemplated in subsection (1) may park a vehicle only –
- (a) in a parking bay and in compliance with such directions as may be given by an authorised official or, where no such bay has been marked, in a place indicated by the authorised official;
 - (b) if the parking period indicated on the parking coupon has not expired.
- (3) A person contemplated in subsection (1) may not park a vehicle if an authorised official has indicated to the person that the parking ground is full; or
- (4) A parking coupon obtained in terms of subsection (1) is valid until the time of expiry thereof as indicated on the coupon and a person may not allow the vehicle to remain in the parking ground after expiry of the parking period.

73. Removal of Vehicle from Mechanically Controlled Parking Ground

- (1) No person may remove, or cause or permit the removal of, a vehicle in a parking ground, unless –
- (a) he has produced to the authorised official a coupon authorising him to park in the parking ground and which was issued to him by the parking coupon vending machine upon entering the parking ground; and
 - (b) he has paid to the authorised official the prescribed parking fee.
- (2) If a person fails to produce a coupon authorising him to park in the mechanically controlled parking ground, he is deemed to have parked the vehicle from the beginning of a period that the ground is open for parking until the time he wants to remove the vehicle and he must be charged accordingly.

- (3) A person may not, after he fails to produce a coupon, remove or cause or permit the removal of a vehicle parked in the parking ground until he has produced other proof to an authorised official of his right to remove the vehicle, and the authorised official –
- (a) must require the person to complete and sign an indemnity form as supplied by the Municipality, which form has the effect of indemnifying the Municipality against claims of whatever nature by a person relating to the removal of that vehicle; and
 - (b) may require the person to furnish such security as may be determined by the Municipality.
- (4) Subsection (1) a does not apply where the prescribed parking fees were paid upon entering the parking ground and the person who paid such fees produces the required coupon to the authorised official on demand.
- (5) Where a vehicle has not been removed from a parking ground by the end of the parking period for which the prescribed fee has been paid, a further charge as may be determined by the Municipality is payable for the next parking period.

Part 3: Pay and Display Parking Ground

74. Parking of Vehicle in Pay And Display Parking Ground

- (1) A person entering a pay and display parking ground must, immediately upon entering the parking ground buy, in accordance with the instructions which are displayed on or in the vicinity of the parking coupon vending machine in the parking ground, a coupon which is issued by the machine if he –
- (a) wishes to park a vehicle;
 - (b) causes or permits a vehicle to be parked; or
 - (c) allows a vehicle to be parked.
- (2) The following must be indicated on the parking coupon vending machine:

- (a) The period during which a vehicle may be parked in the pay and display parking ground; and
 - (b) The coin or other prescribed object to be inserted in respect of the parking period into the pay and display machine.
- (3) The person must display the coupon by affixing it to the inside on the driver's side of the front windscreen of the vehicle in such a manner and place that the information printed on the coupon by the pay and display machine is readily legible from the outside of the vehicle.
- (4) No person may allow a vehicle to remain in a pay and display parking ground after the expiry of the departure time indicated on the parking coupon and, unless evidence the contrary is produced, the date or day and time of departure as recorded by a parking coupon vending machine is taken on the face of it to be correct evidence of date or day and time.
- (5) No person may park a vehicle, cause, permit, or allow a vehicle to be parked in a pay and display parking ground if a parking coupon cannot be obtained from the parking coupon vending machine in the manner indicated thereon or when a notice displayed on the machine indicates that it is out of order.
- (6) If a vehicle is removed from a pay and display parking ground and returned to the pay and display parking ground within the period of validity of the parking coupon, the coupon continues to be valid.
- (7) Possession of a valid parking coupon in respect of a vehicle not within a parking bay does not guarantee the availability of a vacant parking bay.

75. Miscellaneous Offences in respect of Pay and Display Parking Ground

No person may –

- (a) insert or attempt to insert into a parking coupon vending machine –
 - (i) a counterfeit coin;
 - (ii) where another kind of object is to be used, a false object;
 - (iii) a coin which is not South African currency; or

- (iv) any object which is not meant to be inserted into the parking coupon vending machine;
- (b) jerk, knock, shake or in any way interfere or tamper with, or damage or deface a parking coupon vending machine or appurtenance thereto, or affix or attempt to affix or place a sign, placard, advertisement, notice, list, document, board or thing on, or paint, write upon or disfigure a parking coupon vending machine; or
- (c) remove or attempt to remove a parking coupon vending machine or any part of the machine from its mounting.

Chapter 5: Parking Attendants

76. Prohibition

- (1) No person may act as, operate as or falsely hold himself out to be a parking attendant on any public road or in any public place of the Municipality –
 - (a) if he is not registered as a security officer in terms of the Private Security Industry Regulation Act 2001 Act No. 56 of 2001;
 - (b) without the written permission of the Municipality; and
 - (c) unless he is registered as a member of an organization that is registered in terms of subsection (2).
- (2) No organization may organize the guarding of vehicles in public places or on public roads of the Municipality through parking attendants without being registered as a security service provider in terms of the Private Security Industry Regulation Act 2001 Act No. 56 of 2001 and unless registered by the Municipality as a parking attendant organization.

77. Registration of Organisation by Municipality

- (1) Before any organization can be registered with the Municipality, the organization must submit, together with its application for registration on a

CONTINUES ON PAGE 258 - PART 3



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

**Provincial Gazette
Igazethi Yephondo
Provinsiale Koerant
(Extraordinary)**

Vol. 23

BISHO/KING WILLIAM'S TOWN
29 MARCH 2016
29 MAART 2016

No. 3643

PART 3 OF 3

We all have the power to prevent AIDS



**AIDS
HELPLINE**

0800 012 322

DEPARTMENT OF HEALTH

Prevention is the cure

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

ISSN 1682-4556



03643



9 771682 455006

form supplied by the Municipality, proof of indemnity or of public liability insurance regarding the actions of its parking attendants.

- (2) The Municipality must consider each application for registration and may register an organisation or refuse to register an organisation, and the decision of the Municipality is final.
- (3) The Municipality, on receipt of an application for registration, may call for documentary or other proof of the capacity of the organization to provide parking attendants, including information regarding the finances of the organization.
- (4) When approving an organization's application for registration regarding a specified geographic area, the Municipality must issue a permit prescribing the geographic areas within which the organization may operate and the period of time for which it is granted, and the permit issued is valid for a period not exceeding 12 months from the date of issue.

78. Conditions

- (1) Subject to the provisions of section 79, an organization must adopt and sign the Code of Conduct for Organisations as supplied by the Municipality before being registered with the Municipality.
- (2) An organization must keep detailed attendance and duty records reflecting the following in respect of its parking attendants:
 - (a) Name of parking attendant;
 - (b) Time at which the parking attendant goes on and off duty;
 - (c) Place of assignment of the parking attendant; and
 - (d) Incidents and occurrences.
- (3) Each parking attendant in the employ of an organization must sign the Code of Conduct for Parking Attendants as supplied by the Municipality.

79. Registration Fee Payable

After the Municipality has registered an organization, the organization must pay to the Municipality a registration tariff, the amount of which is determined by Municipality and fixed in the registration.

80. Garments and Identification of Parking Attendants

- (1) An organization is responsible for issuing the following to its parking attendants free of charge or at the parking attendant's own cost:
 - (a) A bib or jacket and equipment;
 - (b) a supply of vouchers; and
 - (c) an identification card.
- (2) A parking attendant must, before undertaking any duties, equip himself with such bib or jacket, supply of vouchers and identification card.
- (3) Every parking attendant must, while on duty and presenting himself as available for service, be neatly dressed in a bib or jacket, and must ensure that the identification card is visibly displayed.
- (4) A parking attendant must, whenever he undertakes to guard a vehicle, hand the driver of the vehicle a voucher.

81. Conduct of Organisations

- (1) An organization must –
 - (a) register with the Municipality;
 - (b) train parking attendant;
 - (c) supervise its parking attendants, preferably by means of direct radio contact with the organization's control office;
 - (d) supply uniforms bibs or jackets, identification cards and the other relevant equipment to the parking attendants;

- (e) resolve all parking disputes or differences that may arise in the assigned areas of the parking attendants;
 - (f) instruct all parking attendants under contract to comply with the Policies and Code of Conduct.
 - (g) ensure that the organization's officials make themselves available to attend meetings with the Municipality as when requested to do; and
 - (h) establish communication with the South African Police Services and the Safety and Security Business Unit.
- (2) No organization may permit a person who has his permit cancelled or suspended to act as a parking attendant.

82. Conduct of Parking Attendants

- (1) No parking attendant may, when on duty:
- (a) Tamper with, activate or operate a parking meter;
 - (b) wash or clean or offer to wash or clean a car on a public road or in a public place;
 - (c) interfere with the movement of traffic or pedestrians;
 - (d) demand a donation or fee for guarding a driver's vehicle;
 - (e) fail to obey a lawful order from an authorized officer or an authorized official;
 - (f) harass or threaten a driver, or damage a vehicle in any way;
 - (g) involve himself in any form of criminal Activity;
 - (h) be under the influence of alcohol or any narcotic substance or consume or use any alcohol or narcotic substance;
 - (i) be untidily dressed;
 - (j) refuse to produce proof of his identity when requested to do so by an authorised officer or authorised official of a person who requires it for his information relating to the service rendered;
 - (k) behave abusively towards a member of the public;

- (l) insert money into a parking meter; or
 - (m) inform or threaten the driver or person in charge of a motor vehicle that such vehicle will or may be damaged or stolen unless it is left in his care or under his supervision or unless that parking attendant is remunerated for his services;
 - (n) act as a parking attendant or hold himself out to be available to act as a parking attendant at any place other than the place allocated to him in writing by a registered organization and in accordance with the provision of these by-laws.
- (2) No parking attendant may refuse to subject himself to a security check as prescribed by the Private Security Industry Regulation Act, 2001 Act No. 56 of 2001.

83. Cancellation or Suspension of Registration

- (1) The Municipality may suspend registration on the grounds that the organization has allegedly committed an offence in terms of these by-laws.
- (2) The Municipality may instruct an organization to immediately suspend the services of a parking attendant who –
 - (a) tampers with or activate or operates a parking meter;
 - (b) fails to observe or carry out the lawful instructions of an authorised person or an authorised officer;
 - (c) is intoxicated while performing his duties as parking attendant;
 - (d) cleans or washes any motor vehicle on a public road or in a public place;
 - (e) offers to clean or wash any motor vehicle on a public road or in a public place;
 - (f) interferes with the movement of vehicular traffic or the parking or vehicles;
 - (g) interferes with the movement of pedestrians;

- (h) through intimidation, demands a donation or fee for guarding a vehicle;
- (i) damages or threatens to damage a vehicle in any way for not receiving a donation or fee; or
- (j) fails to produce the permit or an identification card on request.
- (k) behaves abusively towards a member of the public;
- (l) inserts money into a parking meter; or
- (m) informs or threatens the driver or person in charge of a motor vehicle that such vehicle will or may be damaged or stolen unless it is left in his care or under his supervision or unless that parking attendant is remunerated for his services

84. Vicarious Responsibility and Liability of Organization

When a person who is a member of an organization acts illegally as a parking attendant or commits any other offence in terms of this Chapter, the directors of that organization are equally responsible and liable for the offence.

Chapter 6: Taxis and Buses

Part 1: Special Parking Places for Taxis, Permits and Decals

85. Special Parking Places for Taxis

- (1) The Municipality, acting in terms of section 53 of the Passenger Transportation Interim Provisions Act, 1999 EC Act No. 11 of 1999, may establish special parking places in the Municipality for use by or the parking of a taxi belonging to a person to whom a permit to use the parking place or park a taxi rank permit has been issued by the Municipality as provided for in section 88.

- (2) A taxi rank permit may be issued allocating a particular special parking place or subdivision of a special parking place to a particular person or motor vehicle for his, her or its exclusive use.
- (3) If no space is available in a special parking place at any particular time for the parking of a taxi by a taxi rank permit holder or for a taxi to which the taxi rank permit relates, the taxi must be parked at a holding area specified by a duly appointed marshal operating at the special parking place as contemplated in section 107 until the marshal or any other duly appointed person summons and permits the person to park the taxi at the special parking place.
- (4) No person or motor vehicle other than the person or motor vehicle referred to in subsection (2) may, except by virtue of a taxi rank permit, use or be parked at the special parking place or its subdivision.

86. Application for Taxi Rank Permit

- (1) An application for the granting of a taxi rank permit referred to in section 85 must be lodged with the Municipality on the particular form obtainable from the Municipality and must be accompanied by the fee contemplated in section 874.
- (2) The applicant must answer all questions in the application form and in all other respects fully comply with all the requirements of the form.
- (3) The Municipality may refuse a taxi rank permit, subject to section 876 of the National Road Traffic Act, 1996 Act No. 93 of 1996, and the provisions of these by-laws, on the grounds that there is insufficient ranking space in the municipal area.
- (4) No person may knowingly supply incorrect information in the form contemplated in subsection (2).

87. Issuing of Taxi Rank Permit

- (1) Where an application for a taxi rank permit is granted, the taxi rank permit must, subject to subsections (2) and (3), be issued in a form determined by

the Municipality provided that the prescribed fee contemplated in section 861 had been paid.

- (2)** The Municipality may not issue a taxi rank permit until the applicant provides the Municipality with –

 - (a)** a valid Certificate of Road Worthiness in respect of the motor vehicle concerned as required in terms of section 42 of the National Road Traffic Act, 1996 Act No. 93 of 1996;
 - (b)** a valid public road carrier permit issued under the Road Transportation Act, 1977 Act No. 74 of 1977, authorizing the road transportation to be undertaken;
 - (c)** proof of registration and licensing of the motor vehicle concerned in terms of section 14 of the National Road Traffic Act, 1996 Act No. 93 of 1996;
 - (d)** a valid identification document or a valid temporary identity document issued by the Department of Home Affairs, of the owner or the operator thereof, however, in the event of a temporary identification document, it must be accompanied with a passport photo of the owner or the operator thereof; and
 - (e)** a letter of recommendation from the relevant taxi association.
- (3)** Such taxi rank permit must be issued in terms of the conditions determined by the Municipality.
- (4)** The Municipality may determine the fees for the issue of a taxi rank permit and such fees may be different for different facilities.
- (5)** A taxi rank permit not collected within three months lapses, unless a written extension of time has been requested and granted by the Municipality.
- (6)** Any taxi rank permit issued contrary to the provisions of these by-laws in an unlawful manner with or without the knowledge of the applicant, is void and the holder thereof must on demand by the Municipality forthwith deliver such taxi rank permit to the Municipality.

- (7) The Municipality is not obliged to issue a taxi rank permit, even if the applicant has a valid operating licence or public road carrier permit.
- (8) No taxi rank permit will be issued unless the provisions of this section have been complied with.

88. Renewing of Taxi Rank Permit

- (1) A taxi rank permit is valid for one year from the date of issue and must be renewed annually.
- (2) An application for the renewal of a taxi rank permit must be made before the taxi rank permit expires.
- (3) After a person applying to renew a taxi rank permit has submitted a duly completed application form to the Municipality, together with the documents referred to in section 872 in respect of the motor vehicle, the taxi rank permit must be renewed on payment of the prescribed fee, and subject to the good conduct of the person.

89. Temporary Substitution of Taxi Rank Permit

- (1) Subject to subsection (2), a taxi rank permit issued in terms of section 88 for a motor vehicle does not authorise the taxi rank permit holder to park any other motor vehicle as a taxi under that taxi rank permit.
- (2) If the taxi to which a taxi rank permit relates has become defective or has been temporarily withdrawn from service owing to an accident, the taxi rank permit holder may substitute any other vehicle of the same passenger-carrying capacity for that taxi for a maximum period of seven days, on condition that, whenever such other vehicle uses the taxi facilities, the taxi rank permit holder must ensure that –
 - (a) the taxi rank permit relating to the defective taxi is always kept in such other vehicle; and
 - (b) a decal is always displayed on the other vehicle as required by section 923.

90. Transfer of Taxi Rank Permit

- (1) The executor, trustee, liquidator or curator of property, as the case may be, may, on payment of the prescribed transfer fee, carry on the business undertaking for the unexpired period of the taxi rank permit if –
 - (a) the taxi rank permit holder dies;
 - (b) the taxi rank permit holder's estate is provisionally or finally sequestrated;
 - (c) the taxi rank permit holder is a company or a close corporation which is being liquidated; or
 - (d) the taxi rank permit holder becomes in any way incapable in law of carrying on business.
- (2) No taxi rank permit may, subject to subsection (1), be transferred by the taxi rank permit holder to another person.

91. Issue, Display and Duplication of Decals

- (1) A decal containing the particulars of the taxi rank permit is issued with every taxi rank permit, and must immediately be affixed to the taxi concerned as contemplated in subsection (3).
- (2) A taxi rank permit holder may apply to use additional taxi facilities.
- (3) An additional decal or more decals may be issued to the taxi rank permit holder to identify additional taxi facilities allocated to that taxi rank permit holder.
- (4) On obtaining a decal or decals in terms of subsection (1) or (2), the taxi rank permit holder must immediately –
 - (a) where the taxi concerned is fitted with a clear windscreen, affix the decal in a conspicuous place on the left-hand front inside of the windscreen in an upright position with the printed side facing to the front in such a way that the particulars on the decal are clearly legible to any person standing on the left front side of the taxi; and

- (b) where the taxi is fitted with a tinted or smoked glass windscreen, display the decal in a watertight holder in a conspicuous place on the left-hand front outside of the windscreen in such a way that the particulars on the decal are clearly legible to any person standing on the left front side of the taxi.
- (5) The taxi rank permit holder must ensure that the decal or decals are kept displayed at all relevant times as contemplated in subsection (3).
- (6) If a taxi rank permit holder –
 - (a) satisfies the Municipality by affidavit that the taxi rank permit or a decal has been lost or destroyed; or
 - (b) produces a taxi rank permit or decal that has been damaged to the extent that the letters and figures on it are no longer clearly legible, the Municipality must, after the taxi rank permit holder has applied for a duplicate permit or decal on a form and has paid the prescribed fee, issue him with a duplicate that is clearly endorsed 'DUPLICATE'.
- (7) The taxi rank permit holder must immediately affix the duplicate decal contemplated in subsection 6 to the vehicle concerned in accordance with subsection (3).
- (8) If a taxi is being operated without a decal, it is presumed that the taxi rank permit holder does not have a valid taxi rank permit until he proves to an authorised officer that he does have such a taxi rank permit or has applied for a duplicate decal.
- (9) No person may –
 - (a) unless he is authorised to do so, produce or duplicate a taxi rank permit or decal;
 - (b) affix an unauthorised decal onto a taxi;
 - (c) operate a taxi on which a decal is in any way concealed or obscured or has become illegible, unless such concealment, obscurity or illegibility is temporary owing to a cause beyond the control of the person who operates the taxi.

92. Payment of Taxi Rank Permit Fees

- (1) The taxi rank permit fee payable for a taxi rank permit issued for less than one full year is reduced pro rata to the number of months out of 12 months of the taxi rank permit's validity.
- (2) All taxi rank permit fees and moneys must be paid at the relevant municipal office as determined by the Municipality.
- (3) The payment of any amount in terms of these by-laws does not absolve a person from criminal liability arising from his failure to obtain a taxi rank permit.
- (4) The conviction of a person for an offence under these by-laws does not relieve him of the liability to pay the fees in terms of these by-laws.

93. Amendment of Particulars of Taxi Rank Permit

- (1) If the information contained in a taxi rank permit or decal is incorrect, the Municipality may, notwithstanding anything to the contrary in these by-laws –
 - (a) notify the taxi rank permit holder concerned;
 - (b) require him to give a satisfactory explanation; and
 - (c) require him to return the taxi rank permit or decal for amendment not later than 10 days after the date of notification.
- (2) If it comes to the notice of the taxi rank permit holder that the particulars on a taxi rank permit or decal are incorrect because they have changed or are incorrect for any other reason, the taxi rank permit holder must submit the taxi rank permit or decal to the Municipality for amendment within 10 days of this coming to his notice.
- (3) A taxi rank permit holder may not, subject to subsection (4), substitute a different motor vehicle for the motor vehicle to which the taxi rank permit relates.

- (4) When a taxi rank permit or decal is surrendered for it to be amended in terms of this section, the Municipality must provide the taxi rank permit holder with a temporary taxi rank permit or decal, which is valid until the amended taxi rank permit or decal is returned to the taxi rank permit holder.

94. Outstanding Payments

All outstanding payments must be paid before a taxi rank permit is issued.

95. Taxi Rank Permit for Partnership

- (1) A taxi rank permit issued to a partnership must specify the full name of each of the partners and the type of business that is being carried on.
- (2) If a member of a partnership ceases to be a partner for any reason whatsoever during the year for which the taxi rank permit is valid, the remaining partner or partners may, on submitting proof that a new partnership has come into existence and on payment of the prescribed transfer fee, carry on the business or undertaking for the unexpired period of the taxi rank permit.

96. Taxi Rank Permit to be Produced on Demand

- (1) The holder of a taxi rank permit in terms of these by-laws must –
 - (a) maintain such taxi rank permit in a good and legible condition; and
 - (b) keep it in the motor vehicle to which it relates at all relevant times when such vehicle is being operated as a taxi.
- (2) Any authorised official of the Municipality may call upon the driver of any taxi to stop and may demand from him –
 - (a) to produce the taxi rank permit required under the provisions of these by-laws; and
 - (b) to supply his full name and address and also the name and address of the owner or operator of such taxi.

- (3) No driver referred to in subsection (2) may, when called upon to do so by any authorised officer –
- (a) refuse to stop;
 - (b) refuse to supply his full name and address;
 - (c) refuse to supply the correct name and address of the owner or operator of the vehicle in his charge;
 - (d) refuse to produce a taxi rank permit; or
 - (e) give a false name or address.

97. Suspension or Withdrawal of Taxi Rank Permit

- (1) Where the owner, taxi rank permit holder or person in charge of a taxi has been found guilty of contravening these by-laws, and irrespective of whether any other penalty by a court of law has been imposed, the Municipality may, subject to the provisions of section 99 and after all the circumstances of the case have been taken into consideration, act in terms of subsection (2).
- (2) The Municipality may, after taking all the circumstances of the case into consideration, suspend the taxi rank permit for a taxi for a period or withdraw the taxi rank permit if –
- (a) the owner of the taxi does not –
 - (i) comply with an instruction issued in terms of these by-laws; or
 - (ii) maintain the taxi at all times in a clean state and in sound running condition and repair; or
 - (b) an authorised officer inspects the taxi and finds that the taxi –
 - (i) is constructed in such a way or is in such a condition that the taxi is unsafe for the number of passengers that it is authorised to carry; or
 - (ii) does not comply with the conditions specified in these by-laws or the Act.

- (3) No person may use a vehicle as a taxi at a taxi facility or allow one to be used as a taxi at a taxi facility if the vehicle's taxi rank permit has been suspended or withdrawn.

98. Procedure for Proposed Suspension or Withdrawal of Taxi Rank Permit

- (1) A taxi rank permit may not be suspended or withdrawn unless –
- (a) the Municipality has given the taxi rank permit holder and any taxi association of which the taxi rank permit holder is a member, at least 14 days written notice by certified mail of the Municipality's intention to suspend or withdraw the taxi rank permit, and such a notice must give –
 - (i) the reasons for the proposed action and an adequate statement setting out the nature of the action;
 - (ii) the gist of the matter which could be prejudicial to the taxi rank permit holder, together with an invitation to make representation on the matter;
 - (iii) an address for the submission of a representation as contemplated in subsection (2); and
 - (iv) the date, time and place of a hearing, which may not be less than 28 days from the date of the notice, to consider the suspension or withdrawal, and an indication that the taxi rank permit holder may submit representations and appear at the hearing; and
 - (b) the taxi rank permit holder is given an opportunity to, either personally or through his duly authorised representative, appear at a hearing and to make representations, before the Municipality or a committee of the Municipality.
- (2) If a taxi rank permit holder who has received a notice referred to in subsection (1) wishes to appear and to oppose the proposed action, he must, within 14 days of receiving the notice or within a further period that the Municipality may allow, submit representations in writing by hand or by certified mail to the address indicated in the notice.

- (3) After the hearing referred to in subsection (1), the Municipality must give a ruling on whether or not to suspend or withdraw the taxi rank permit and must give the taxi rank permit holder its reasons for the ruling in writing not later than 14 days after the date of the conclusion of the hearing.
- (4) A record of the proceedings at the hearing referred to in subsection (1) must include –
 - (a) the evidence given, if any;
 - (b) any objection made to any evidence received or submitted; and
 - (c) the ruling given at the hearing.

99. Change of Address

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

100. Amendment of the Particulars on a Taxi Rank Permit

If the particulars reflected on a taxi rank permit are incorrect by virtue of a change in such particulars or for any other reason, the holder of such taxi rank permit must submit the taxi rank permit to the Municipality for the amendment thereof.

Part 2: Taxi Associations, Taxi Forum, and Taxi Facilities

101. Taxi Forum

- (1) The Municipality may establish a taxi forum to make recommendations to it on matters relevant to the taxi industry in general.
- (2) A taxi association may become a member of the taxi forum.

102. Classes of Taxi Facilities

The Municipality may designate any taxi facility in the municipal area as –

- (a) a special parking place, such as a taxi rank or a stand;
- (b) a taxi stopping place; or
- (c) a taxi holding area.

103. Taxi Parking

(1) Subject to subsection (2), no driver may –

- (a) park a taxi anywhere except at a special parking place or taxi holding area; or
- (b) apply for hire, or pick up or drop off passengers except at a special parking place or a taxi stopping place provided.

(2) In emergencies or at recreational and other similar functions, the Municipality may set aside temporary taxi facilities identified by the Chief Traffic Officer as suitable for the parking and stopping of taxis.

104. Use of Taxi Ranks

(1) A driver –

- (a) may, subject to subsection (3), park a taxi at the taxi rank specified on the taxi rank permit concerned, if space is available; and
- (b) must, if no space is available, remove and park the taxi at a holding area in accordance with the provisions of section 86.

(2) The driver must, when plying for hire at a taxi rank, do so in a queue and must –

- (a) position his taxi in the first vacant place available in the queue immediately behind any other taxi already in front; and
- (b) move his taxi forward as the queue moves forward.

(3) When plying for hire at a taxi rank, a driver –

- (a) must be in close and constant attendance of his taxi so long as it remains in the first, second or third position from the front of any queue at a rank;
 - (b) may not position his taxi ahead of any taxi that arrived and took up a position in the queue before he did; and
 - (c) may respond to the call for a taxi if his taxi is the first taxi in the queue, unless the person calling for a taxi clearly indicates his preference for a taxi not in front of the queue.
- (4) No person may park or stop a taxi which is not in good working order as required by the Act or the by-laws, in a taxi rank, or cause or permit the taxi to remain in a rank.
- (5) No person may park or stop any vehicle in a taxi rank except a taxi for which a taxi rank permit and decal, specifying the rank, have been issued for the year in question, as contemplated in Part 1 of this Chapter.

105. Prohibition on Parking of Taxi at Stopping Place

No taxi driver may park a taxi at a stopping place.

106. Regulation and Control of Taxi Facilities

- (1) Subject to subsections (2) and (3), a recognised taxi association may appoint marshals at taxi facilities to perform the duties set out in subsections (4) and (5); provided that if a taxi facility or a portion of it has been allocated exclusively to a particular taxi association, only that association may appoint marshals in respect of that particular taxi facility or portion of it.
- (2) In the case of a dispute about which taxi association is entitled to appoint a marshal or marshals at a particular taxi facility, the taxi forum must decide on the issue.
- (3) The duties of a marshal regarding passengers are –
- (a) to regulate the queuing of passengers according to the appropriate priority and route destination systems;

- (b) to ensure the orderly loading of passengers into appropriate vehicles;
 - (c) to control the appropriate number of passengers per vehicle to prevent overloading and to ensure a higher level of service to passengers and equal opportunities for drivers;
 - (d) to direct passengers and to provide information about the activities of the taxis operating at that facility or other taxi facilities; and
 - (e) to inform drivers about expected passenger demand and any other related matters.
- (4) The duties of a marshal regarding taxis are –
- (a) to control the arrival of taxis at taxi facilities and specifically at loading areas in accordance with the provisions of sections 85 and 104;
 - (b) to allow only taxi rank permit holders in respect of taxi facilities in and out of the facilities;
 - (c) to coordinate the movement of taxis between loading and holding areas;
 - (d) to control taxi departures according to loading patterns; and
 - (e) to direct taxis to a holding area and to redirect them to a rank.
- (5) The Municipality may, after consultation with the taxi forum, lay down a code of conduct for marshals at taxi facilities and amend the code from time to time.
- (6) No person may act as a marshal at a taxi facility unless the taxi association concerned has appointed him thereto in writing.

107. Servicing and Washing Taxis at Taxi Facilities

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

- (2) No person may wash any motor vehicle at a taxi facility, except at a wash bay at the facility that has been specially constructed for this purpose.

Part 3: General Use and Operation of Taxis

108. Preventing Engagement of Taxi

No person may, by using force, intimidation or threats—

(a) prevent or try to prevent—

- (i) a person from obtaining, engaging or using a taxi of his or her own choice; or
- (ii) the driver of a taxi from taking on passengers;

(b) compel a person to use a taxi against his or her will or contrary to his or her particular preference.

109. Conveying Dangerous or Offensive Articles in Taxis

A person who is in charge of any person or thing may not knowingly convey that other person or thing or allow that other person or thing to be conveyed in a taxi, whether or not the taxi has been engaged, if that other person or thing –

- (a) is not permitted to be conveyed in terms of an existing law; or
- (b) has obviously been exposed to or contaminated by an infectious or contagious disease as contemplated in the Act or the by-laws.

110. Disinfecting Taxi after conveying passengers with Infectious or Contagious Diseases

(1) The owner, driver or person in charge of a taxi must take immediate steps to have the taxi disinfected as soon as it has come to his knowledge that there has been conveyed in the taxi –

- (a) a passenger suffering from an obvious infectious or contagious disease;

- (b) the body of a person who has died of an obvious infectious or contagious disease; or
 - (c) anything that has been exposed to or contaminated with the infection of an obvious infectious or contagious disease.
- (2) The owner, driver or other person in charge of the taxi may not convey any passengers in the taxi until the taxi has been disinfected.
 - (3) The owner, driver or other person in charge of a taxi must notify, and carry out all instructions of a municipal official with regard to the disinfection of a taxi referred to in subsection 1.
 - (4) No person suffering from a contagious disease may enter any taxi.

111. Boarding and Alighting of Taxis

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

112. Queues at Facilities

- (1) At any established taxi rank facility, the Municipality may erect or cause to be erected a queue sign that consists of a notice board indicating the location and the manner in which persons waiting to enter a taxi, will stop and form a queue and such sign may be supplemented by queuing barriers in the form of rails or lines marked on the surface of the area to be demarcated for the purpose of queuing.
- (2) All passengers intending to enter any taxi at an established ranking facility or stopping place, must queue from the point at which it is indicated that such vehicle will leave.

- (3) Where no queue sign has been erected, passengers waiting to enter a taxi, must form themselves into a queue not exceeding two abreast, or in a single file when required to so by an approved taxi marshal or authorised official of the Municipality.
- (4) A passenger may only enter a taxi when he gets to the front of the queue.
- (5) Every passenger queuing must comply with all the instructions given by an approved taxi marshal, authorised officer or authorised official when on duty.

113. Payment of Fares

A passenger must pay the determined fare for the journey on request.

114. Rights and Duties of Passengers when a Taxi becomes Defective

- (1) If a taxi becomes defective or for any reason whatsoever is unable to proceed, the passengers must at the request of the driver, alight from the defective taxi and should the passengers have already paid their fares, they are entitled to a refund to the amount of their fares so paid.
- (2) Upon agreement with the driver of the defective taxi, passengers are allowed to travel with the next available taxi for the remainder of the distance in respect of their paid fares, at the cost of the defective taxi's owner.
- (3) No driver may refuse to refund a passenger as contemplated in subsection (1) or refuse to allow a passenger to travel in the manner as contemplated in subsection (2).

115. Animals

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

116. Actions Prohibited in a Taxi

- (1) The following actions are prohibited in a taxi:
- (a) smoking;
 - (b) playing offensive or excessively loud music;
 - (c) using obscene or offensive language;
 - (d) committing an offensive act;
 - (e) interfering with the comfort of any passenger;
 - (f) damaging any taxi or the fittings thereof;
 - (g) interfering with the equipment of the taxi in any way;
 - (h) forcibly causing the driver to deviate from his route;
 - (i) endangering the life of another person; and
 - (j) interfering with the actions of the driver.
- (2) A person who contravenes a provision of subsection (1) forfeits his fare and may be removed from the taxi immediately.

117. Behaviour prohibited at Taxi Rank

No person may cause a disturbance or behave in a riotous or indecent manner at a rank and may be removed from a queue, taxi rank or the vicinity of a taxi facility by any authorised officer or authorised official of the Municipality.

Part 4: Metered Taxis**118. Taximeters**

- (1) No person operating a motor vehicle contemplated in paragraph b of the definition of "taxi" must be issued with a taxi rank permit, contemplated in section 85, for a metered taxi unless and until a taximeter has been fitted to the vehicle.

- (2) No taximeter may be used until it has been tested and sealed by an examiner of vehicles.
- (3) No person may operate a metered taxi or allow one to be operated unless it is fitted with a tested and sealed taximeter that is in working order.
- (4) No person may seal a taximeter unless it registers a fare in accordance with the tariff published by the Municipality.
- (5) The use of a separate indicator to indicate to the passenger the charge for extras is permitted on condition that this indicator is part of the taximeter.

119. Metered Fares

- (1) The fares to be charged in respect of metered taxis must be in accordance with the tariff published by the Municipality.
- (2) No driver of a metered taxi may charge, demand or attempt to obtain from a passenger a fare lower or higher than the tariff published by the Municipality.

120. Tariffs to be Displayed on Taxis

The driver of a metered taxi must affix a sign on the left front door of the taxi so that the tariffs are plainly visible to the passenger, and this sign must show in legible characters –

- (a) the appropriate tariff of fares;
- (b) the number of passengers the metered taxi is permitted to carry;
- (c) the registration number of the metered taxi; and
- (d) the relevant portion of the taxi rank permit decal reference number.

121. Position Of Meter

The taximeter fitted to a taxi must be –

- (a) fitted on the inside of the taxi in such a position that the recorded fare is plainly visible at all times by a passenger occupying the rear seat; and

- (b) illuminated after dark.

122. Operation of Meter

- (1) Except as provided for in sections 124 and 125, the taximeter must be operated electronically or mechanically either solely from the gearbox or left front wheel of the taxi or from another portion of the mechanism of the taxi that the Municipality may approve.
- (2) The driver of a metered taxi must ensure that the taximeter correctly indicates to the passenger the fare that may be charged by the driver in accordance with the tariff published by the Municipality.

123. Meter Indicators

The owner of a metered taxi must ensure that –

- (a) the taximeter has an indicator which –
 - (i) is incorporated in the taximeter or attached to it;
 - (ii) has the words “For hire” on it when the taxi is available for hire; and
 - (iii) may be hand-operated;
- (b) the indicator of a taximeter has a –
 - (i) “Pay” or “For hire” position, denoting that the taximeter is not in operation;
 - (ii) “Hired” or recording position, denoting the recording by the taximeter of the fare by a combination of time and distance; and
 - (iii) “Time not recording” position or light, denoting that the clock mechanism is not recording.

124. Starting Of Meter

The driver of a metered taxi must –

- (a) on arrival at the passenger's departure point, and not sooner, start the taximeter in the "Hired" position and, on termination of the hiring, immediately stop the taximeter from recording; and
- (b) stop the taximeter from recording for the duration of a stoppage if the stoppage is not caused by traffic congestion or by the action of the passenger or at the request of the passenger.

125. Taxi Called but Not Engaged

- (1) A person who calls for or summons a metered taxi and who, on its arrival, fails to engage it, must pay the fare at the tariff published by the Municipality for the distance from the stand, rank or place from which the metered taxi had been despatched to the place to which the person had called or summoned the metered taxi.
- (2) If a metered taxi is kept waiting through no fault of the driver before the driver is told that the taxi's services are not required, the person who called for or summoned the taxi must, in addition to the normal fare, pay the driver waiting at the tariff published by the Municipality.

126. Meter Seals to be kept Intact

- (1) The owner of a metered taxi must at all times keep intact and undamaged all seals that were affixed to a taximeter by an examiner of vehicles or an approved organisation.
- (2) If the seal or seals of a taximeter are accidentally broken or defaced, the driver of the taxi must immediately, before the taxi is used as a passenger-carrying vehicle, apply to the Chief Traffic Officer or an organisation approved by the Municipality to replace or renew the seal or seals.

127. Meter Tolerances

The tolerance to be allowed on all taximeters when tested is as follows:

- (a) Road test: No tolerance in deficiency or over-registration is allowed, but if the vehicle's tyres are obviously worn, a tolerance in deficiency of 10

meters per kilometre and a tolerance in excess of 50 meters per kilometre are allowed.

- (b) Time test: A tolerance in deficiency of one second per minute and a tolerance in excess of two seconds per minute are allowed.

128. Interference with Meter Prohibited

- (1) No person may, so as to cause the taximeter to register anything other than the true fare chargeable by the driver in accordance with the tariffs published by the Municipality –
- (a) destroy, break or tamper with the seal affixed to a taximeter by the examiner of vehicles or by an organisation approved by the Municipality; or
 - (b) adjust or interfere or tamper with a taximeter or a connection of a taximeter, or any tyre or fitting of a taxi.
- (2) No driver or owner of a taxi may allow the taxi to be used as a passenger-carrying vehicle if –
- (a) the taximeter affixed to it does not register the true fare; or
 - (b) the tyres fitted to the taxi are not the same size as those which were on the vehicle when the taximeter was tested and sealed.
- (3) The driver or owner of a metered taxi –
- (a) must ensure that the taxi is fitted with a speedometer and an odometer, both of which is in good and proper working order, and that the odometer, subject to the provisions of subsection 1, reflects the true distance travelled; and
 - (b) may not operate or allow the taxi to be operated unless the speedometer fitted to it works properly.

129. Meters Liable to be Tested at Any Time

- (1) An authorised officer may be written notice instruct the owner or driver of a metered taxi to present the taxi concerned to an examiner of vehicles for

examination and testing of the taximeter at a time and place specified in the notice.

- (2) An owner or driver must comply with an instruction as contemplated in subsection (1).

130. Charge for Testing Meters

The prescribed fees must be paid to the Municipality for every taximeter tested by the Municipality in terms of section 129.

131. Meters may be Condemned

- (1) If a taximeter affixed to a metered taxi is found not to be in order and not working satisfactorily, an examiner of vehicles may condemn the taximeter and remove the seal or mark placed on it in terms of section 126.
- (2) No person may use a condemned taximeter in a taxi until the taximeter has been retested, approved and sealed by an examiner of vehicles.

132. Taxi Signs for Metered Taxis

- (1) A metered taxi that is operated within the Municipality must be fitted with an illuminated roof sign in accordance with the requirements of these by-laws.
- (2) The illuminated roof sign must be properly maintained at all times.

Part 5: Bus Facilities and Permits and Operation of Buses

133. Establishment of Bus Facilities

The provisions of section 851, 852 and 853 apply, with the necessary changes, to buses, and “special parking places” must, in relation to buses, be read as “demarcated stopping places or stands for buses” as contemplated in section 136.

134. Application and Issue of Bus Permits, Fees, Display of Decals, Suspension and Withdrawal of Permit

- (1) The provisions of sections 86, 87, 88, 89, 92, 93, 94, 95, 97 and 98 apply, with the necessary changes, to buses.
- (2) Except for the buses provided for in subsection 3, a bus may not use a public transport facility within the municipal area unless the bus displays the necessary decal.
- (3) A bus operator who transports passengers for reward and who owns more than 20 buses, but who uses fewer than 20 buses within the Municipality for transporting passengers, must pay the permit fees due to the Municipality for his buses according to the following formula: The bus operator's maximum number of buses which on any day of the year is used for the above purposes, train buses excluded for which individual permits and decals need to be obtained, multiplied by the prescribed permit fee payable per bus.
- (4) The permit fees for the number of buses referred to in the formula in subsection (3) are determined according to that bus of the operator which is certified to carry the largest number of passengers and which is normally used within the Municipality, and the permit issued for these permit fees is not linked to any specific bus.
- (5) The bus operator must –
 - (a) provide an audited certificate of the number of buses referred to in the formula above, together with his application to the Chief Traffic Officer; and
 - (b) each year after that, provide an audited certificate, together with any other documents that the Chief Traffic Officer may reasonably demand.

135. General Use and Operation of Buses

The provisions of sections 108 to 110 apply, with the necessary changes, to buses.

136. Distinguishing of Demarcated Stops and Stands for Buses

Each demarcated stopping place or stand must be distinguished by the appropriate traffic sign to indicate the type of bus or, where applicable, the name of the concern entitled to use the stopping place or stand.

137. Duty of Driver to Stop

- (1) If a bus operating on a bus route for the purpose of conveying passengers is carrying less than the maximum number of passengers that the bus is lawfully entitled to carry and the driver of the bus sees a person waiting at a demarcated stopping place apparently intending to get on the bus, the driver must, subject to subsection (2), stop the bus at the stopping place, as close as possible to the kerb or edge of the public road, in order to enable the person to get on.
- (2) The driver of a bus that has a notice that it is an “express”, “limited stop” or “special vehicle” is not required to stop until reaching the destination specified by the notice.
- (3) No driver of a bus may stop the bus to pick up a passenger at a place that is not a demarcated stopping place or stand.
- (4) A conductor if there is one of a bus may not allow a person to get on a bus, and no person may get on a bus, at any place that is not a demarcated stopping place or stand.

138. Boarding and Alighting from Bus

The provisions of section 1113, 4 and 5 apply, with the necessary changes, where a passenger intends to board or alight from a bus.

139. Parking at Stopping Places for Buses and Destination Signs

- (1) No driver or person in charge of a bus may park the bus at any stopping place on the route or allow the bus to be parked at any stopping place.
- (2) A driver or person in charge of a bus must ensure that a destination sign is displayed in the bus.

Part 6: Enforcement**140. Taxi Rank Permit to be Produced on Demand**

- (1) The holder of a taxi rank permit must –
 - (a) maintain the taxi rank permit in a good and legible condition; and
 - (b) keep the taxi rank permit in the motor vehicle to which it relates at all relevant times when the vehicle is being operated as a taxi or bus.
- (2) A traffic officer may call on the driver of a taxi or bus to stop and may demand that he –
 - (a) produce the taxi rank permit; and
 - (b) give his full name and address and also the name and address of the owner of the taxi or bus.
- (3) No driver referred to in subsection (2) may –
 - (a) fail or refuse to stop;
 - (b) fail or refuse to give his full name and address;
 - (c) fail or refuse to give the correct name and address of the owner of the vehicle in his charge;
 - (d) give a false name and/or address; or
 - (e) fail or refuse to produce a permit.

141. Unauthorised Handing Over or Abandonment of Bus or Taxi

No driver of a taxi or bus may -

- (a) abandon his vehicle; or
- (b) allow any other person to drive the taxi or bus under his control without the consent of the holder of the public road transportation permit concerned.

142. Enforcement of Right of Entry

(1) An authorised officer may, in enforcing the provisions of this Chapter, at any reasonable time and without prior notice –

- (a) enter a taxi or bus facility to inspect the facility; and
- (b) make enquires from a person connected with the facility.

(2) No person may interfere with an officer in the exercise of his power as contemplated in subsection (1).

Part 7: Miscellaneous Provisions**143. Change of Address of Taxi Rank Permit Holder**

If the taxi rank permit holder changes his address during the currency of the permit, he must notify the Municipality in writing of the new address not later than seven days after the change of address, and this notice must be delivered by hand, facsimile machine or certified mail.

144. Property Left in Passenger-Carrying Vehicles

The driver of a passenger-carrying vehicle must carefully examine the vehicle after a trip, and if a passenger has left behind any property in the vehicle, the driver must –

- (a) deliver that property to the person who left it behind; or
- (b) if he is unable to deliver that property to the person who left it behind, take the property as soon as possible to the lost property office of his employer

or to the nearest police station and deposit it with the officer on duty and obtain a receipt for it.

Chapter 7: Miscellaneous Provisions

145. Obeying and Interfering with Officer

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

146. Exemptions

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the Municipality for exemption from any provision of this by-law.
- (2) The Municipality may grant or refuse an application for exemption or impose conditions and it may alter or cancel any exemption or condition in an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed under subsection (2): Provided that if an activity is commenced before such undertaking has been submitted to the Municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

147. Municipality May Act and Recover Costs

- (1) Notwithstanding any other provisions of these by-laws, the Municipality may –

- (a) where the permission of the Municipality is required before a person may perform a certain action or build or erect anything, and such permission has not been obtained; and
 - (b) where any provision of these by-laws is contravened under circumstances in which the contravention may be terminated by the removal of any structure, object, material or substance, serve a written notice on the owner of the premises or the offender, as the case may be, to terminate such contravention, or to remove the structure, object, material or substance, or to take such other steps as the Municipality may require to rectify such contravention within the period stated in such notice.
- (2) The Municipality may, without prejudice to its powers to take action against the any person who contravenes subsection (1) and take the necessary steps to implement such notice at the expense of the owner of the premises or the offender, as the case may be.

148. Presumptions

- (1) For the purpose of these by-laws, the person in whose name a vehicle which is parked in a parking ground is licensed, is deemed to be the person having control or charge of the vehicle, unless and until he adduces evidence to the contrary.
- (2) A motor vehicle that is found on a taxi or bus facility or that has stopped at a taxi or bus facility is presumed to be plying for hire, unless the contrary is proved.
- (3) Where in any prosecution in terms of the common law relating to the driving of a vehicle on a public road, or in terms of these by-laws it is necessary to prove who was the driver of such vehicle, it is presumed, in the absence of evidence to the contrary, that such vehicle was driven by the owner thereof.
- (4) Whenever a vehicle is parked in contravention of any provision of these by-laws, it is be presumed, in the absence of evidence to the contrary, that such vehicle was parked by the owner thereof.

- (5) For the purposes of these by-laws it is presumed, in the absence of evidence to the contrary, that, where the owner of the vehicle concerned is a corporate body, such vehicle was driven or parked, by a director or servant of the corporate body in the exercise of his powers or in the carrying out of his duties as such director or servant or in furthering or endeavouring to further the interests of the corporate body.
- (6) In any prosecution in terms of these by-laws, the fact that any person purports to act or has purported to act as a traffic officer or peace officer is *prima facie* proof of his appointment and authority so to Act however, this section does not apply to a prosecution on a charge for impersonation.
- (7) Any motor vehicle which is found on a taxi facility or which has stopped at a taxi facility will be presumed to be plying for hire, unless the contrary is proved.
- (8) Any person, who by means of any motor vehicle, conveys passengers, will be presumed to have conveyed such passengers for hire or reward and such vehicle is presumed to be a taxi unless the contrary is proved.
- (9) A document which purports to be a receipt of prepaid registered post, a telefax transmission report or a signed acknowledgement of hand delivery, will on submission by a person being prosecuted under these by-laws, be admissible in evidence and *prima facie* proof that it is such receipt, transmission report or acknowledgement.

149. Penalties

A person who has committed an offence in terms of these by-laws is, on conviction, and subject to penalties prescribed in any other law, liable to a fine, or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

150. Saving and Transitional Provision

A person on whose premises any fence contemplated in section 311 is erected, is allowed a period of 12 calendar months from the date of commencement of these by-laws to make the necessary structural arrangements to comply with section 312.

151. Short title and commencement

This By-law shall be called the Traffic By-law, 2015, and commences on the date of promulgation in the *Provincial Gazette*.

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001.
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Publications: Tel: (012) 748 6053, 748 6061, 748 6065

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