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## GENERAL NOTICES • ALGEMENE KENNISGEWINGS

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### NOTICE 29 OF 2019

Nelson Mandela Bay Municipality (EASTERN CAPE)

Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

ERF 198 and 201, MILL PARK, PORT ELIZABETH, EASTERN CAPE

Under Section 47 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and upon instructions by the Local Authority, a notice is hereby given that condition 1.B.(a),(d),C6, 2.B.(a), (d) and C6 in Deed of Transfer No.: T234/2018 applicable to Erf 198 and 201 Mill Park is hereby removed.

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# PROCLAMATION • PROKLAMASIE

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## PROCLAMATION 3 OF 2019



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[ ] Words in bold type in square brackets indicate omissions from existing enactments.

       Words underlined with a solid line indicates insertions in existing enactments.

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### BY-LAW: AIR POLLUTION CONTROL

#### AIR POLLUTION BY-LAW

##### 1. Definitions

In the interpretation of these by-laws, words in the masculine gender include the feminine, the singular includes the plural and vice versa and the following words and expressions shall have the meanings respectively assigned to them hereunder, unless such meanings are repugnant to or inconsistent with the context in which they occur. -

**"approval"** means approval by the Council, or officials acting in terms of powers delegated to them; and "approve" has a corresponding meaning.

**"air pollution"** means any change in the composition of the air caused by smoke, soot, dust (including fly ash), cinders, solid particles of any kind, gases, fumes, aerosols and odorous substances as defined in terms of the National Environmental Management: Air Quality Act, Act 39 of 2004.

**"Council"** means the legislative and executive authority of the Walter Sisulu Local Municipality.

**"Councillor"** means a member of the Council of the Walter Sisulu Local Municipality

**"law enforcement officer"** means an employee of the Municipality appointed by the Council to enforce its by-laws and in possession of an appointment card issued by the

Council attesting thereto; any member of the South African Police Service or a municipal police service; any peace officer; or any traffic officer appointed in terms of the Road Traffic Act of 1989.

**"municipal manager"** means the person appointed by Walter Sisulu Local Municipal Council in terms of Section 54A of the Local Government: Municipal Systems Act, Act 32 of 2000 as amended and includes a person acting in this capacity.

**"municipal area"** means the area of jurisdiction of the Walter Sisulu Local Municipality;

**"public place"** includes any street, road, thoroughfare, sanitary passage, square or open space shown on a general plan of a township or settlement, filed in the deeds registry or Surveyor-General's office, and all land (other than erven shown on the general plan) the control of which is vested, to the entire exclusion of the owner, in the Walter Sisulu Local Municipality or to which the owners of erven in the township have a common right and for purposes of this definition "settlement" means a group of pieces of land or of subdivisions of a piece of land which are used or intended for use mainly for farming or horticulture, and includes a combination of such groups which is suitable for inclusion in one property register;

**"public road"** means a road which the public has the right to use;

**"township"** means a group of pieces of land, or of subdivisions of a piece of land, which are combined with public places and are used mainly for residential, industrial, business or similar purposes, or intended to be so used;

**"Walter Sisulu Local Municipality"** means the local municipality of Walter Sisulu established in term of Section 12 of the Local Government: Municipal Structures Act of 1998, and when referred to as an entity means a municipality as described in Section 2 of the Local Government: Municipal Systems Act, 2000 and when referred to as a geographic area means the area as determined in terms of the Local Government: Municipal Demarcation Act, 1998.

## **2. Duty of Care**

- 2.1. Any person who is wholly or partially responsible for causing air pollution or creating a risk of potential air pollution must take all reasonable steps to prevent any pollution from occurring and, as far as reasonably possible, to mitigate or remedy any such air pollution as may have occurred.
- 2.2. The council may, by notice in writing, direct any person who fails to take the measures required in sub-section 2.1 to commence taking specific reasonable measures to mitigate or to remedy such air pollution before a given date.
- 2.3. Should any person fail to comply with a directive given in sub-section 2.1, the council may itself take reasonable measures to remedy the situation; and, recover all costs resulting from the person concerned.

## **3. Smoke Emissions**

- 2.1. No person shall emit or permit the emission of dark smoke from any premises for an aggregate period exceeding three minutes during a continuous period of thirty minutes;
- 2.2. Any person who emits or permits the emission of dark smoke in contravention of sub-section 3.1 hereof commits an offence;
- 2.3. The council may, on application in writing from an applicant, grant such applicant a temporary exemption in writing from one or all the provisions of this by-law.

## **4. Emissions Caused by Open Burning**

- 4.1. Any person who carries out open burning of any material on any land or premises is guilty of an offence unless the prior written authorization of the council has been obtained, which authorization may be granted by the Council with conditions;
- 4.2. The provisions of this section shall not apply to recreational outdoor barbeque or braai activities on private premises; small controlled fires in informal settlements for the purposes of cooking; heating water or other domestic purposes; or any other defined area or defined activity where the council, by resolution, has declared this section not to apply; nor shall this section apply to land owned by an organ of state, farm or small holding.

4.3. Notwithstanding anything to the contrary no open burning in an area shall take place where a warning under section 10(1) (b) of the National Veld and Forest Act 1998 is of force and effect.

## **5. Emissions from Compressed Ignition Powered Vehicles**

5.1. No person may, on a public road, drive or use or cause to be driven or use a compressed ignition powered vehicle, which emits dark smoke;

5.2. If dark smoke is emitted in contravention of sub-section 5.1, the owner and driver of the vehicle shall each be guilty of an offence;

5.3. For the purposes of this section, the registered owner of the vehicle shall be presumed to be the owner unless the contrary is proven;

5.4. The driver of a vehicle must comply with a direction given by a law enforcement officer to stop the vehicle and to facilitate its inspection.

5.5. Failure to comply with the direction given in terms of this by-law is an offence;

5.6. When a vehicle has been stopped in compliance with a directive given in terms hereof, the law enforcement officer may inspect and test the vehicle at road side, and if the law enforcement officer reasonably believes that an offence has been committed in terms of this by-law; the law enforcement officer may instruct the driver of the vehicle in writing to take the vehicle to a testing station within a specified period of time for inspection and testing.

## **6. General**

6.1. This by-law is binding on all organs of state, including the Council.

## **7. Conflict**

7.1. In the event of a conflict with any other by-law, which directly or indirectly regulates air pollution, the provisions of this by-law shall apply; and in the event of a conflict with the National Environment Management: Air Quality Act No 39 of 2004, the provisions of the Act will supersede the policy.

## **8. Offences and Penalties**

8.1. The fines and penalties applicable to offences in terms of these by-laws are:

a) Upon conviction of a first offence, the guilty party shall be liable to a fine not exceeding R1000, as adjusted from time to time in terms of the Adjustment of



Fines Act, No. 101 of 1991, or in default of payment, to imprisonment for a period not exceeding 30 days.

- b) In the case of a continuing offence, the guilty party shall be liable to further fine not exceeding R500 as adjusted from time to time in terms of the Adjustment of Fines Act, No 101 of 1991.
- c) Upon conviction of a second or subsequent offence, the guilty party shall be liable to a fine not exceeding R1000, as adjusted from time to time in terms of the Adjustment of Fines Act, No. 101 of 1991 or in default of payment to imprisonment for a period not exceeding 30 days.
- d) A Court convicting a person of an offence in terms of these by-laws may impose an alternative sentence in lieu of a fine or imprisonment.

## **9. Jurisdiction**

9.1. Notwithstanding anything to the contrary contained in any law relating to Magistrates Courts, a Magistrate shall have jurisdiction, on application by the Council, to make an Order for the enforcement of any of the provisions of the by-law or of any approval, refusal, or condition granted or applicable in terms hereof.

## **10. Repeal of by-laws**

10.1. Any by-laws relating to Air pollution adopted by the Council or any municipality now comprising part of the Walter Sisulu Local Municipality is repealed from the date of promulgation of this by-law.

## **11. Short title and commencement**

This by-law shall be known as the Walter Sisulu Local Municipality Air Pollution By-law and shall come into operation on the date of publication thereof in the Provincial Gazette.



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## **FUNERAL PARLOURS, CEMETERIES AND CREMATORIA BY-LAWS**

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##### **1. Interpretation**

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

**“adult”** means a deceased person over the age of 12 years and where the word is used to define a corpse, a deceased person whose coffin will fit into the grave opening prescribed for adults in section 15;

**“aesthetic section”** means a cemetery or section of a cemetery which has been set aside by the Municipality wherein only headstones may be erected;

**“approved”** means approved by the Municipality;

**“ashes”** means the cremated remains of a corpse;

**“berm”** means a concrete base laid at the head of a grave and on which a memorial is erected;

**“burial”** means interment in earth, a sepulchre or tomb;

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

**“caretaker”** means the official whom the Municipality appoints from time to time in a supervisory capacity with regard to a cemetery or crematorium;

**“cemetery”** means a land or part of a land within the municipal area set aside by the Municipality as a cemetery;

**“child”** means a person who is not an adult, and where the word is used to define a corpse, means a deceased person whose coffin will fit into the grave opening prescribed for children in section 18, and includes the corpse of a stillborn child and a foetus;

**“columbarium”** means a place set aside in the basement of a crematorium or chapel containing rows of niches for the purpose of placing receptacles containing the ashes of cremated corpses therein;

**“corpse”** means the remains of a deceased person and includes a still-born child and foetus;

**“cremation”** means the process whereby a corpse is disposed of by fire;

**“crematorium”** means a crematorium as defined in section 1 of the Ordinance and includes the buildings in which a ceremony is conducted and the cremation carried out;

**“cremated remains”** means all recoverable ashes after the cremation;

**“exhumation”** means the removal of a corpse from its grave;

**“funeral undertaker’s premises”** has the meaning assigned to it in regulation 1 of the Regulations;

**“garden of remembrance”** means a section of a cemetery or crematorium set aside for the erection of memorial work or a wall of remembrance;

“**grave**” means a piece of land, within a cemetery or heritage site, excavated for the burial of a corpse and includes the headstone, number or marker of and a structure on or associated with the grave;

“**heroes’ acre**” means an area of land set aside for the burial of heroes;

“**medical officer of health**” means the officer appointed by Municipality or any other person acting in the capacity of the medical officer of health;

“**memorial section**” means a section of a cemetery set aside for the erection of memorials;

“**memorial work**” means any headstone, monument, plaque, other work or object, erected or intended to be erected in a cemetery or crematorium to commemorate a deceased person, and includes a kerb demarcating a grave, and a slab covering a grave;

“**municipality**” means the Municipality of Walter Sisulu, and includes any political structure, political office bearer, municipality or, 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, municipality or, agent or employee;

“**niche**” means a compartment in a columbarium or wall of remembrance for the placing of ashes;

“**nuisance**” means any injury, harm, damage, inconvenience or annoyance to any person which is caused in any way whatsoever by the improper handling or management of waste, including but not limited to, the storage, placement, collection, transport or disposal of waste or by littering;

“**ordinance**” means the Crematorium Ordinance, 1965 (Ordinance No. 18 of 1965);

“**panoramic section**” means a section in a cemetery set aside by the Municipality where memorial work is restricted to a plaque or memorial slab;

“**prescribed**” means prescribed by the Municipality;

“**prescribed fee**” means a fee determined by the Municipality in its Customer Care and Revenue Management By-law and or Municipal Tariff list;

“**private cemetery**” means a cemetery which is used as a cemetery but which has not been set aside as such by the Municipality;

“**Regulations**” means the Funeral Undertakers’ Premises, made under section 93(2) of the National Health Act, 2003 (Act 61 of 2003), and published as Government Notice No. 237 of 8 February 1985;

“**tomb**” means an above ground burial vault;

**“wall of remembrance”** means a structure (in a cemetery) which contains niches in which urns containing ashes can be stored.

- (2) If any provision in these By-laws vests or imposes any power, function or duty of the Municipality in or on an employee of the Municipality and such power, function or duty has in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), or any other law been assigned to a service provider, the reference to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorised by it.

## **2. Principles and objectives**

The Municipality, acting under the powers granted to it by national and provincial legislation and the regulations made under section 93(2) of the National Health Act, 2003 (Act 61 of 2003), and aware of the dignity of its residents and the need to preserve that dignity, and aware that a corpse is to be granted respect, and that all its residents have the right and the duty to inter a corpse in a cemetery or to cremate a corpse in a crematorium, hereby adopts these By-laws to control funeral undertaker's premises, to make provision for the allocation of land for the purposes of the burial of human remains, to develop and maintain existing cemeteries, to permit its residents to dispose of a corpse by cremation and to provide space allowing the preservation of the remains of a cremation in a dignified manner.

**CHAPTER 1: FUNERAL UNDERTAKERS' PREMISES****3. Applicable legislation**

The Regulations and the National Building Regulations and Building Standards Act, 1977 apply in respect of funeral undertaker's premises.



## **CHAPTER 2: GENERAL PROVISIONS RELATING TO CEMETERIES AND CREMATORIA**

### **4. Appointment of caretaker**

- (1) The Municipality must appoint a caretaker for each cemetery or crematorium to control and administer the cemetery or crematorium.
- (2) The caretaker must take into account the customs of the deceased person and the people responsible for the burial or cremation and must accommodate these within the framework of these By-laws.

### **5. Hours of admission for public**

- (1) Every cemetery is open to the public during the following hours: 6:00 and 14:00, however, if it is in the interest of the public, the Municipality may close to the public a cemetery or crematorium or part thereof for such periods as the Municipality deems necessary.
- (2) No person, excluding workers or persons with permission, may be in or remain in a cemetery or crematorium or part thereof before or after the hours mentioned in sub-section (1) or during a period when it is closed to the public.
- (3) A person who contravenes subsection (2) commits an offence.

### **6. Children**

- (1) No child under 12 years of age may enter a cemetery or crematorium unless he or she is under the care of a responsible person.
- (2) A person who allows a child to enter a cemetery or crematorium in contravention of subsection (1) commits an offence.

### **7. Keeping to path**

Except for purposes permitted by these By-laws, a person may only use a path provided in the cemetery, and failure to do so constitutes an offence.

### **8. Prohibited conduct within cemetery and crematorium**

- (1) No person may -
  - (a) commit or cause a nuisance within a cemetery or crematorium;
  - (b) ride an animal or cycle within a cemetery or crematorium;
  - (c) bring or allow an animal to wander inside a cemetery or crematorium;
  - (d) plant, cut, pick or remove a tree, plant, shrub or flower without the permission of the caretaker;

- (e) hold or take part in a demonstration in a cemetery or crematorium;
  - (f) interrupt during the performance of his or her duties an official, workman or labourer employed by the Municipality in a cemetery or crematorium;
  - (g) obstruct, resist or oppose the caretaker in the course of his or her duty or refuse to comply with an order or request which the caretaker is entitled under these By-laws to make;
  - (h) mark, draw, scribble, erect an advertisement or object on a wall, building, fence, gate, memorial work or other erection within a cemetery or crematorium;
  - (i) use water for any form of gardening without the permission of the caretaker;
  - (j) plant trees, flowers or shrubs on or between graves;
  - (k) leave any rubbish, soil, stone, debris or litter within the cemetery or crematorium;
  - (l) in any way damage or deface any part of a cemetery or crematorium or anything therein contained;
  - (m) enter or leave a cemetery or crematorium, except by an entrance provided for the purpose;
  - (n) solicit any business, order or exhibit, or distribute or leave a tract, business card or advertisement within a cemetery or crematorium;
  - (o) treat a grave or memorial work with disrespect, such as climbing or sitting on a grave or memorial work;
  - (p) enter an office, building or fenced place in a cemetery or crematorium, except in connection with lawful business;
  - (q) with the exception of a blind person, bring an animal into a cemetery or crematorium; and
  - (r) expose a corpse or a part thereof in a cemetery or crematorium.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

## **9. Right of interest in ground**

- (1) No person shall acquire any right to or interest in any ground or grave in a cemetery, other than such rights or interests as may be obtainable under these By-laws.

- (2) The Municipality may on payment of the prescribed fee, sell to a person the use of a grave in a section of a cemetery for a period not exceeding 20 years.
- (3)
  - (a) The Municipality may set aside different areas in a cemetery for exclusive use by different religious or cultural groups, taking into consideration the customs or religious conventions of such groups.
  - (b) The Municipality may launch an awareness campaign regarding the use of land for burial purposes, whereby the environmental advantages of cremation as an alternative to burial is stressed.
  - (c) The Municipality may, if compelled to do so by environmental considerations, such as shortage of land for burial, and subject to the provisions of any other law regarding the rights of a person, request that a corpse be cremated instead of interred.

### **CHAPTER 3: GENERAL PROVISIONS RELATING TO INTERMENT AND CREMATION**

#### **10. Consent required for interment and cremation**

- (1) No person may dispose of a corpse in any other manner than by interring it in a cemetery or having it cremated in a crematorium, and a person who wishes to dispose of a corpse must obtain the written consent of the caretaker before he or she disposes of the corpse.
- (2) A person who wishes to obtain the consent as contemplated in subsection (1) must submit to the caretaker an application in writing in a form similar to the form in Schedule 1 together with –
  - (a) the prescribed fee;
  - (b) a death certificate;
  - (c) a burial order issued in terms of the Births and Deaths Registration Act, 1992, and the caretaker may not approve the application unless all of the above requirements are met.
- (3) An application must be submitted to the caretaker, in respect of –
  - (a) an interment where the Municipality is responsible for the digging of the grave, not later than 15:00 two days before the intended interment or, where the grave exceeds the standard size, not later than 15:00 two days before the intended interment; and
  - (b) a cremation, not later than 15:00 on the day before the intended cremation.
- (4) Should any alteration be made in the day or hour previously fixed for an interment or cremation, or an interment or cremation be cancelled, in the instance where the Municipality is responsible for the digging of a grave, notice of the alteration must be given to the caretaker at the cemetery at least six hours before the time fixed for the interment or cremation, and no refund will be made on monies paid in respect of the opening of an existing grave.
- (5) The application contemplated in subsection (2) must be signed by the nearest surviving relative of the deceased person whose corpse will be buried in the grave or cremated or such other person as the nearest surviving relative may authorise to sign the application on his or her behalf, however, if the caretaker is satisfied that the signature of the nearest surviving relative cannot be obtained timeously, or for any other valid reason, he or she may in his or her discretion grant an application signed by any other interested person.
- (6) In the instance where a person –

- (a) who at the time of his or her death was suffering from a communicable disease, this must be indicated in the application; or
  - (b) in whom was inserted radioactive material or a pacemaker, it must be indicated in the application if the said material or pacemaker was removed from the corpse.
- (7) A person who disposes of a corpse in contravention of subsection (1) or who contravenes subsection (5) or subsection (6) commits an offence.

#### **11. Interment and cremation times**

- (1) An interment and cremation may take place between 09:00 and 16:00 on week days and between 09:00 and 12:00 on Saturdays.
- (2) Despite the provisions of subsection (1), the caretaker to whom an application is made may, if the case is one of emergency, permit interment or cremation outside the times contemplated in subsection (1) in which case an additional fee as prescribed by the Municipality is payable.
- (3) A person who inters or cremates a corpse in contravention of the provisions of subsection (1) commits an offence.

#### **12. Register**

The caretaker must keep a record of all interments, and the record must contain:

- (a) The particulars of the person who requested the interment or cremation;
- (b) the particulars of the deceased person whose corpse is to be interred or cremated, such as the name, address, and identification number;
- (c) the date of the interment or cremation; and
- (d) in the instance of an interment, the number of the grave in which the corpse is interred.

#### **13. Indigent and destitute persons**

- (1) A person may apply to the Municipality for the burial or cremation of the corpse of an indigent person and must provide proof that the deceased was granted the status as indigent person in terms of the Municipality's Customer Care and Revenue Management By-laws, and the Municipality shall decide if the corpse is to be buried or cremated.
- (2) Subject to the provisions of section 93(2) of the National Health Act, 2003 (Act 61 of 2003), and section 10 of the Human Tissue Act, 1983, the corpse of a destitute person or an unclaimed corpse may be buried or cremated according to conditions determined by the Municipality.

- (3) Where a corpse contemplated in subsection (1) or (2) is cremated, the caretaker of the crematorium where the corpse was cremated must retain the ashes, and should the ashes not be claimed, bury the ashes in a grave.

**14. Number of corpses in one coffin**

- (1) Subject to the provisions of subsection (2), only one corpse may be contained in a coffin.
- (2) More than one corpse may be contained in one coffin on the consent of the caretaker first having been obtained and the fee prescribed having been paid, in the case of –
  - (a) a mother and child who died during childbirth; or
  - (b) family members who –
    - (i) died together; or
    - (ii) died a short while after each other, and the burial or cremation of the first dying member has not yet taken place.
- (3) A person who contravenes a provision of subsection (1) or who fails to obtain the consent as contemplated in subsection (2) commits an offence.

## CHAPTER 4: INTERMENT

### 15. Dimensions of graves and apertures

- (1) The standard dimensions of a grave are as follows:
  - (a) **Adult:**
    - (i) Single grave: Length: 2200 mm; Width: 900 mm.
    - (ii) Double grave: Length: 2200 mm; Width: 2700 mm.
  - (b) **Child:**

Single grave: Length: 1500 mm; Width: 700 mm.
- (2) Any person requiring an aperture for an interment in an adult's grave of a size larger than the standard dimensions must, when submitting an application in terms of section 10, specify the measurements of the coffin, and pay the fee prescribed by the Municipality for enlarging the aperture.
- (3) A person, other than an employee of the Municipality, who digs a grave in contravention of the dimensions stipulated in subsection (1), commits an offence.

### 16. Depth of grave

- (1) An adult's grave is 1900 mm in depth and that of a child 1500 mm in depth.
- (2) The lid of the coffin, or where one coffin has been buried on top of another coffin, the lid of the top coffin, may not be less than 1200 mm from the surface.
- (3) A person, other than an employee of the Municipality, who digs a grave in contravention of the dimensions stipulated in subsection (1) or who inters a coffin in contravention of the provisions of subsection (2) commits an offence.
- (4) if the burial is made in terms of subsection 2 an application must be made to the municipality prior to the first burial.

### 17. Reservation of grave

- (1) A person desiring to reserve the use of a grave must apply and pay the prescribed fee at the Municipal offices and submit a receipt to the caretaker.
- (2) A restriction is placed on the reservation of graves, and reservations shall only be accepted for adult graves in the monumental section as stated in subsection (3).
- (3) In the event of an interment of a husband or wife in the monumental section, only one additional adjoining grave may be reserved for the survivor.

- (4) In the event of an interment of a husband or wife in the aesthetic section, an additional adjoining grave may not be reserved for the survivor, however, subject to the provisions of section 20, the interment of the survivor may be permitted in the same grave.
- (5) Where another person, other than the applicant, has mistakenly used a grave, the caretaker must allocate another grave within the cemetery to the applicant.

**18. Child's coffin too large**

Should a child's coffin be too large for the dimensions of a child's grave, it must be placed in an adult grave and the prescribed fee for an adult's interment must be paid by the person submitting an application in terms of section 10, and in the instance where a child is interred in a section intended for adults the fee applicable to adults applies.

**19. Construction material of coffin**

- (1) A coffin interred in a grave must be constructed of wood or bio-degradable material.
- (2) A person who interrs a coffin in contravention of subsection (1) commits an offence.

**20. Number of bodies in one grave**

Subject to the provisions of section 16(2) and 31, more than one corpse may be interred in a single grave.

**21. Coffin to be covered with earth**

The person contemplated in section 10(1) ensure that a coffin, upon being placed in a grave, is covered without delay with at least 300 mm of earth, and failure to do so constitutes an offence.

**22. Religious ceremony**

The members of a religious denomination may conduct, during the interment and at the grave, a religious ceremony in connection with an interment or memorial service.

**23. Hearse and vehicle at cemetery**

- (1) No hearse or other vehicle may enter a cemetery without the prior permission of the caretaker first having been obtained.



- (2) No hearse or other vehicle may use any other route to enter a cemetery than the routes set aside for that purpose.
- (3) A person who contravenes subsections (1) or (2) commits an offence.

**24. Instruction of caretaker**

A person taking part in a funeral procession or ceremony in a cemetery must follow instructions by the caretaker, and failure to do so constitutes an offence.

**25. Music inside cemetery**

- (1) Only sacred singing is allowed in a cemetery, except in the case of a police or military funeral, in which case the prior permission of the caretaker must be obtained.
- (2) A person who contravenes subsection (1) commits an offence.

**26. Occupation of chapel or shelter**

- (1) No person may for the purpose of a funeral occupy a chapel or shelter in a cemetery for more than 45 minutes.
- (2) A person who contravenes subsection (1) commits an offence.

**27. Number on grave**

- (1) No person may inter a corpse in a grave on which a peg marked with the number of the grave has not been fixed.
- (2) A person who contravenes subsection (1) commits an offence.

**CHAPTER 5: EXHUMATION OF CORPSE AND RE-OPENING OF GRAVE****28. Disturbance of mortal remains**

- (1) Subject to the provisions of an exhumation order given in terms of section 3(4) of the Inquests Act, 1959 any other provision of any Act relating to the exhumation of corpses –
  - (a) no corpse or mortal remains or ground surrounding it in a cemetery may be disturbed;
  - (b) no grave may be re-opened; and
  - (c) no corpse may be removed from a grave, without the written consent of the Municipality.
- (2) The prescribed fee for exhumation must be paid to the caretaker at least two days before the date fixed for the exhumation or removal of the corpse.
- (3) A person who contravenes subsections (1) commits an offence.

**29. Time of exhumation**

- (1) No person may exhume or cause a corpse to be exhumed during such time as the cemetery is open to the public.
- (2) A person who contravenes subsection (1) commits an offence.

**30. Re-opening of grave**

- (1) No person may re-open a grave for the purpose of interring a second corpse in the same grave unless –
  - (a) the grave was initially made deeper for this purpose;
  - (b) if not made deeper, then only after 10 years have passed since the interment of the first corpse;
  - (c) for purposes of burial of a receptacle containing ashes, the depth does not exceed 300 mm;
  - (d) the consent contemplated in section 29(1) has been obtained; and
  - (e) the fee prescribed by the Municipality has been paid.
- (2) A person who contravenes a provision of subsection (1) (a) to (d) commits an offence.
- (3) The Municipality has the right to re-open a grave for the purpose of establishing, by reading the inscription on the coffin, the identity of the corpse.

## CHAPTER 6: CARE OF GRAVES

### 31. Shrubs and flowers

The Municipality may at any time prune, cut down, dig up or remove any shrub, plant, flower, foliage, wreath or adornment if it becomes unsightly, is damaged or wilted.

### 32. Care of grave

- (1) The maintenance of a grave is the responsibility of the person contemplated in section 9(2).
- (2) The Municipality may, on application by a person contemplated in subsection (1) and upon payment of the fee prescribed by the Municipality, undertake to keep any grave in order for any period.
- (3) The Municipality may at its discretion undertake to keep, at its own expense, any grave in order for any period.

## CHAPTER 7: CREMATION

### 33. Receptacles and ashes

- (1) Unless the ashes are to be buried by the Municipality, the person contemplated in section 10(1) must provide a receptacle, on which the full name of the deceased person is indicated, for receiving the ashes.
- (2) The quantity of ashes to be kept, as indicated on the application form by the person contemplated in subsection (1) must, after the cremation, be collected by him or her, and should he or she fail to collect the ashes, the ashes will be dealt with in terms of section 35(1).
- (3) Where a receptacle is intended to be placed in a niche in the columbarium –
  - (a) it must –
    - (i) be made of wood or stone; and
    - (ii) be of a size and design as to fit into the niche; and
  - (b) if the niche is not meant to be sealed, have affixed to it a plate on which the full name of the deceased person is inscribed.

### 34. Burial and exhumation of ashes

- (1) In the absence of an arrangement between the caretaker and the person contemplated in section 34 regarding the ashes, the caretaker may bury or

scatter the ashes in a garden of remembrance, where such facility is available.

- (2) A person may deposit ashes in a –
  - (a) grave; or
  - (b) niche in a –
    - (i) columbarium;
    - (ii) wall of remembrance; or
    - (iii) memorial work.
- (3) A person must obtain the consent of the caretaker if he or she wishes to –
  - (a) bury ashes in a grave;
  - (b) exhume ashes from a grave; or
  - (c) scatter ashes, and the caretaker must, on receiving payment of the prescribed fee –
    - (i) give written consent to the applicant to bury, exhume or scatter the ashes; and
    - (ii) in the instance of burial or exhumation, prepare the grave for burial or exhumation.
- (4) A grave for the burial of ashes or a niche in a columbarium must measure 610 mm in length, 610 mm in width, and 610 mm in depth.

**35. Cremation certificate**

- (1) On completion of a cremation, the caretaker must supply a cremation certificate to the person contemplated in section 34(1).
- (2) The caretaker must, on application and after receipt of the prescribed fee, issue a duplicate cremation certificate to a person.

**CHAPTER 8: ERECTION AND MAINTENANCE OF MEMORIAL WORK****36. Consent of Municipality**

- (1) No person may bring into a cemetery, erect, alter, paint, clean, renovate, decorate, remove or otherwise interfere with any memorial work or cut any inscription thereon in a cemetery without the written consent of the Municipality.
- (2) When erecting a memorial work, the following must be submitted:
  - (a) A plan which gives an indication of the measurements and the position;
  - (b) specification of the material of which the memorial work is to be constructed; and
  - (c) the wording of the epitaph.
- (3) The plan must be submitted 30 days before the erection commences, and must be accompanied by the prescribed fee, and the Municipality, when granting consent, may impose such conditions as it deems necessary.
- (4) No person may bring into the cemetery any material for the purpose of constructing therewith any memorial work on any grave unless and until -
  - (a) the provisions of subsection (1) to (3) have been complied with; and
  - (b) all charges due in respect such grave have been duly paid.
- (5) The Municipality's consent of the proposed work is valid for six months only, and in the event of the memorial work not being erected within the prescribed time a new application must be submitted.
- (6) The grave number must be indicated, in a workmanlike manner, in figures 30 mm in size, and failure to do so constitutes an offence.
- (7) A person who contravenes a provision of subsection (1) or (4) (a) commits an offence

**37. Requirements for erection of memorial work**

- (1) A person erecting a memorial work must comply with the following:
  - (a) He or she must be in possession of a plan approved by the Municipality;
  - (b) all work must be effected according to the conditions contemplated in section 37(3);
  - (c) proceedings must be of such a nature that no damage be caused to any structure or offence given;

- (d) where a memorial has a pedestal on ground level or on the berm, the pedestal may not be more than 900 mm in length, 250 mm in width and 250 mm in height for a single grave, and not more than 2700 mm in length, 250 mm in width, and 250 mm in height for a double grave;
  - (e) with the contractor's permission, the name of the maker can be displayed on a memorial work, but no address or any other particulars may be added thereto, and the space utilized for it may not be larger than 40 x 100 mm; and
  - (f) tiles in the Garden of Remembrance must be 240 mm x 300 mm large and must be manufactured out of non-corrosive metal.
- (2) A person who does not comply with a provision in subsection (1) commits an offence.

**38. Position, movement and removal of memorial work**

- (1) No person may erect a memorial work on a grave before the position in which such memorial work is to be placed has been indicated by the Municipality.
- (2) Should the provisions of subsection (1) not be complied with the Municipality has the right to alter the position of the memorial work and to recover the costs of the alteration from the person who erected the memorial work.
- (3) In the instance where a memorial work has originally been placed in a certain position with the express consent of the Municipality or its employee, any alteration of the position in terms of the provisions of this section is executed at the expense of the Municipality.
- (4) A memorial work placed, erected, constructed, built, altered, decorated, painted or otherwise dealt with in a cemetery in such manner that any provisions of these By-laws are contravened thereby, may be removed, after due notice, by the Municipality at the cost of the person who erected the memorial work, without payment of any compensation.

**39. Repairs to memorial work**

Should the person who erected a memorial work allow such memorial work to fall into such a state of disrepair that it may cause danger or deface the cemetery, the Municipality may cause a Notice of Compliance, as contemplated in section 61, to be served on such person.

**40. Supervision of work**

A person engaged upon any work in a cemetery must effect the work under the supervision of the caretaker, and failure to do so constitutes an offence.

**41. Damaging of memorial work**

The Municipality under no circumstances accepts responsibility for any damage which may at any time occur to a memorial work, and which is not due to the negligence of the Municipality's employees.

**42. Conveying of memorial work**

- (1) No person may convey any stone, brick or memorial work or a portion thereof within a cemetery upon a vehicle or truck which may cause damage to the paths or grounds or structures of the cemetery.
- (2) A person who contravenes subsection (1) commits an offence.

**43. Vehicle and tools**

Every person engaged with work upon a grave or plot must ensure that the vehicles, tools or appliances be of such a kind as not to contravene these By-laws and by no means block any road or roads, and failure to do so constitutes an offence.

**44. Complying with Municipality's directions**

A person carrying on work within a cemetery must in all respects comply with the directions of the Municipality, and failure to do so constitutes an offence.

**45. Times for bringing in material and doing work**

- (1) No person may bring memorial work or material into or do any work, other than the dismantling of memorial work for burial purposes, within a cemetery except during the following hours: Mondays to Fridays between the hours of 7:30 and 16:15
- (2) No person may engage in work which may be disturbing when a funeral takes place and for the duration of the funeral.
- (3) A person who contravenes subsections (1) or (2) commits an offence.

**46. Inclement weather**

- (1) No person may fix or place any memorial work while the soil is in an unsuitable condition.

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

**47. Production of written permission**

A person charged with a work or on his or her way to or from work within the cemetery must, upon demand from the Municipality or its authorized official, produce the written consent issued to him or her in terms of section 37, and failure to do so constitutes an offence.

**48. Memorial work in crematorium**

- (1) Unless a corpse was cremated in the crematorium, or a cremation certificate issued by another crematorium is submitted, no person may, without the consent of the caretaker first having been obtained, erect a memorial work in a crematorium.
- (2) A memorial work –
- (a) if erected in a garden of remembrance –
    - (i) must be made of marble or granite; and
    - (ii) may not exceed a size of 250 mm in width, 305 mm in length, and 25 mm in thickness;
  - (b) if intended to seal a niche, must conform in size and material to the memorial work next to it and may have a photograph of the deceased person affixed to it; or
  - (c) erected on a grave, may not exceed 1, 2 m in height, 610 mm in length, and 610 mm in width.
- (3) A person who erects a memorial work in contravention of subsection (1) or who contravenes a provision of subsection (2) commits an offence.

**CHAPTER 9: SECTIONS IN CEMETERY**

**49. Municipality may establish sections**

- (1) The Municipality may establish one or more of the following sections in a cemetery:
- (a) Monumental section;
  - (b) garden of remembrance;
  - (c) heroes' acre;
  - (d) aesthetic section; or
  - (e) panoramic section.



**50. Monumental section**

- (1) Memorial work may be erected upon the whole surface of the grave subject thereto that the provisions of section 38 must be complied with and that the following measurements may not be exceeded:
  - (a) Height: 2000 mm.
  - (b) Width: 900 mm in case of a single grave, and 700 mm in case of a double grave.
  - (c) Thickness: 250 mm.
- (2) The Municipality may in the course of time level all graves and plant grass thereon.
- (3) Flowers, foliage, wreaths or any adornment may be placed upon the berm only of graves, except in the case of graves which have not yet been levelled.
- (4) A person commits an offence of he or she –
  - (a) exceeds the measurements stipulated in subsection (1); or
  - (b) contravenes section (3).

**51. Garden of Remembrance**

- (1) This section contains the wall of remembrance with niches, and a garden area in which plaques can be erected.
- (2) A container intended to be placed in a niche may not exceed 300 mm x 150 mm x 150 mm in size.
- (3) Flowers and wreaths may be placed on the places provided therefore only.
- (4) A person who contravenes a provision of subsection (2) or (3) commits an offence.

**52. Heroes Acre**

- (1) A heroes' acre consists of a structure erected for the purpose and contains no corpse but is a memorial only.
- (2) No person may erect such structure without the written approval of the Municipality and the Municipality decides upon the merits of such matters.
- (3) The size of the structure must be 500 mm x 350 mm and must be manufactured from a non-corrodible metal or masonry upon which inter alia, the contribution made by the person in question is mentioned.
- (4) A person who interments a corpse in contravention of subsection (1) or contravenes subsection (2) or who fails to comply with the requirements of subsection (3) commits an offence.

**53. Aesthetic section**

- (1) Only a headstone may be erected, and a slab may not be erected on, and a kerb may not be erected around a grave.
- (2) The dimensions of a headstone are as follows:
  - (a) **Adult's grave:**
    - (i) Single grave: 900 mm in length by 260 mm in width.
    - (ii) Double grave: 2200 mm in length by 260 mm in width.
  - (b) **Child's grave:**
    - (i) Single grave: 610 mm in length by 260 mm in width.
    - (ii) Double grave: 1200 mm in length by 260 mm in width.
- (3) No headstone may exceed a height of 1500 mm above the berm.
- (4) A person who contravenes a provision of this section commits an offence.

**54. Panoramic section**

- (1) Only a plaque may be embedded, which plaque must be –
  - (a) made of marble, granite or stainless steel;
  - (b) 500 mm in length, 500 mm in width, and 30 mm thick.
  - (c) embedded –
    - (i) 30 mm below the level of the grass;
    - (ii) horizontally on ground level; and
    - (iii) on a concrete foundation.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

**CHAPTER 10: PRIVATE CEMETERIES****55. By-laws apply**

The provisions of these By-laws apply mutatis mutandis to private cemeteries.

**56. Establishment and continued use of cemeteries**

- (1) No person may, without the Municipality's consent first having been obtained, establish a private cemetery, and no proprietor of a private cemetery already in existence may, if the use of the cemetery was not previously authorised by the Municipality, continue to use the existing cemetery for burial purposes.
- (2) A person who wishes to apply for the Municipality's consent to establish a cemetery or use as cemetery as contemplated in subsection (1), must submit

to the Municipal Manager an application in a form similar to the form in Schedule 2, which schedule refers, in writing together with –

- (a) a locality plan to a scale of not less than 1: 10 000 which shows –
    - (i) the position of the proposed cemetery or existing cemetery in relation to the boundaries of the land on which it is proposed to establish it or upon which it is situated as the case may be;
    - (ii) the registered description of the site;
    - (iii) all streets, public places and privately-owned property within a distance of 100 metres of the site;
  - (b) a "block" plan to a scale of not less than 1: 500 showing the position of external boundaries, internal roads and paths, subdivisions, grave sites, drainage and any buildings existing or proposed to be erected;
  - (c) a plan and sections to a scale of not less than 1: 100 of any building existing or proposed to be erected, and which must in this case conform with the National Building Regulations and the Water Services and Sanitation By-laws of the Municipality;
  - (d) a list of registers or records kept or proposed to be kept with reference to –
    - (i) identification of graves;
    - (ii) sale of grave sites, transfer of grave sites; and
    - (iii) interments;
  - (e) the full name and address of the proprietor;
  - (f) particulars regarding the nature of the title under which the proprietor will hold or holds the land on which the cemetery is to be established or which is being used as a cemetery and whether such land is subject to any mortgage or trust; and
  - (g) a schedule of the burial fees proposed to be charged or actually in force.
- (3) On receipt of an application the Municipal Manager must cause to be inserted in one or more newspapers circulating in the municipal area a notice stating the nature of the application and specifying the date being not less than 14 days after the date of publication of such notice by which objections to the granting of an application may be lodged with the Municipality.
- (4) The Municipality may, upon receipt of the payment by the applicant of the prescribed fee and if satisfied after consideration of the application and any objections which may have been lodged that no interference with any public

amenity, or nuisance or danger to the public health is likely to take place or arise as a result, in writing grant consent for the establishment of the proposed private cemetery or the continued use of the private cemetery as the case may be, referred to in the application, in accordance with the plans submitted and to any variation or amendment which it may require and to any conditions which it may prescribe.

- (5) No departure from the plans as approved are permitted without the prior approval of the Municipality.
- (6) A person who contravenes a provision of subsection (1) or (5) commits an offence.

#### **57. Duties of Proprietors**

- (1) The proprietor of a private cemetery for which the consent of the Municipality has been obtained must –
  - (a) comply with –
    - (i) any special conditions prescribed by the Municipality; and
    - (ii) the relevant provisions of these By-laws and any other applicable law;
  - (b) keep a record which shows –
    - (i) the number of each grave site and the ownership of the site; and
    - (ii) the number of interments in each grave site and the name, age, sex, race, last known address, date and cause of death of the deceased;
  - (d) maintain the grounds, fences, gates, roads, paths and drains in good order and condition and clear of weeds and overgrowth;
  - (e) provide for the identification of grave sites by subdividing the cemetery into blocks each containing a number of graves or grave sites, and –
    - (i) each block must be demarcated by means of signs showing the number and situation of each block;
    - (iii) the graves or grave sites in each block must be separately numbered by means of durable number plates; and
    - (iii) all signs and number plates must be maintained in a neat and legible condition;
  - (f) allow an official to enter or inspect the cemetery and all records kept in connection therewith;

- (g) render a monthly return to the Municipal Manager on or before the 7<sup>th</sup> day in each month of all burials, which sets out the –
    - (i) name, last known address, age, sex, race, date and cause of death of each deceased person interred in the cemetery;
    - (ii) name of the medical practitioner who issued the death certificate;
    - (iii) authority who issued the burial order;
    - (iv) block and grave site number;
    - (v) date of burial; and
    - (vi) particulars of a change in the identity of the caretaker or of a person newly appointment;
  - (h) render an annual return to the Municipal Manager on or before the 31<sup>st</sup> day of March each year which contains a detailed list of the names and addresses of all trustees, committee members or persons controlling the cemetery; and
  - (i) appoint a caretaker to manage the cemetery and to keep the records.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

**CHAPTER 11: MISCELLANEOUS****58. Authentication and service of order, notice or other document**

- (1) An order, notice or other document requiring authentication by the Municipality must be sufficiently signed.
- (2) Any notice or other document that is served on a person in terms of these by-laws, is regarded as having been served -
  - (a) when it has been delivered to that person personally;
  - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
  - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgment of the posting thereof from the postal service is obtained;
  - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
  - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates; or
  - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate.
- (4) Service of a copy shall be deemed to be service of the original.
- (5) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the Municipal Manager or a person in attendance at the Municipal Manager's office.

**59. Complaint**

A person wishing to lodge a complaint must lodge the complaint, in writing, with the Municipal Manager.

**60. Notice of compliance and representations**

- (1) A notice of compliance served in terms of section 40 must state -
  - (a) the name and residential and postal address, if either or both of these be known, of the person;
  - (b) the nature of the state of disrepair;

- (c) in sufficient detail to enable compliance with the notice, the measures required to remedy the memorial work;
  - (d) that the person must within a specified time period take the measures to comply with the notice, to diligently continue with the measures, and to complete the measures before a specific date;
  - (e) that failure to comply with the requirements of the notice within the period contemplated in paragraph (d) is an offence;
  - (f) that written representations, as contemplated in subsection (3) may, within the time period stipulated under paragraph (d) above, be made to Municipality at a specified place.
- (2) Municipality, when considering any measure or time period envisaged in subsections (1) (d) and (e), must have regard to -
- (a) the principles and objectives of these By-laws;
  - (b) the state of disrepair;
  - (c) any measures proposed by the person on whom measures are to be imposed; and
  - (d) any other relevant factors.
- (3) A person may within the time period contemplated in paragraph (1) (f) make representations, in the form of a sworn statement or affirmation to Municipality at the place specified in the notice.
- (4) Representations not lodged within the time period will not be considered, except where the person has shown good cause and Municipality condones the late lodging of the representations.
- (5) Municipality must consider the representations and any response thereto by an authorised official or any other person, if there be such a response.
- (6) Municipality may, on its own volition, conduct any further investigations to verify the facts if necessary, and the results of the investigation must be made available to the person, who must be given an opportunity of making a further response if he or she so wishes, and Municipality must also consider the further response.
- (7) Municipality must, after consideration of the representations and response, if there be such a response, make an order in writing and serve a copy of it on the person.
- (8) The order must -
- (a) set out the findings of Municipality;
  - (b) confirm, alter or set aside in whole or in part, the notice of compliance; and

- (c) specify a period within which the person must comply with the order made by Municipality.
- (9) If the notice of compliance is confirmed, in whole or in part, or is altered but not set aside, Municipality will inform the person that he or she -
  - (a) must discharge the obligations set out in the notice; or
  - (b) may elect to be tried in court.
- (10) If the person elects to be tried in court he or she must, within seven calendar days, notify Municipality of his or her intention to be so tried.
- (11) If the person does not elect to be tried in court, he or she must, within the prescribed manner and time discharges his or her obligations under the order.
- (12) Where there has been no compliance with the requirements of a notice, the Municipality may take such steps as it deems necessary to repair the monumental work and the cost thereof must be paid to the Municipality in accordance with section 62.

#### **61. Costs**

Should a person fail to take the measures required of him or her by notice, Municipality may recover all costs incurred as a result of it acting in terms of paragraph 61(12) from the person.

#### **62. Appeal**

- (1) A person whose rights are affected by a decision of an official, may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.
- (2) The Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (3) The Municipal Manager must commence with an appeal within six weeks and decide the appeal within a reasonable time.

#### **63. Charges**



Should a person fail to pay a prescribed fee, the Municipality may act in accordance with the provisions of its Customer Care and Revenue Management By-law.

**64. Penalties**

A person who has committed an offence in terms of these by-laws is, on conviction, liable to a fine or in default of payment, to imprisonment for a period not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment.

**65. Limitation of liability**

The Municipality is not liable for any damage or loss caused by –

- (a) the exercise of any power or the performance of any duty in good faith under these By-laws; or
- (b) the failure to exercise any power, or perform any function or duty in good faith under these By-laws.

**66. 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 these by-laws.
- (2) 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.
- (3) 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), however, 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.

**67. Liaison fora in community**

- (1) The municipality may establish one or more liaison fora in a community for the purposes of –
  - (a) creating conditions for a local community to participate in the affairs of the municipality;
  - (b) encouraging a local community to participate in the affairs of the municipality; and
  - (c) promoting the achievement of a healthy environment.
- (2) A liaison forum may consist of –
  - (a) a member or members of an interest group, or an affected person;
  - (b) a member or members of a community in whose immediate area a cemetery or crematorium exists;
  - (c) a designated official or officials of the municipality; and
  - (d) the municipality responsible for cemeteries.
- (3)
  - (a) The municipality may, when considering an application for consent, permit or exemption certificate, in terms of these By-laws, where applicable, request the input of a liaison forum.
  - (b) A liaison forum or any person or persons contemplated in subsection (2) may, on own initiative, submit an input to the municipality for consideration.

#### **68. Revocation of by-laws**

The by-laws relating to cemeteries, crematoria and funeral parlours are herein repealed to the extent that they contravene this by-law.

#### **69. Short title and commencement**

These By-laws may be cited as the Walter Sisulu Local Municipality Funeral Parlours, Cemeteries and Crematoria By-laws, 2007, and commence on the date of publication thereof in the Provincial Gazette.

**SCHEDULE 1**  
**(Section 10(2))**

**APPLICATION FORM FOR BURIAL / CREMATION**

Name of applicant .....

Address of applicant .....

Name of diseased person to be interred .....

Particulars of diseased person .....



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[ ] Words in bold type in square brackets indicate omissions from existing enactments.  
\_\_\_\_\_ Words underlined with a solid line indicates insertions in existing enactments.

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## **LIQUOR TRADING BY-LAW**

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### **Schedules**

## 1. Definitions

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

**"Act"** means the Eastern Cape Liquor Act, 2003 (Act 10 of 2003);

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

**"municipality"** means the Municipality of Walter Sisulu, and includes any political structure, political office bearer, municipality or, 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, municipality or, agent or employee;

**"registered premises"** means premises on or from which a trader conducts his or her business;

**"Regulations"** means the regulations, published as Notice No. 1143 of 8 April, 2004, made under the Act;

**"trader"** means a person who is registered in terms of section 19 of the Act, and any other word or expression to which a meaning has been assigned in the Act and the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), carries that meaning.

## 2. Purpose of By-laws

The Council, acting in terms of the powers granted to it by the Act, and with the aim of reserving its right to make proposals to the Eastern Cape Provincial Administration regarding an application for registration in terms of section 20 of the Act, and to undertake investigations and gather information regarding the premises on which a business in the trading of liquor is intended to be carried on, adopts these By-laws with the aim of regulating the hours during which liquor may be sold.

## 3. Application of By-laws

These By-laws apply to all premises, situated within the area of jurisdiction of the Council, on which a business in the trading of liquor is intended to be carried on.

## 4. Ward Committee consultative meetings

- (1) The Ward Committee must, upon receipt of a notice of application for registration, in terms of section 22(2) (d) (1) of the Act hold a consultative meeting with the owners of immovable property and residents within a radius of 100 meters of premises that is sought to be registered to discuss and solicit their

views with regard to the application that the applicant intends to lodge with the Liquor Board.

- (2) The Ward Committee must compile a report and submit it to the Liquor Board and Council, stipulating the date, time, the names and the addresses of the people who attended, indicate whether it objects to or recommends the application and what additional conditions, if any, it proposes. -
- (3) The Municipal authority must consider a report submitted to it by a ward committee in terms of section 22(2) (d)<sup>1</sup> of the Act and item 3(2)<sup>2</sup> of the Regulations, and may submit proposals to the Board regarding an application for registration in terms of section 20 of the Act within the period of thirty days.
- (4) For the purpose of considering a report as contemplated in subsection (2), an official may undertake such investigation or request such information as he or she may deem necessary for consideration by the Council, and must submit his or her findings to the Council.

## **5. Hours of trading**

- (1) The trading hours, as listed in Column 2 of Schedule 1 to this By-law of the different kinds of registrations, as contemplated in section 20 of the Act, as listed in Column 1 of the Schedule, have been determined by the Municipality and may be reviewed by the Municipality from time to time.
- (2) Subject to section 6, no trader may sell liquor to a person at a time other than those hours stipulated as trading hours under subsection (1).
- (3) A trader who contravenes subsection (2) commits an offence.

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<sup>1</sup> Section 22(2)(d) of the Act reads as follows:

"An application for registration contemplated in subsection (1) must be made by submitting to the board –

(d) proof of service of the notice contemplated in the prescribed manner on the –

(i) ward committee which must on receipt of the notice consult the community of the area where the premises are situated and simultaneously submit a report to the board and the relevant municipal council; and

(ii) Governing body of every education institution or place of worship within a radius prescribed by the MEC from the premises in respect of which the application is made."

<sup>2</sup> Item 3 of the Regulations reads as follows:

"(1) An applicant must within seven days of lodgment, serve a notice substantially in the form of Form 2 of Annexure 2 on the ward committee of the area where the premises is situated, every governing body of every educational institution and place of worship within a radius of 100 metres from the premises in respect of which the application for registration is made.

(2) A ward committee contemplated in sub-regulation (1) must, within thirty days of receipt of the notice, submit a report on the consultation with the community to the board and to the relevant municipal council."

## **6. Selling of liquor at other times**

- (1) The Municipality may grant written consent to a trader to sell liquor at hours other than those hours stipulated as trading hours in section 5(1), and a trader who wishes to sell liquor at such hours must, before he or she sells such liquor, obtain such written consent of the Council.
- (2) A trader who wishes to obtain the consent of the Municipality must complete a form similar to the Application for Consent to Sell Liquor outside Trading Hours Form as contained in Schedule 2 and submit the form and other particulars as the Municipality may request, to the office of the municipal manager.
- (3) The Municipality may, after consideration of the application, refuse to grant consent or grant consent, and should the Municipality grant consent, it may do so subject to any condition or restriction it may deem necessary, which consent and condition or restriction, if imposed, shall be entered in item C of the form contained in Schedule 2.
- (4) A trader who has been granted consent in terms of subsection (3) must display, in a conspicuous place on the premises regarding the consent which has been granted and during those times for which the consent has been granted, a copy of the form on which the consent of the Municipality has been entered.
- (5) A trader who contravenes subsection (1) or (4), or who sells liquor in contravention of a condition or restriction imposed in terms of subsection (3), or who displays a forged form, commits an offence.

## **7. Liaison Forum**

- (1) The municipality may establish one or more liaison Fora in a community for the purposes of –
  - (a) creating conditions for a local community to participate in the affairs of the municipality; and
  - (b) encouraging a local community to participate in the affairs of the municipality.
- (2) A liaison forum may consist of –
  - (a) a member or members of an interest group, or an affected person;
  - (b) a member or members of a community in whose immediate area a liquor outlet exists;
  - (c) a designated official or officials of the municipality; and
  - (d) the councillor responsible for environmental health.

- (3) (a) The municipality may, when considering liquor trading hours, in terms of these By-laws, request the input of a liaison forum.
- (b) A liaison forum or any person or persons contemplated in subsection (2) may, on own initiative, submit an input to the municipality for consideration.

## **8. Appeal**

- (1) A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The municipal manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (3) When the appeal is against a decision taken by –
  - (a) a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
  - (b) the Municipal Manager, the Mayor is the appeal authority; or
  - (c) a political structure or political officer bearer, or a Councillor, Municipality is the appeal authority.
- (4) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

## **9. Penalties**

A person who has committed an offence in terms of these by-laws is, on conviction, liable to the penalties prescribed in section 61(1) (b) and section 61(2) and (3) of the Act.

## **10. Short title and commencement**

These By-laws may be cited as Walter Sisulu Local Municipality Liquor (Trading Hours) By-laws, and come into force upon publication in the Provincial Gazette.



**SCHEDULE 1****(Section 5(1))**

<b>COLUMN 1</b>	<b>COLUMN 2</b>
<b>TYPE OF REGISTRATION<sup>3</sup></b>	<b>TRADING HOURS</b>
Registration in terms of Section 20(a) of the Act for the retail sale of liquor for consumption off the premises where liquor is sold.	Monday to Friday: 09:00am – 20:00pm. Saturday: 08:00am – 20:00pm. Sunday and Public Holidays: 09:00am – 13:00pm.
Registration in terms of Section 20(b) of the Act for the retail sale of liquor for consumption on the premises where liquor is sold.	Monday to Saturday: 09:00am – 22:00pm. Sunday: 10:00am – 15:00pm.
Registration in terms of Section 20(c) of the Act for the retail sale of liquor for consumption on and off the premises where liquor is sold.	Monday to Thursday: 09:00am – 22:00am. Friday to Saturday: 09:00am – 00:00am. Sunday: 11:00am – 18:00pm.
Registration in terms of Section 20(d) of the Act for the retail sale and consumption of liquor at a special event	As determined by the Municipality on application
Registration in terms of Section 20(e) of the Act for micro manufacturing.	As determined by the Municipality on application

<sup>3</sup> The following serve as examples of outlets or establishments:

- (a) Section 20(a): Retail warehouse, retail liquor or bottle store, shop, off-sales, house shop.
- (b) Section 20(b): Nightclub, sports bar, sports club, pool bar, discotheque, jazz club, escort agency, pub and grub, pub, bar, casino, licensed restaurant, guest house, hotel, motel.
- (c) Section 20(c): Tavern, shebeen.
- (d) Section 20(d): Concert, festival, sporting event, and entertainment event.
- (e) Section 20(e): Wholesale warehouse and micro manufacturing.

**SCHEDULE 2****(Section 6(2))****APPLICATION TO SELL LIQUOR OUTSIDE TRADING HOURS****A. APPLICANT**

Name : .....

Trading Name : .....

I.D. Number : .....

Address : .....

Telephone number : .....

**B. PARTICULARS**

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

.....  
.....

Dates and hours on which liquor will be sold or supplied (Be specific, e.g. 14:00 to  
23:00 on 3 June, 2005) : .....

Reason why this application is made:

.....  
.....

Nature of liquor that will be sold or supplied:

.....  
.....

Other particulars (as requested by the Council):

.....  
.....

Signed ..... Date .....  
**(Applicant)**

**C. CONSENT**

Issuing Local Authority: .....

**OFFICIAL**

.....

**DATE**

.....

**STAMP**

.....

**CONDITIONS AND RESTRICTIONS IN TERMS OF SECTION 5(3)**

Times and date on which liquor may be supplied or sold:

.....  
.....

Other conditions or restrictions:

.....  
.....



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[ ] Words in bold type in square brackets indicate omissions from existing enactments.

                     Words underlined with a solid line indicates insertions in existing enactments.

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## **BY-LAW: ABATTOIRS**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the By-Law relating to Abattoirs, which by-law shall come into operation on the date of publication thereof.

## **PREAMBLE**

The Council seeks to regulate, hygienic facilities for the receiving, holding and slaughtering of animals, to ensure the humane treatment of animals, and to facilitate the trading of healthy and wholesome meat in its municipal area and this by-law shall apply equally to Abattoirs that are in the area of jurisdiction of Walter Sisulu Local Municipality.

## **1 Definitions**

In the interpretation of these by-laws, words in the masculine gender include the feminine, the singular includes the plural and vice versa and the following words and expressions shall have the meanings respectively assigned to them hereunder, unless such meanings are repugnant to or inconsistent with the context in which they occur-

**"Abattoir"** means the abattoir established, regulated and/or managed in terms of the Council's powers and functions, and includes all buildings, structures, pens, lairages,

facilities, grounds and open spaces within the boundaries of the premises there situated;

**"Act"** means the Abattoir Hygiene Act, 1992 [Act 121 of 1992] or any statutory modification or re-enactment thereof;

**"agent"** means a livestock agent as defined in the Agricultural Produce Agents Act, 1992 [Act 12 of 1992];

**"animal"** includes any bull, ox, cow, heifer, steer, calf, sheep, lamb, goat, pig, horse, mule, donkey or other quadruped;

**"Municipal Area"** means the proclaimed area of jurisdiction of the Council;

**"contractor"** means any person appointed by the Council in terms of section 10;

**"Council"** means the Council of the municipality or any statutory successor in title, or any of the Council's committees or officials acting under powers, functions and duties lawfully delegated to them;

**"meat"** means the flesh or offal of any animal;

**"owner"** in relation to any animal or meat means any person who is the sole or part owner thereof;

**"person"** includes, where applicable, any legal person or body;

**"prescribed"** means as prescribed by the provisions of the Act or the Regulations, or as prescribed by the Council from time to time, as the case may be;

**"Regulations"** means the Standing Regulations under the Animal Slaughter, Meat and Animal Products Hygiene Act, 1967 [Act 87 of 1967], as maintained by section 29 of the Act, published by Government Notice No. R.3505 of 9 October 1969, as amended;

**"slaughter"** in relation to an animal, means kill, skin, dress the carcass, and perform the usual accompanying acts;

**"ritual slaughter"** shall mean slaughter according to traditional cultural.

**"veterinarian"** means a veterinarian as defined in the Act.

## **2 Place of Slaughter of Animals**

**2.1** No person shall slaughter or cause to be slaughtered any animal in the municipal area anywhere else other than at the Abattoir, except as may be provided by the Minister of Agriculture by regulation in terms of section 3 (2) of the Act; provided where a permit has been issued by Council on application for ritual slaughter.

## **3 Times of Operation**

**3.1** Subject to sub-sections 4.2 and 4.3, the Abattoir shall be open from Monday to Friday (both days inclusive) from 06h00 to 17h00 excluding public holidays.

**3.27** The Council may determine the hours during which the Abattoir shall be open for the receiving of livestock.

**3.3** The Council may extend these hours from time to time at its discretion.

## **4 Control and Operation**

**4.1** Control of the Abattoir shall be exercised by the Council in accordance with this by-law, the Act, the Regulations and other applicable statutory provisions.

**4.2** The Council may issue such directives and give such oral or written instructions as it may deem necessary for the proper operation and/or management of the Abattoir.

**4.3** All persons at the Abattoir shall obey all lawful directives or instructions given by the Council and any person failing to comply with any such instructions shall be liable to any other lawful penalty.

**4.4** The Council may regulate and control the volume and movement of vehicles entering the Abattoir and within the Abattoir.

**4.5** The Council shall be empowered to set aside parking spaces at the Abattoir from time to time and to regulate the use of such parking spaces.

**4.6** The Council shall set aside loading bays to cater for the off-loading of animals and the loading of meat.

**4.7** The Council may forbid any vehicle from entering or remaining at the Abattoir.

**4.8** The Council may control and regulate the volume and movement of animals entering the Abattoir and within the Abattoir, control the off-loading of animals and allocate and determine the number of animals to be slaughtered on any given day.

**4.9** The Council may forbid the slaughter of any animal or the sale of any meat at the Abattoir.

**4.10** Without limiting the generality of sub-section 5.9, if the Council reasonably suspects that any animal or meat at the Abattoir is stolen property, it shall refuse to allow such animal to be slaughtered or such meat to be sold and the Council shall, if it so suspects only after the sale of such meat, seize and retain the proceeds of such sale until ownership of such meat has been established to its satisfaction.

**4.11** The Council may refuse to release for sale at the Abattoir or allow to be removed from the Abattoir any meat or offal re-inspected there or the meat or offal of any animal slaughtered there, if it has reason to believe that any fees, charges or levies owing to the Council in respect of such meat or offal or the slaughter of such animal have not been paid.

**4.12** The Council may forbid any person who is indebted to the Council in respect of any fee, charge, levy, rental or other amount which is due and payable to the Council, or who has been requested by the Council to furnish a deposit or guarantee and has failed to do so, from entering or remaining at the Abattoir or from trading or using the facilities at the Abattoir.

**4.13** The Council shall take all reasonable steps to ensure that all disputes that may arise at the Abattoir affecting the smooth and orderly operation thereof are resolved as expeditiously as possible.

## **5 Registration of Animals**

**5.1** Every person bringing or causing to be brought to the Abattoir any animal or animals for slaughter shall, immediately on their arrival, register such animal or animals with the Council which shall issue to such person an entry document in the form prescribed from



time to time.

## **6 Care of Animals**

**6.1** All animals awaiting slaughter shall be treated with the utmost care and be kept in a manner which causes no unnecessary suffering to the animal.

**6.2** Without limiting the generality of sub-section 7.1, all animals awaiting slaughter shall:

i be adequately watered at the expense of the abattoir management;

ii be adequately fed at the expense of the agent concerned.

**6.3** If any agent fails to discharge his/her obligation in terms of sub-section 7.2.2, the Council may do so and shall be entitled to recover from such agent the costs thereof.

**6.4** The agent responsible for any animals awaiting slaughter shall ensure that the animals are not allowed to run loose about the grounds of the Abattoir, but shall confine them in the pens provided for that purpose.

### **6.5 The Council shall ensure that:**

i cattle, equine animals, sheep or goats, and pigs are penned separately;

ii fractious animals are kept apart from other animals and are adequately restrained by the agent concerned so as to prevent them from causing injury to other animals:

iii the prescribed periods for which animals awaiting slaughter are to be, or may be, penned are observed;

iv all persons engaged in driving, kraaling or moving an animal within the Abattoir shall adopt such methods and precautions as will prevent the infliction of any unnecessary pain, suffering, or undue excitement to the animal;

v all other provisions of the Act and the Regulations regarding the care of animals are complied with and strictly enforced.

**6.6** During the slaughtering process every effort shall be made to ensure that all animals experience as little pain or suffering as possible and that they are not subjected to any cruelty of any nature whatsoever.

**6.7** The slaughter of all animals shall be conducted in a humane manner and shall comply in all respects with the applicable prescribed methods and procedures.

**6.8** So as to promote transparency and in the interests of the prevention of cruelty to animals, the Council may authorize any person or persons to enter the Abattoir for purposes of inspecting the manner in which animals awaiting slaughter are kept and the manner in which the animals are killed.

## **7 Stunning of Animals**

**7.1** Subject to sub-section 8.5 below, no person shall slaughter any animal at the Abattoir unless it has first been stunned in accordance with the Regulations.

**7.2** All sheep, lambs, goats and pigs shall be stunned according to the electrical method.

**7.3** All other animals shall be stunned according to the captive bolt method.

**7.4** Notwithstanding the provisions of sub-sections 8.2 and 8.3, the Council may in its discretion change, from time to time, the method of stunning to be used to that of another prescribed method.

**7.5** In the case of ritual slaughter as provided for in the Regulations, the requirement of the stunning of the animals prior to slaughter shall not apply, but all unnecessary cruelty shall be avoided.

## **8 Cleaning of Parts**

**8.1** No heads, feet, tails or the internal parts (hereinafter referred to as "offal"), except the kidneys, of any animals shall be cleaned at any place in the Abattoir other than such place approved by the Council for that purpose.

**8.2** Unless otherwise authorized by the Council, paunches and intestines shall be emptied, cut, trimmed and cleaned in a place approved by the Council for that purpose

in the Abattoir, and shall not be removed from the Abattoir unless and until they are in a condition satisfactory to the Council.

**8.3** No dealing in offal shall take place in the Abattoir without the written permission of the Council.

## **9 Appointment of Contractors**

**9.1** The Council shall be authorized in its absolute discretion to appoint contractors to supervise, control and carry out any of the requisite functions at the Municipal Abattoir should there be one, particularly those relating to the slaughter of animals, the dressing of carcasses, the handling of offal, the classification and the auctioning of meat.

**9.2** Any contractor so appointed shall assume sole responsibility for the proper carrying out of the nominated function.

## **10 Allocation of Facilities**

**10.1** The Abattoir facilities shall be approved by the Council at its discretion, and it shall have the right to change such allocation when the smooth and efficient operation of the Abattoir requires it, irrespective of whether or not a charge is levied for such facilities.

**10.2** If in the opinion of the Council, any of the Abattoir facilities are being or have been abused, the Council may take such steps as may be necessary to prevent the offending party from using or continuing to use such facilities.

## **11 Agents**

**11.1** Every person engaged or employed at the Abattoir as an agent for and on behalf of any owner of livestock shall:

- i. be registered with the Agricultural Produce Agents Council established in terms of the Agricultural Produce Agents Act 1992 (Act 12 of 1992);
- ii. be the holder of a valid fidelity fund certificate, unless exempted in terms of the aforementioned Act; and
- iii. comply in all respects with the Rules in Respect of Livestock Agents made by the

Agricultural Produce Agents Council in terms of section 22(1) of the aforementioned Act and promulgated under Government Gazette No. 15144 dated 1 October 1993, or any statutory modification or re-enactment thereof.

## **12 Registration of Employees**

**12.1** Every person or contractor employing a slaughter person, dresser, laborer or other worker in the Abattoir shall, within one month of such employee starting work, register such employee with the Department of Labour as a slaughter person, dresser, labourer or other worker as the case may be, according to the nature of his/her work.

## **13 Medical Examination**

**13.1** All slaughter persons and persons handling meat in the Abattoir shall, upon being required to do so by the Council, submit to the Council a medical certificate in regard to their health and fitness for the work in which they are engaged, failing which such persons shall be deemed to be unfit to continue such work until such time as the required medical certificate has been submitted.

## **14 Wearing of Protective Clothing and Hoods**

**14.1** All persons employed in the slaughtering or dressing of animals or in the handling of carcasses or meat in the Abattoir, shall at all times while so engaged maintain their person in a state of cleanliness and wear clean approved protective clothing.

**14.2** All persons engaged in the carrying of meat in the Abattoir shall wear close-fitting hoods approved and kept clean.

**14.3** Such clean protective clothing and hoods shall be provided daily by the employers of such persons, at the cost and expense of the employers.

**14.4** The Council shall have the power to cause any such person who is not clothed as prescribed, to leave the Abattoir or prohibit him from handling meat.

## **15 Liability of Employers and Contractors**

**15.1** Employers and Contractors shall be responsible for the conduct of their employees at the Abattoir and also for any damage, other than fair wear and tear, that may be caused to the Council's property by such employees.

**15.2** Employers and Contractors at the Abattoir shall comply in all respects with the provisions of the Occupational Health and Safety Act, 1993, Act 85 of 1993 and shall ensure that all services performed and all machinery used by their employees at the Abattoir shall be so performed or used in accordance with the provisions of the aforementioned Act.

## **16 Hygiene**

**16.1** Subject to section 19; the Council shall ensure that all things necessary to ensure the maintenance of proper standards of hygiene at the Abattoir and to prevent the contamination and infection of any meat, offal or other animal products are done.

**16.2** All persons at the Abattoir shall ensure that the Abattoir is kept in a clean state at all times.

**16.3** All vehicles used for the transportation of any animal, carcass, meat or meat product to or from the Abattoir shall comply in all respects with the Regulations and other applicable statutory provisions.

## **17 Limitation of Council's Liability**

**17.1** The Council shall not be liable for any loss, damage or injury to any property or any injury to or death of any person at the Abattoir, howsoever arising, except where such loss, damage, injury or death is proved to be due to the willful misconduct or gross negligence of the Council or of its employees acting in the course and scope of their employment.

**17.2** All articles placed in cold storage for keeping, chilling, freezing or treatment shall be at the entire risk of the person requiring such facilities, and no liability shall devolve on the Council in respect of any loss, damage, shortage or delay arising out of the

maintenance of too high or too low a temperature, failure of machinery or plant, flood, wind, leakage, dampness, sweat, decay, putrefaction, or destruction by vermin, act of God, civil commotion, military authority, insurrection, strikes, lock-outs, labour disputes, the country's enemies, quarantine, war, explosion, the nature of the goods, inherent vice, contact with or proximity to other goods, or concealed damage, variation or shrinkage in weight, defective or insufficient packages or containers, theft or any other cause whatsoever, except upon proof that such loss, damage, shortage or delay was occasioned by or through the willful misconduct or gross negligence of the Council or of its employees acting in the course and scope of their employment.

**17.3** Notwithstanding anything contained in sub-section 19.2, the Council shall not be liable for damage, howsoever caused, unless inspection of the articles concerned, or such sample of them as the Council may require, has been tendered to the Council before such articles are removed from the Abattoir, nor shall the amount of the Council's liability for any loss, damage, shortage or delay exceed the value of the articles concerned. In this sub-section, "value" shall mean the average price realised at the auction in the Abattoir for similar articles on the day on which the articles concerned are removed from the cold store.

**17.4** The provisions of this section shall apply, *mutatis mutandis*, irrespective of whether the premises in question are used and occupied by the Council itself or leased by it to any other person.

## **18 Payment of Deposits**

**18.1** No person shall be permitted to operate at the Abattoir unless a deposit has first been paid by him to the Council, in an amount which shall be determined by the Council in its absolute discretion.

**18.2** All deposits shall:

- i. be in the form of either cash or a bank guarantee acceptable to the Council;
- ii. be controlled and administered by the Council;
- iii. subject to such-section 20.3, be refunded on request to the person on

whose behalf same is held.

**18.3** In the event of any person failing to pay timeously any fee, charge, levy, rental or other amount which is due and payable to the Council and on behalf of which person the Council holds a deposit paid in terms of sub-section 20.1, the Council shall be entitled to apply his deposit, in whole or in part, in reduction or settlement of such fee, charge, levy, rental or other amount.

**18.4** If any deposit held on behalf of any person has been applied, in whole or in part, in terms of sub-section 20.3, or if circumstances so require, the Council may require such a person to pay to the Council such additional deposits as it may reasonably require, before such a person shall be permitted to operate at the Abattoir.

## **19 Abattoir Advisory Committee**

**19.1** The Council may appoint an Abattoir Advisory Committee which shall consist of such members and exercise such functions as may be determined by the Council in its Delegation of Operation and Decision-Making Powers manual, as amended from time to time.

## **20 General**

**20.1** No person shall enter any part of the Abattoir without the permission of the Council subject to such conditions as it may impose, and no child under the age of 16 years shall at any time be admitted to any part of the Abattoir except under the direct supervision of an adult, who shall be responsible and accountable for such child.

**20.2** No person shall commit a nuisance or cause a disturbance or willfully damage or handle without authority or tamper with any property, plant, machinery, equipment, fitting, tap, stopcock or other apparatus, or behave in a noisy, unseemly or objectionable manner, in the Abattoir.

**20.3** No person shall without the consent of the Council bring intoxicating liquor or any dependence-producing substance into the Abattoir or be in possession of such liquor or dependence-producing substance in the Abattoir, provided that this sub-

section shall not apply to any substance containing alcohol lawfully used in the operation of the Abattoir.

**20.4** No person employed at the Abattoir shall be under the influence of intoxicating liquor or any dependence-producing substance in the Abattoir.

**20.5** No person shall spit in any part of the Abattoir.

**20.6** No person shall smoke in any part of the Abattoir other than in a demarcated smoking area.

**20.7** No person shall enter or remain in the Abattoir when suffering from any contagious or infectious disease.

**20.8** No person shall sit, lie or stand on any carcass or on any part thereof, whether or not such carcass or part thereof is covered.

**20.9** No person shall throw any meat, offal or meat product at any person or object at the Abattoir.

**20.10** No person shall be in possession of or cause or suffer to be used any imitation, counterfeit or facsimile of the Council's stamp or brand used for stamping any carcass or meat in terms of the Regulations, or fix or impress any such imitation, counterfeit or facsimile on any carcass or meat so as to make it appear that such carcass or meat has been lawfully stamped in terms of the Regulations.

**20.11** No person shall, without the authority of the Council, be in possession of or use the Council's stamp or brand used for stamping any carcass or meat in terms of the Regulations.

**20.12** All equipment and vehicles used in the Abattoir by any person shall be kept at all times by such person in a sound, clean and hygienic condition.

**20.13** No person shall use any such equipment or vehicle in such a way or for such a purpose as to render any meat deposited, kept or conveyed thereby or therein liable to contamination, or unwholesome or dangerous for consumption.



**20.14** No animal found dead in the Abattoir from causes other than lawful slaughtering in the Abattoir shall be skinned until it has been examined by the Veterinarian, who shall thereafter direct as to how the carcass of such animal shall be disposed of.

**20.15** No Council official shall directly or indirectly be allowed to trade or purchase meat at the Abattoir, either for his own account or for commission, except such meat as he bona fide requires for his own private consumption, provided that such meat shall not be given to such Council official as a gift or at a price below the normal market value of such meat as traded on the day in question.

**20.16** A certificate issued by a duly authorized Council official indicating the amount which any person owes to the Council shall constitute prima facie proof of such person's indebtedness to the Council as at the date of such certificate.

## **21 Fees and Charges**

**21.1** All fees, charges, tariffs and levies as may be determined by the Council from time to time shall be payable to the Council.

## **22 Offences**

**22.1** Any person who contravenes any provision of this by-law or fails to comply with any lawful directive or instruction of the Council, shall be guilty of an offence and liable, upon conviction, to a fine not exceeding R 1000 or imprisonment for a period not exceeding 30 days a fine as prescribed for the offence under the Adjustments of Fines Act, 1991 [Act 101 of 1991].

**22.2** The Council may impound any animal, carcass or meat which in its opinion may afford evidence of a contravention of this by-law and where any animal, carcass or meat is so impounded, the Council shall issue a receipt in respect thereof to the owner, agent or person concerned.



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[ ] Words in bold type in square brackets indicate omissions from existing enactments.  
\_\_\_\_\_ Words underlined with a solid line indicates insertions in existing enactments.

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## **OUTDOOR SIGNS (ADVERTISING AND OTHER) BY-LAWS**

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## 1. Interpretation

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

**“advance sign”** means a sign indicating the direction or distance to a facility, locality, activity, service or enterprise;

**“advertisement”** means any visible representation of a word, name, letter, figure, object, mark or symbol or of an abbreviation of a word or name, or of any combination of such elements with the object of conveying information;

**“advertising”** means the act or process of notifying, warning, informing, making known or any other act of conveying information in a visible manner;

**“advertising structure”** means any physical structure built to display an advertisement;

**“aerial sign”** means any sign which is affixed to or produced by any form of aircraft and which is displayed in the air;

**“animation”** means a process whereby an advertisement’s visibility or message is enhanced by means of moving units, flashing lights or similar devices;

**“area of control”** means an area in which a degree of control is applied in accordance with the visual sensitivity of the area, the degree of landscape sensitivity of the area, and traffic safety conditions within the area;

**“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;

**“basic landscape sensitivity”** indicates the visual or aesthetic sensitivity of each of the different landscapes with regard to outdoor advertisements and signs, each of which landscapes falling within a specific area of control;

**“billboard”**, commonly known as an advertising hoarding, means any screen or board larger than 18 square metres supported by a free-standing structure and which is to be used or intended to be used for the purpose of posting, displaying or exhibiting any advertisement;

**“‘bit’ of information”** refers to the basic unit for measuring the length of advertising messages and may consist of letters, digits, symbols, logos or abbreviations;

**“blind”** means a vertical screen attached to a shop-window or veranda in order to keep sun and rain from a shopfront or sidewalk and which may be rolled up when not in use;

**“building”** means any structure whatsoever with or without walls, with a roof or canopy and a means of ingress and egress underneath such roof or canopy;

**“canopy”** means a structure in the nature of a roof projecting from the facade of a building and cantilevered from that building or anchored otherwise than by columns or posts;

**“centre of economic activity”** means an urban area of high economic activity, and includes all business districts, regional and neighbourhood shopping centres;

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

**“combination sign”** means a single, free-standing advertising structure for displaying information on various enterprises and services at locations such as roadside service areas, urban shopping centres and other urban complexes;

**“copy”** means the complete advertising message to be displayed on the advertising structure;

**“Council”** means the Walter Sisulu Municipal Council;

**“cut-outs”** also commonly known as ‘add-ons’ or ‘embellishments’, means letters, packages, figures or mechanical devices, which might extend beyond the rectangular area of a sign for greater attention value and which are attached to the face of an outdoor sign, and which can provide a three-dimensional effect;

**“deemed consent”** means approval by section 9 for the display of a sign, and for the display of which the municipality does not require specific consent;

**“degree of landscape sensitivity”** means a refinement of basic landscape sensitivity which may include, apart from a refined visual sensitivity, traffic safety conditions as a criterion for sensitivity rating, and it is expressed in terms of area of control;

**“device”** means any physical device which is used to display an advertisement or which is in itself an advertisement;

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

**“displaying”** includes exhibiting, affixing or attaching of an advertisement or sign and the erecting of any structure if such structure is intended solely or primarily for the support of such advertisement or sign and an attempt to do any of aforesaid, and the word ‘display’ carries a similar meaning;

**“engineer”** means a person who is defined in section 1 of the Engineering Profession of South Africa Act, 1990 (Act No. 114 of 1990), as a certified engineer, engineering technician, professional engineer or professional technologist (engineering);

**“facade”** means the principal front or fronts of a building;

**“flashing sign”** means a sign in which the visibility of the contents is enhanced by the intermittently appearing and disappearing of the advertisement displayed, or the advertisement being illuminated with varying intensity or colours;

**“flat sign”** means a sign which is affixed to an external wall but not to a parapet wall, balustrade or railing of a veranda or balcony of a building used for commercial, office, industrial or entertainment purposes and which at no point projects more than 300 mm from the surface of such a wall and which may consist of a panel or sheet or of individual numbers, letters or symbols;

**“forecourt”** means an outdoor area which forms a functional part of a building housing an enterprise, and may include the area at a filling station where the pumps are situated, a terrace in front of a restaurant or café, a sidewalk café, or a similar enterprise, and any enclosing fence, wall, screen or similar structure forms part of a forecourt, but does not include a sidewalk area, which is intended for pedestrian circulation, in front of a business premises;

**“free-standing sign”** means any immobile sign which is not attached to a building or to any structure or object intended to be used for the primary purpose other than advertising;

**“freeway”** means a road designated as a freeway by means of a road traffic sign;

**“gateway”** means a prominent entrance to or exit from an urban area or a specific part of an urban area consisting of man-made or natural features and creating a strong sense of arrival or departure;

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

**“human living environment”** refers to all human settlements such as villages, towns or cities, which may consist of various components such as residential, employment and recreation areas and which require environmental management to provide services such as water, public spaces and waste removal and to protect the quality of the environment;

**“illuminated”** with reference to an advertising structure means that the advertising structure has been installed with electrical or other power for the purpose of illumination of the message displayed on the structure;

**“illuminated sign”** means a sign that continuous or intermittent functioning of which depends upon it being illuminated;

**“inflatable”** means a plastic or rubber object which is inflated with the purpose of drawing attention to itself and on which an advertisement is or is not displayed;

**“landscape sensitivity”** means the visual or aesthetic sensitivity of the landscape, and may include traffic safety conditions, with regard to outdoor advertisements and signs, and is expressed in terms of “basic landscape sensitivity” or “degree of landscape sensitivity”;

**“locality bound sign”** means a sign displayed on a specific site, premises or building and which refers to an activity, product, service or attraction located, rendered or provided on that premise or site or inside that building;

**“location sign”** means a guidance sign provided under the South African Road Traffic Sign System and used to identify places or locations which either provide reassurance during a journey, or identify destinations such as towns, suburbs or streets near the end of a journey;

**“main roof of a building”** means a roof of a building other than the roof of a veranda or balcony;

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

**“mobile sign”** means an advertisement attached to or displayed on a vehicle, vessel or craft on land, on water or in the air;

**“municipality”** means the Municipality of Walter Sisulu 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;

**“non-locality bound sign”** means a sign displayed on a site, premises or building and which refers to an activity, product, service or attraction which is not located, rendered or provided on that premises or site or inside that building;

**“outdoor advertising”** means the act or process of notifying, warning, informing, making known or any other act of conveying information in a visible manner and which takes place outdoors;

**“person who displays a sign”** includes:

- a) the owner of the sign;
- b) the owner and occupier of the land or structure on which the sign is displayed;
- c) the person to whose goods, trade, business or other concerns publicity is given by the sign;
- d) the person who causes the sign to be displayed or who undertakes to maintain the sign; and



e) a body corporate;

**“poster”** means any placard announcing or attracting public attention to any meeting, event, function, activity or undertaking, or to the candidature of any person nominated for election to parliament, local government or any similar body, or to a referendum, or any placard advertising any product or service or announcing the sale of any goods, livestock or property;

**“projecting sign”** means any sign which is affixed to a main wall of a building which is used for commercial, office, industrial or entertainment purposes and which at any point projects more than 300 millimetres from the surface of the main wall and is affixed at a right angle to the street line;

**“road traffic sign”** means a road traffic sign as defined in the Road Traffic Act, 1989 (Act No. 29 of 1989);

**“roof sign”** means a sign on the main roof of a building which has fifteen or less floors, which building is used or partly used for commercial, office, industrial or entertainment purposes;

**“rural landscape”** refers to areas of transition between developed urban areas and relatively unspoiled natural areas outside the Municipal area, such as peri-urban small-holdings of a rural nature with a low population density, and natural areas;

**“sign”** means -

- a) an advertisement;
- b) an object, structure or device which is in itself an advertisement or which is used to display an advertisement; or
- c) an object, structure or device which is not in itself an advertisement or which is not necessarily or solely used to display an advertisement;

**“sky sign”** means a sign, which may form an important landmark, between 75 square metres and 150 square metres in size on top of a skyscraper in the Walter Sisulu Local Municipality;

**“skyscraper”** means any building, which has 15 or more storeys, used entirely or partially for industrial or commercial purposes,

**“specific consent”** means the written approval by the municipality under section 10 to display a sign;

**“spectacular”** means a custom-made billboard which incorporates special effects such as internal illumination, cut-outs and three-dimensional representations;

**“street furniture”** means public facilities and structures which are not intended primarily for advertising, but which are provided for pedestrians and commuters, and

includes seating benches, planters, pavement litter bins, pole-mounted bins, bus shelters, pavement clocks, telephone booths, traffic signal control boxes, and drinking fountains;

**“teardrop flag”** means a sign in the shape of a feather or inverted teardrop which consists of a light-weight, flexible or rigid frame covered with material, and which is normally planted into the ground;

**“temporary sign”** means a sign not permanently fixed and not intended to remain fixed in one position;

**“third-party advertising”** means the advertising of goods which are not manufactured, produced, sold or delivered from a property on which the sign of those goods or services is displayed;

**“trailer advertisement”** means a sign which is temporarily or permanently attached to and positioned on a trailer or caravan or any other similar kind of vehicle which is used for the sole purpose of advertising;

**“unauthorised sign”** means a sign, the display of which is subject to specific consent and which is displayed without such consent;

**“urban area”** means a built-up area within the Walter Sisulu Municipal area;

**“urban landscape”** means an urban area or any part of an urban area;

**“vehicular advertising”** means advertising on a self-driven vehicle which is normally driven on land or water and which is normally moving;

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

**“visual zone”** means a zone visible from an urban freeway, but does not include visually isolated spaces behind buildings, structures or landscape features which cannot be seen from such a freeway;

**“walking poster”** means a poster or posters which is suspended from a person’s shoulders or attached to a person;

**“window sign”** means a sign which is permanently painted on or attached to the window-pane of a building;

## **2. Purpose of By-laws**

The Walter Sisulu Local Municipality must exercise its powers under these By-laws in the interests of amenity, public safety and business interests, and must take into account the considerations that -

- a) signs or advertisements may not constitute a danger or nuisance to members of the general public, whether by way of obstruction, interference with traffic signals or with the visibility of the signals, light nuisance or otherwise;
- b) signs or advertisements that are displayed in its human living environment must be aesthetically pleasing, appropriate and placed at appropriate sites with an uncluttered effect, as the cluttering of signs at any one particular site is unacceptable;
- c) its environment for tourism is characterised by a high standard of user-friendly signage and advertising which is satisfactorily integrated into the environment;
- d) individual businesses have legitimate interests in the proper advertising of their businesses, wares and products, and that it is the duty of the municipality to balance the competing interests in a fair, equitable, flexible and responsible way;
- e) material changes in circumstances are likely to occur, which may affect the municipality's decisions regarding consent which it has granted for the display of a sign, and regarding zoning; and
- f) no sign may -
  - i. be detrimental to the environment or to the amenity of a human living environment by reason of size, shape, colour, texture, intensity of illumination, quality of design or materials or for any other reason;
  - ii. be in its content objectionable, indecent or suggestive of indecency or prejudicial to the public morals;
  - iii. unreasonably obscure, partially or wholly, any sign owned by another person previously erected and legally displayed; and
  - iv. block views across vistas from prominent public places, or in gateways of urban areas.

## **3. Application**

Subject to section 15, these By-laws apply to the display of any sign on any site in any of the areas of control in the Walter Sisulu Local Municipality.

#### **4. Policy framework**

The policy underlying these By-laws is the South African Manual for Outdoor Advertising Control issued by the Department of Environmental Affairs and Tourism.

#### **5. Areas of control**

- 1) The areas of control as contained in Schedule 35 and as delineated in the Zoning By-laws, and as may be re-delineated by resolution of the municipality from time to time, pertain.
- 2) For the purposes of these By-laws the following areas of control exist:
  - a) Rural areas of maximum control;
  - b) urban areas of maximum control;
  - c) urban areas of partial control; and
  - d) urban areas of minimum control.
- 3) A person who intends to display a sign must ensure that the sign may be displayed in a particular area of control.
- 4) The areas of control in which particular classes and types of signs may be displayed are identified in the Schedules which are specified in section 7.

## CHAPTER 1

### SIGNS, REQUIREMENTS AND CONDITIONS THAT RELATE TO EACH SIGN

#### 6. Signs, requirements and conditions

The schedules in section 7 have effect and -

- a) identify the class to which each of the different kinds of signs belong, and provide a general description of the characteristics and functions of each of the different kinds of signs;
- b) lay down the specific conditions relating to the display of each of the different kinds of signs; and
- c) where applicable, provide illustrations pertaining to particular signs.

#### 7. Schedules

The figures which illustrate the position of particular signs are contained in Schedule 36, and the classes of signs, the signs, and the Schedules that relate to each of the signs are -

- a) class 1: billboards and other high-impact free-standing signs, comprising -
  - i. subclass 1(a), super billboards, schedule 1;
  - ii. subclass 1(b), custom-made billboards, schedule 2;
  - iii. subclass 1(c), large billboards, schedule 3; and
  - iv. subclass 1(d), small billboards and tower structures, schedule 4;
- b) class 2: posters and general signs, comprising -
  - i. subclass 2(a), large posters and signs on street furniture and lamp posts, schedule 5;
  - ii. subclass 2(b), banners and flags, schedule 6;
  - iii. subclass 2(c), suburban signs, schedule 7;
  - iv. subclass 2(d), temporary signs, comprising -
    - aa. estate agents' boards, schedule 8;
    - bb. sale of goods, property or livestock signs, schedule 9;
    - cc. pavement posters and notices, schedule 10;
    - dd. project boards, schedule 11; and
    - ee. temporary window signs, schedule 12;
  - v. subclass 2(e), street name advertisements signs, schedule 13;
  - vi. subclass 2(f), neighbourhood watch signs and signs relating to similar schemes, schedule 14; and
  - vii. subclass 2(g), product replicas and three-dimensional signs, schedule 15;

- c) class 3: signs on buildings, structures and premises, comprising -**
  - i.** subclass 3(a), sky signs, schedule 16;
  - ii.** subclass 3(b), roof signs, schedule 17;
  - iii.** subclass 3(c), flat signs, schedule 18;
  - iv.** subclass 3(d), projecting signs, schedule 19;
  - v.** subclass 3(e), veranda, balcony, canopy, and underawning signs, schedule 20;
  - vi.** subclass 3(f), signs painted on walls and roofs, schedule 21;
  - vii.** subclass 3(g), window signs, schedule 22;
  - viii.** subclass 3(h), signs incorporated in the fabric of a building, schedule 23;
  - ix.** subclass 3(i), signs on forecourts and pavements of business premises, schedule 24;
  - x.** subclass 3(j), signs for residential-oriented land use and community services, schedule 25;
  - xi.** subclass 3(k), on-premises business signs, schedule 26;
  - xii.** subclass 3(l), signs on towers, bridges and pylons, schedule 27; and
  - xiii.** subclass 3(m), signs on construction site boundary walls and fences, schedule 28;
- d) class 4: signs for tourists and travellers, comprising -**
  - i.** subclass 4(a), sponsored road traffic projects signs, schedule 29;
  - ii.** subclass 4(b), service facility signs, schedule 30; and
  - iii.** subclass 4(c), functional advertising signs by public bodies, schedule 31;
- e) class 5: mobile signs, comprising -**
  - i.** subclass 5(a), aerial signs, schedule 32;
  - ii.** subclass 5(b), vehicular advertising, schedule 33; and
  - iii.** subclass 5(c), trailer advertising, schedule 34.

## CHAPTER 2

### CONSENT, WITHDRAWAL OR AMENDMENT OF CONSENT

#### 8. Consent

- 1) A sign may not be displayed without consent that was granted by the municipality -
  - a) by section 9 (referred to in these By-laws as "deemed consent"); or
  - b) by section 10 (referred to in these By-laws as "specific consent").
- 2) Consent for the display of a sign includes consent for the use of the site for the purposes of the display, whether by the erection of structures or otherwise, however consent granted for the erection of an advertising structure cannot be construed as consent to use the structure for advertising purposes.
- 3) A person who displays a sign on Municipal land is a tenant at will.
- 4) Since new types of signs are continuously being developed, and since the use of existing signs may become undesirable, it is provided that -
  - a) person who intends to display a sign -
    - i. for which no provision is made in these By-laws;
    - ii. which does not fall within any of the categories of signs provided for in these By-laws; or
    - iii. the display of which is of such nature that it does not fall within the ambit of what is understood as 'display' in these By-laws, must, before such a sign is displayed, apply for approval of the sign and for the display of the sign in terms of section 10, and the municipality may furthermore prescribe conditions applicable to the sign or the display of the sign; and
  - b) The municipality may in writing require a person who is displaying a sign, the display of which is found by it to be undesirable, to remove or cease the display of the sign.
- 5) A lease of land within the jurisdiction of the municipality does not confer the right to use the land solely for the purpose of advertising.

#### 9. Deemed consent

- 1) Deemed consent is hereby granted for the display of those particular classes and types of signs as specified in the Schedules, in the areas of control contemplated for each such class or type of sign.
- 2) The said deemed consent to display a sign is not absolute.

- 3) A person who intends to display a sign on private or Municipal land and has deemed consent is exempt from the provisions of section 10, but must comply with sections 18, 19, 20, 21 and 22.
- 4) Upon a proposal made to it by the Municipal Manager that a particular class or type of sign should not be displayed in a particular area of control or in a particular case, the municipality may direct that the deemed consent, which was granted for the display of a sign in that particular class does not apply in that particular area of control or in that particular case, and may by written notice, require the person who displays a sign, forthwith to remove the sign, or to file, within the time period specified in the notice, an application in terms of section 10.

**10. Specific consent, application, factors which municipality may consider, and renewal**

- 1) A person who intends to display a sign on private or Municipal land and who needs to obtain the specific consent of the municipality as specified in the Schedule that relates to the sign, must -
  - a) complete the necessary application form and comply with all the other requirements and conditions which are specified in the application form;
  - b) lodge two copies of the application form with the municipality;
  - c) obtain the consent of the municipality before he or she may display or alter the sign; and
  - d) comply with all the other provisions of these By-laws.
- 2) The municipality, when it considers the application, may have, in addition to other relevant factors, due regard to the following:
  - a) That no sign should be so designed or displayed that it will -
    - (i) be detrimental to the environment or to the amenity of the neighbourhood because of size, intensity of illumination, quality of design or materials, or for another reason;
    - (ii) constitute a danger to any person or property;
    - (iii) obliterate other signs;
    - (iv) be unsightly or impact detrimentally upon an architectural design;
    - (v) impair the visibility of a road traffic sign; or
    - (vi) affect the safety of motorists or pedestrians;



- b)** the size and location of the proposed sign and its alignment in relation to an existing sign on the same building or erf and its compatibility with the visual character of the area surrounding it;
  - c)** the fact that the proposed sign is to be located directly on or in the vicinity of trees, rocks, hill sides, other natural features and areas of civic and historic interest;
  - d)** the number of signs which is displayed or to be displayed on the erf or building concerned, and its legibility in the circumstances in which it is seen; and
  - e)** the merits of the sign if the sign is not appropriate to the type of activity on or zoning of the erf or site to which it pertains.
- 3)** The municipality may require that additional drawings, calculations and other information be submitted on application and may require a certificate by an engineer. The certificate must give sufficient details -
  - a)** to enable the municipality to establish if the proposed means of securing, fixing or supporting of a sign is sufficient to resist all loads and forces to which it may be exposed; and
  - b)** regarding the sufficiency of the margin of safety against failure, in compliance with the provisions of Regulation B1 of the National Building Regulations and Building Standards Act, 1977 (Act No.103 of 1977).
- 4)** The municipality may grant consent subject to any condition it may deem expedient, or may refuse consent.
- 5)** The municipality must, within 60 days after the application form has been lodged to the applicant, notify in writing if consent has been refused or granted, and -
  - a)** if consent is refused, the municipality must in writing convey to the applicant the reasons why the consent was refused; and
  - b)** if consent is granted, the municipality must forward a notice of approval and one set of the application form and other documents that were submitted by the applicant to the applicant, and specify in the notice of approval the duration of the term of the consent.
- 6)** A sign must be displayed within 12 months after the date on which the municipality granted consent, otherwise the consent expires.
- 7)** The municipality must keep a register which is open to public inspection at all reasonable hours and which contains particulars of -
  - a)** the application which was made to the municipality for specific consent for the display of a sign;
  - b)** the name and address of the applicant;

- c) the date of the application;
  - d) the type of sign concerned; and
  - e) any conditions relating to the display of the sign.
- 8) When a time period, which was specified in the approval expires, an application for renewal must, prior to the expiry, be submitted for consideration of approval should a person who displays a sign intends to continue the display of the sign, and should the municipality refuse consent to display the sign, the person who displays the sign must forthwith cease to display the sign.

#### **11. Withdrawal or amendment of consent**

- 1) If a sign or its display -
- (a) does not comply with any one or more of the provisions of these By-laws;
  - (b) is in a state of disrepair;
  - (c) constitutes a danger to members of the public; or
  - (d) is undesirable in terms of section 8(4)(b),  
the municipality may at any time, and if necessary to do so to remedy a substantial injury to the amenity of the locality, decide to take any one or more of the following actions:
    - (i) to withdraw its consent for the display of a sign;
    - (ii) to amend any condition relating to the display of a sign;
    - (iii) to impose a further condition to the display of a sign; or
    - (iv) to order that the display of the sign be discontinued.
- 2) The municipality must serve a notice of its decision on the person who displays the sign, and the notice must -
- (a) specify a period within which the sign is to be removed, or within which the use of the site is to be discontinued, and contain a full statement of the reasons why the display of the sign must be terminated; or
  - (b) specify any amendment to a condition relating to the display of the sign, and if applicable a time period relating to the amendment; or
  - (c) specify any further condition which is imposed, and if applicable a time period relating to the further condition; or
  - (d) if consent for the display of the sign is withdrawn, inform the person who displays the sign to remove the sign immediately, and
  - (e) specify the sign or the site to which it relates.

**CHAPTER 3****UNAUTHORISED SIGNS, ALTERATION OF SIGNS, DEPARTURE FROM APPROVED PLAN, EXEMPT SIGNS, PROHIBITED SIGNS, AND TEMPORARY SIGNS****12. Display of unauthorised sign**

- 1) No person may display an unauthorised sign on private or Municipal land.
- 2) A person who displays an unauthorised sign on private or Municipal land must, after service on him or her of a notice of compliance in terms of section 25(2) to that effect, immediately cease to display the sign.
- 3) If, before the date specified in the notice, the person satisfies the municipality that he or she has complied with the provisions of these By-laws, the municipality may withdraw the notice.

**13. Alteration of existing sign**

- 1) No person may, without the prior approval of the municipality, alter an existing sign on private or Municipal land in instances where the display of the sign is subject to specific consent.
- 2) A person who alters such a sign displayed on private or Municipal land must, after service on him or her of a notice of contravention in terms of section 25(2) to that effect, immediately cease or cause to cease any alteration to the existing sign.

**14. Departure from approved form or plan**

- 1) No person, having obtained specific consent for the display of a sign on private or Municipal land, may do anything in relation to the sign which is a departure from any form or plan approved by the municipality.
- 2) A person must, after the service upon him or her of a notice of contravention in terms of section 25(2) to that effect, immediately discontinue or cause to be discontinued such departure.

**15. Exempt signs**

Display of the following sign is exempt from the provisions of these By-laws:

- (a) A sign which is displayed in an arcade and which is not aimed at road users;
- (b) any price ticket which is smaller than 0,01 square metres on an item that is displayed in a shop-window;

- (c) a sign which is displayed inside a building at a distance of more than two metres from any window or external opening through which it may be seen from outside the building and which is not aimed primarily at attracting the attention of road users;
- (d) a road traffic sign which is displayed in terms of an Act of Parliament, Provincial legislation, or By-law;
- (e) a sign which is displayed as required in terms of an Act of Parliament, Provincial legislation, or By-law;
- (f) a banner or flag that is carried through the streets as part of a procession;
- (g) a national flag, which is hoisted on a suitable flagpole, with nothing attached to the flag and with no advertising material attached to the flagpole;
- (h) on Municipal land, a sign which is displayed on the initiation of the municipality in terms of an adjudicated tender or concession, and a sign which is owned by the municipality; and
- (i) a sign displayed inside a sports stadium and which is not visible from outside the stadium.

## **16. Prohibited signs**

- 1) The following signs may not be displayed in any area of control:
  - (a) a teardrop flag;
  - (b) an inflatable;
  - (c) a walking poster; and
  - (d) a trailer advertisement.
- 2) No vehicle to which is attached or on which is displayed an advertisement, may be parked in any area of control with the sole purpose of drawing the public's attention to the advertisement attached to or displayed on the vehicle.
- 3) No sign may be displayed in an area identified in Schedule 36.
- 4) No person or business may without the written consent of the municipality, in any manner and with or without the object of informing the public of any -
  - (a) opinion, event or phenomenon of whatever nature, be it factual or fictional, be it past, present or future, or
  - (b) product, commodity, or merchandise, be it in existence or not, disseminate to any person or attach to any object a leaflet, handbill or any similar article in any public place or area within the municipality's jurisdiction.
- 5) A person who intends undertaking an activity specified in subsection (4) must complete and submit the necessary application form, and the municipality may –

- (a) reject the application, in which case the dissemination or attachment of the leaflet, handbill or article is prohibited; or
- (b) approve the application on such conditions as the municipality deems fit.

#### **17. Temporary signs**

- 1) The display, at a special event such as a sporting event and a festival, of a temporary sign containing the name of the sponsor is subject to specific consent, and the sign -
  - (a) may be displayed for a period of one week before such event and for the duration of the event;
  - (b) must be dismantled within three days after the conclusion of the event;
  - (c) may be displayed in all areas of control; and
  - (d) must be located within the boundaries of the demarcated area in which the event takes place.
- 2) A temporary advance sign may be displayed, and the display of the sign is subject to specific consent.

**CHAPTER 4****SAFETY, DESIGN AND CONSTRUCTION, MAINTENANCE, POSITION, AND ILLUMINATION OF SIGNS****18. Safety of sign**

- 1) No advertisement or advertising structure may -
  - (a) constitute a danger to any person or property;
  - (b) be so placed or contain an element as to distract the attention of a driver of a motor vehicle in a manner likely to lead to unsafe driving conditions;
  - (c) be illuminated to the extent that it causes discomfort to or inhibits the vision of an approaching pedestrian or driver of a motor vehicle;
  - (d) except a sign displayed with a street name or a location name sign of class 2(c), 2(e) and 4(c), be attached to a road traffic sign or signal, be combined with a road traffic sign or signal, obscure a road traffic sign or signal, create confusion with a road traffic sign or signal, interfere with the functioning of a road traffic sign or signal, or create a road safety hazard;
  - (e) obscure a pedestrian's or motor vehicle driver's view of a pedestrian, a road or rail vehicle or a feature of the road, railway or pavement such as a junction, bend and a change in width;
  - (f) project over a pedestrian or cycle circulation route, unless the clear height of such sign exceeds 2,4 metres;
  - (g) obstruct any fire-escape or the means of egress to a fire-escape, or obstruct or interfere with any window or opening required for ventilation purposes; or
  - (h) exceed the minimum clearance with regard to overhead power lines as prescribed in regulation 15 of the Electrical Machinery Regulations, No R1593 in GG. 11458, 12 August 1988, with the further provision that permission must be obtained from the relevant supply authority before any advertising structure may be erected in a power line servitude.
- 2) A sign or advertisement positioned along a road and specifically targeting the road user must be concise and legible and must comply with the following requirements:
  - (a) No sign displaying a single advertisement or message may exceed 15 "bits" of information, and no combination sign or any other sign displaying more than one advertisement or message may contain more than six "bits" of information per enterprise, service or property, or per individual advertisement

or message displayed on the combination sign, and “bit” values must be calculated as follows:

- (i) A word of up to eight letters inclusive has a bit value of 1;
  - (ii) a number of up to four digits inclusive have a bit value of 0,5;
  - (iii) a number consisting of five to eight digits have a bit value of 1; and
  - (iv) a symbol, logo or abbreviation has a bit value of 0,5.
- (b) A letter or digit must have a minimum size of 50 millimetres and must increase in size by 25 millimetres for every 15 meters distance away from a viewer.<sup>a</sup>
- (c) No message may be spread across more than one sign or sign panel.

## 19. Design and construction of sign

### 1) A sign -

- (a) must be constructed and executed and finished in a workmanlike manner, and structural details should be in accordance with existing generally accepted and tested designs, or designed by an engineer;
- (b) may not be detrimental to or have a negative aesthetic impact on the urban design, streetscape or the character of the surrounding area by way of the design of the structure or device;
- (c) must have a neat appearance and must consist of durable materials in accordance with the function, nature and permanence of the advertisement, sign or structure, and materials such as cloth, canvas, cardboard, paper or synthetic cardboard should be used only when essential to the nature and function of a particular sign;
- (d) must have a neat appearance in terms of advertisement content and sign writing and an untidy handwritten message should be avoided as far as possible;
- (e) may not with an electrical services provision and any other accessory deface a building facade;

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<sup>a</sup> Example:

- (i) A letter or digit on a sign which is normally not more than 15 metres away from the viewer, may not be smaller than 50; millimetres;
- (ii) a letter or digit on a sign which is normally between 16 and 30 metres away from the viewer, may not be smaller than 73; millimetres;
- (iii) a letters or digit on a sign which is normally between 31 and 45 metres away from the viewer, may not be smaller than 100 millimetres;
- (iv) a letter or digit on a sign which is normally between 46 and 60 metres away from the viewer, may not be smaller than 125 millimetres, and so forth.

- (f) must be rigidly and securely attached, supported or anchored in a safe manner so that unwanted movement in any direction is prevented;
- (g) must be capable of effectively securing, supporting and maintaining not less than twice its mass with the addition of any force to which the sign may be subjected, including wind pressure;
- (h) wherever necessary in accordance with the nature of the sign and when attached to brickwork, masonry or concrete, must be securely and effectively attached thereto by means of bolts securely embedded in such brickwork, masonry or concrete or passing through the same and secured on the opposite side; and
- (i) when attached to a conservation-worthy building, must be attached with the necessary expert advice in order to prevent damage to the building.

**2) An advertiser or contractor -**

- (a) may not use water-soluble adhesive, adhesive tape or similar material to display or secure any sign or advertisement;
- (b) may not display or secure any sign or advertisement elsewhere than on a billboard, board or any structure provided for this purpose;
- (c) must have all exposed metalwork of any sign painted or otherwise treated to prevent corrosion, and all timber treated to prevent decay; and
- (d) must have measures taken to prevent the entry of water into and the accumulation of water or moisture on or in any sign or any part of its supporting framework, brackets or other members.

- 3) (a)** All glass used in signs, other than glass tubing used in neon and similar signs must be safety glass at least three millimetres thick.
- (b) Glass panels used in signs may not exceed 0,9 square metres in area and must be securely fixed in the body of the sign, structure or device independently of all other panels.

**4) Every illuminated sign and every sign in which electricity is used -**

- (a) must have a power cable and conduit containing an electrical conductor positioned and fixed so that it is not unsightly;
- (b) must be constructed of material which is not combustible;
- (c) must be provided with an external switch in an accessible position whereby the electricity supply to the sign may be switched off; and
- (d) must be wired and constructed in accordance with and subject to the provisions of the Walter Sisulu Electricity by-laws.



- 5) (a) No person may, in the course of displaying or removing any sign, advertisement structure or device, cause damage to any tree, electrical standard or service or other public installation or property.
- (b) Signage, or its brackets, on lamp posts may not cover or damage any markings such as codes or symbols on the poles.
- (c) Protective sleeves must protect the paintwork on electric lamp posts against possible damage which may be caused by brackets securing advertising signs against such poles, and the design of these brackets and the signage must be approved by the City Electrical Engineer for each type of sign and lamp post to be used.

## **20. Maintenance of sign**

- 1) Maintenance of signs and their structures on Municipal land is the responsibility of the person who displays the sign, excluding the municipality, and should the municipality carry out any maintenance work as a result of poorly maintained signs being attached, the municipality may claim the cost of such repairs from the person who displays the sign.
- 2) A sign must -
  - (a) where possible, be located at a height that discourages vandalism;
  - (b) be serviced, cleaned and repainted on a regular basis; and
  - (c) be maintained in good repair and in a safe and proper condition according to the highest standards as regards quality of structures, posting and sign-writing.

## **21. Position of sign**

- 1) A sign -
  - (a) may not be displayed on a road island or road median, with the exception of a sign in class 2(a), 2(d)(iii) and Identilights in class 2(e);
  - (b) may not be suspended across a road, with the exception of -
    - (i) a sign in class 3(l); and
    - (ii) a banner in class 2(b) suspended across an urban road other than a freeway and as part of a streetscaping project;
  - (c) may not be displayed within or suspended above a road reserve or within a distance of 50 metres outside the road reserve boundary of a freeway, with the following exceptions and provided that these exceptions, subject to subsection

- (1)(a), do not allow for the display of a sign on a road island or road median but only for the display of a sign on the side of a road reserve:
- (i) A sign in class 2(d)(iv) that concern road construction and a sign in class 4(a) and 4(c) may be displayed within a road reserve;
  - (ii) a sign in class 2(e) may be displayed within a road reserve of a proclaimed main road other than a freeway and cognisance must be taken of the architectural styles of sensitive areas;
  - (iii) a sign in class 2(d)(iv) that does not concern road construction may be displayed within a road reserve other than a freeway, but only next to the actual development site and only if sufficient space is not available on such a site;
  - (iv) a sign in classes 2(a), 2(b), 2(c), 2(f), 3(d), 3(e) and 4(d) may be displayed within an urban road reserve other than a freeway;
  - (v) a sign in class 2(d)(iii) and a sign on a bridge in class 3(l) may be displayed within an urban road reserve other than a freeway but only in an area of partial control and an area of minimum control;
  - (vi) a sign in classes 3(c), 3(d) and 3(e) may be displayed within 50 metres of the boundary of a freeway if the main building housing an enterprise is within 50 metres from the road reserve of a freeway and if there is no other appropriate means of indicating that particular enterprise;
  - (vii) a sign in class 2(d)(i) may be displayed in a road reserve other than a freeway, subject to specific controls; and
  - (viii) a sign in classes 1, 3(f), 3(g), 3(i) and 3(k) may not be displayed in any urban road reserve;
- (d) may not be displayed within the specified distances of on-ramps and off-ramps and overhead traffic signs on freeways as illustrated in figure 1 in schedule 35, except where an enterprise is situated within such a prohibited area and it is not possible to indicate that particular enterprise by means of an appropriate sign outside the prohibited area; and
- (e) may not be displayed within a restricted area at an urban street corner as illustrated in figure 2 in schedule 35, with the exception of sign types 2(d)(v), 2(e), 3(c), 3(d), 3(e), 3(g) and 3(h), and provided furthermore that an illuminated sign displayed within a restricted area at a signalised street corner as illustrated in figure 3 in schedule 35 must have a clear height of at least six metres if such sign contains the colours red, green or amber.

- 2) No advertising signage may be affixed to a lamp post, except a sign in classes 2(a), 2(d)(iii) and 4(c).

## **22. Illumination of sign and electronic sign**

- 1) The following maximum luminance levels per square meter are applicable to a sign, except for the daylight illumination of a Super Billboard:
  - (a) In the instance where the illuminated area is less than 0,5 square metre, the maximum luminance level is 1000 candela per square metre;
  - (b) in the instance where the illuminated area is between 0,5 square metre and 2 square metres, the maximum luminance level is 800 candelas per square metre;
  - (c) in the instance where the illuminated area is between 2 square metres and 10 square metres, the maximum luminance level is 600 candelas per square metre; and
  - (d) in the instance where the illuminated area is 10 square metres or more, the maximum luminance level is 400 candelas per square metre.
- 2) The light source emanating from a floodlight may not be visible to traffic travelling in either direction.
- 3) Floodlighting must be positioned to ensure effective distribution and minimise light wastage or 'spill'.
- 4) The municipality may require traffic monitoring of any internally illuminated sign.
- 5) An electronic sign containing third-party advertising -
  - (a) may only be displayed in an area of partial and minimum control;
  - (b) must be less than 2,1m<sup>2</sup>, which size may be waived up to a maximum size of 4,5m<sup>2</sup> in any such area upon receipt of an Environmental and Heritage Impact Assessment showing that no detrimental impact will be caused by the proposed display; and
  - (c) may not have subliminal flashes.
- 6) The municipality may require a Traffic Impact Assessment to be conducted on any electronic sign, the results of which must indicate that no detrimental impact on traffic is envisaged, and the municipality may require subsequent traffic monitoring of any electronic sign.

**CHAPTER 5****MISCELLANEOUS PROVISIONS****23. Public tenders**

- 1) Should the municipality so decide, the municipality must, in terms of the municipality's Supply Chain Management by-laws, and subject to the provisions of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) and the Regulations to the Act, adjudicate one successful tender, for each standard advertising type aiming to provide non-locality-bound advertising space for a private sector service, product or any other message on Municipal land.
- 2) The successful tenderer, known as the contractor -
  - (a) is responsible for the display of an advertising sign in terms of the provisions of these By-laws and in terms of conditions agreed on in his or her contract with the municipality; and
  - (b) is responsible for the removal of any illegally displayed sign of the same class for which that particular contract has been awarded.
- 3) Should a contractor fail to comply with the provisions of (2)(a) and (b) or with the contract conditions, the municipality must serve a final notice on the contractor to rectify compliance with the provisions or contract conditions, and should the contractor not comply within two months after final notice has been served -
  - (a) the municipality has the right to relieve the contractor of his or her contract after which -
    - (i) the contractor has no right to a sign already displayed; and
    - (ii) the municipality may deal with the sign in accordance with sections 25(4), (6), (7), (8), (9) and (10); and
  - (b) the municipality may re-advertise the relevant contract for public competition in terms of the municipality's Supply Chain Management by-laws, and subject to the provisions of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) and the Regulations to the Act.

**24. Authentication and service of notices and other documents**

- 1) A notice or other document requiring authentication by the municipality must be signed by the municipal manager or by a duly authorised officer of the municipality, such authority being conferred by resolution of the municipality or by a by-law or regulation, and when issued by the municipality in terms of these By-laws is deemed to be duly issued if it is signed by an officer authorised by the municipality.

- 2) Any notice or other document that is served on a person in terms of these By-laws is regarded as having been served –
- (a) when it has been delivered to that person personally;
  - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
  - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgment of the posting thereof from the postal service is obtained;
  - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
  - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates;
  - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate; or
  - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- 3) Service of a copy is deemed to be service of the original.
- 4) When any notice or other document must be authorised or served on the owner, occupier or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and it is not necessary to name that person.
- 5) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.<sup>b</sup>

## **25. Notice of compliance, removal, confiscation, destruction of signs, and related matters**

- 1) Where the display of a sign does not comply with section 18, 19, 20, 21 or 22, the person who displays the sign must alter the sign so that it complies with section 18, 19, 20, 21 or 22, and where –
- (a) there is a change in ownership or occupancy of premises on which the sign is displayed;

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<sup>b</sup> See section 115 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000)

- (b) there is a change in the nature of the business, industry, trade or profession which is conducted on the premises;
  - (c) traffic signal lights are erected in a place where previously there had been no traffic signal lights, but where there is currently being displayed a sign; or
  - (d) there is an alteration in the level or position of a street, footway or kerb;  
the person who displays a sign must immediately remove the sign.
- 2)** The municipality may serve a notice of compliance on the owner of a sign to remove a sign within a specified time, or to carry out, within a specified time, such alteration to it or to do such work as may be specified in the notice, if the sign which is displayed is unauthorised, or does not conform to a provision of section 18, 19, 20, 21, or 22, or does not comply with a condition imposed in the Schedule that relates to the sign.
- 3)** The notice of compliance must -
- (a) specify, at the time when the notice is issued, the name and residential and postal address, if either or both of these be known, of the person on whom the notice is served;
  - (b) state the particulars of the contravention;
  - (c) where applicable, specify the time within which a sign is to be removed, or an alteration is to be carried out, or such work as specified is to be done;
  - (d) subject to section 26, specify the fine payable as penalty in respect of that contravention and the place where the fine may be paid; and
  - (e) inform the person on whom the notice was served that he or she may, within 28 calendar days of the date of service of the notice -
    - (i) pay the fine; or
    - (ii) inform the municipality in writing that he or she elects to be tried in court on a charge of having committed an offence under section 26(1)(c).
- 4)** If a person fails to comply with a notice of contravention or any other notice served by the municipality on him or her, the municipality may enter upon the land upon which the sign to which the notice relates, is being displayed and remove, confiscate, and destroy the sign.
- 5)** The municipality may, without prior notice remove, confiscate, and destroy a sign if the sign constitutes a danger to life or property, or is objectionable, or if one or more of the provisions of these By-laws is contravened.

- 6) The municipality, when it removes and confiscates or destroys the sign, is not required to compensate a person in respect of the sign in any way for loss or damage which results from its action.
- 7) Costs that are incurred by the municipality when it removes, confiscates or destroys a sign or does alterations or other works may be recovered from the person on whom the notice was served, or if a deposit has been paid in respect of the sign the costs may be deducted from the deposit, unless the person to whom a notice was given proves -
  - (a) that he or she did not, at the time when he or she received the notice, nor at any time thereafter, display the sign; or
  - (b) that he or she did not take any active part in displaying the sign and did not grant any person permission to display it and did not receive any valuable consideration in connection with the displaying of the sign, and that he or she does not manufacture an article, or own, control or manage a business or undertaking to which the sign relates.
- 8) The penalty costs when the municipality removes a sign are specified in the Walter Sisulu Customer Care and Revenue Management by-laws.
- 9) Should the municipality decide not to destroy a sign, the original owner may repurchase a sign, which has been removed and confiscated. The repurchasing prices are according to the general tariff regulations of the municipality.
- 10) The municipality may dispose of a sign which is not repurchased within two weeks.

## 26. Offences

- 1) A person commits an offence if he or she -
  - (a) fails to comply with -
    - (i) any requirement which is set out in a notice of contravention in terms of section 25(2) that was served on him or her;
    - (ii) a condition that was imposed on him or her;
    - (iii) any requirement set out in a notice in terms of sections 8(4)(b), 9(4) or (11)(2);
  - (b) knowingly makes a false statement to a municipal officer, or in respect of an application;
  - (c) displays a sign that does not comply with any one or more of the provisions of sections 18, 19, 20, 21, 22, or conditions imposed in the Schedule that relates to the sign;
  - (d) displays an unauthorised sign;

- (e) displays a sign in contravention of sections 25(1), 8(4)(a), 10(8), 16(1) to (4), or 17; or
  - (f) disseminates or attaches a leaflet, handbill or article in contravention of section 16(5)(a).
- 2) Upon conviction of a first offence, the person is liable to a fine, and should the person does not pay the fine, he or she may be imprisoned for a period not exceeding two months.
  - 3) Upon conviction of a second or subsequent offence, the person is liable to a fine.
  - 4) Upon conviction of a continuing offence the person is liable to a fine for every day during which the offence continued.
  - 5) Upon conviction for the display of an unauthorised sign, the person is liable to a fine per sign displayed.

## **27. Right of appeal**

- 1) A person who is of the opinion that his or her rights are affected by a decision of a municipal officer may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- 2) The Municipal Manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4).
- 3) The appeal authority must consider the appeal and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- 4) When the appeal is against a decision taken by –
  - (a) a municipal officer other than the Municipal Manager, the Municipal Manager is the appeal authority;
  - (b) the Municipal Manager, the Mayor is the appeal authority; or
  - (c) a political structure or political office bearer or a councillor, a committee of councillors who were not involved in the decision and who were appointed by the municipality for this purpose is the appeal authority.
- 5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.<sup>°</sup>

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<sup>°</sup> See section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000)



**28. Transitional provision**

- 1) The person who displays a sign must, within six months after the commencement of these By-laws, ensure that the sign complies in all respects with the provisions of these By-laws, and the municipality reserves the right to remove the sign immediately if the sign does not comply with these provisions after six months.
- 2) The person who displays a sign, the display of which is prohibited in terms of section 16, must remove the sign within seven days after the commencement of these By-laws.
- 3) The person who displays a litter bin must, despite subsection (1), ensure that the display of the bin complies in all respects with these By-laws, specifically those provisions and conditions contained in item 3(7) of Schedule 5, and the municipality reserves the right to remove the bin within seven days after the commencement of these By-laws if the display does not comply with the stipulated provisions and conditions.

**29. Saving provision**

- 1) Subject to section 32, nothing which is contained in these By-laws is to be construed as to affect in any way rights that belong to, or duties which are imposed on the municipality as the body in whom ownership is lawfully vested of or who has control over any street or other place or thing within its area of jurisdiction.

**30. Waiver**

- 1) The municipality may, upon the written request by a person, which request is to be directed to the municipal manager, and after consideration of the merits of the request, waive compliance with or relax the provisions of any one or more of the provisions of these By-laws.
- 2) The municipality must serve a written notice of waiver, which is signed by the municipal manager upon the person concerned. The notice must cite -
  - (a) the provision that is waived or relaxed; and
  - (b) the extent to which it has been waived.
- 3) The municipality must keep a record which contains a copy of the notice. The public may, at all reasonable hours, inspect this record at the offices of the municipality.

**31. Short title**

- 1) These By-laws are called the Walter Sisulu Outdoor Signs (Advertising and other) By-laws, 2007.



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[ ] Words in bold type in square brackets indicate omissions from existing enactments.  
\_\_\_\_\_ Words underlined with a solid line indicates insertions in existing enactments.

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## **PREVENTION OF PUBLIC NUISANCES AND KEEPING OF ANIMALS BY-LAW**

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2. Application of by-law

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## 1. Definitions

In this by-law, 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, but excluding any pet;

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

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

**“district municipality”** means the Joe Gqabi District Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, Provincial Notice 480 dated 22 September 2000, as amended per Provincial Notice 162 dated 20 August 2004, 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;

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

**“municipality”** means the Municipality of Walter Sisulu, and includes any political structure, political office bearer, municipality or, 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, municipality or, agent or employee;

**“municipal manager”** is the person appointed by the municipality in terms of Section 54A of the Municipal Structures Act, 1998 (Act 117 of 1998) and includes any person –

(a) acting in such position; and

(b) to whom the municipal manager has delegated any power, function or responsibility in as far as it concerns the execution of those powers, functions or duties;

**“owner”** –

(a) in relation to an animal, includes the person having the possession, charge, custody or control of such animal;

(b) in any case where a property is subject to a registered lease, the lessee of such property;

(c) in cases where the person in whom the legal title is vested is insolvent or deceased, or is of unsound mind or whose estate has been assigned for the benefit of his creditors, the person in whom the administration of the property is vested as trustee, executor, curator or assignee, or administrator;

(d) in cases where the owner as above described is absent, the agent or person receiving the rent of the property in question;

(e) in any case where the property is beneficially occupied under a servitude or right similar thereto, the occupier of such property;

**"pet"** means a tame animal which is kept in a household for companionship or amusement;

**"pet parlour"** means an establishment where pets are groomed;

**"petshop"** means an establishment where pets are kept for trading purposes;

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

**"premises"** means –

(a) land or a portion of land, whether or not a building or structure has been constructed or erected on such land or portion thereof; or

(b) a building, structure, tent or caravan and the land on which it is situated and includes any vehicle, carriage, ship or boat;

**"public nuisance"** means any act, omission or condition on any premises, including any building, structure or growth thereon, which is offensive or dangerous, or which materially interferes with the ordinary comfort, convenience, peace or quiet of other people or which adversely effects the safety of the public;

**"public place"** means any square, building, park, recreation ground or open space which: –

(a) is vested in the municipality;

(b) the public has the right to use; or

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

**"responsible authority"** means the Walter Sisulu Local Municipality or any national or provincial department that may in terms of its powers and

functions impose conditions or restrictions in respect of the keeping of animals;

“**street**” means any road, street or thoroughfare or any 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;

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

## **2. Application of by-law**

- (1) The provisions of sections 4(1), 14(1), 15(1), 21(1) and 24 do not apply to –
  - (a) premises or land which is used for bona fide agricultural purposes; or
  - (b) premises or land identified by the municipality where the keeping of animals or the operation of pet parlours, pet shops or catteries and kennels is permitted and indicated as such in an approved spatial development framework and zoning scheme.
- (2) A person who keeps animals on premises contemplated in subsection (1) (a) and (b), is not exempt from the provisions of any other by-law of the municipality or legislation with regard to the inception or bringing about of a public nuisance.

**CHAPTER I****GENERAL PROVISIONS RELATING TO PUBLIC NUISANCES****3. Behaviour and conduct**

- (1) Notwithstanding the provisions of any other by-law no person shall –
- (a) do work on any premises or use any building or land for purposes calculated to disfigure such premises or to interfere with the convenience or comfort of other people or to become a source of danger to any person and should this provision being ignored; the municipality may instruct that such work or use be discontinued forthwith and that the previous condition be reinstated;
  - (b) carry on any trade, business, profession or hobby on any premises in the municipal area which may be a source or become a source of discomfort or annoyance to other people;
  - (c) deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse or anything which is offensive or likely to cause annoyance, danger or injury to persons in or upon any premises, Street or public place;
  - (d) allow the fencing of any premises to fall into a state of disrepair or to become unsightly or dilapidated;
  - (e) allow any building or structure or any portion thereof on any premises to fall into a dilapidated, neglected or unsightly state, or fail to maintain the roof-water disposal system, pipes, sewers, drains, water fittings, waste water fittings, water closet fittings and all other appurtenances forming part of or attached to any building or structure in good and sound repair, or fail to maintain the walls of any building or structure free from dampness;
  - (f) use or cause or be permitted to use any stoep and/or verandah of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, displaying or keeping articles or merchandise;
  - (g) use or cause or permit any shop or business premises or vacant land adjoining such shop or business premises or any portion thereof which is open or visible to the public for the purpose of storing, stacking, dumping, disposing, or keeping any waste material, refuse, cartons, crates, containers or other articles of a like nature;

- (h) enclose or cause or permit the enclosing of any stoep or veranda of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the municipality may approve;
- (i) cause or allow the disturbance of the ordinary comfort, convenience, peace or quiet of other people by the utilisation or use of electrical appliances, machinery, malfunctioning of air conditioning units or similar appliances or equipment.
- (j) defoul, misuse or damage a toilet provided in a public building or public place;
- (k) carry or convey, or cause or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become offensive or dangerous or injurious to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any nuisance;
- (l) accumulate, dump, store or deposit any article or thing of whatsoever nature, which is waste material or likely to constitute an obstruction in any street, public place or built-up or vacant premises or land. Where such action takes place with the consent of the municipality and any conditions of approval are ignored or complaints are received from the general public, the municipality may take action in terms of sub-section (2);
- (m) allow any erf to be overgrown with bush, weeds or grass or other vegetation, except cultivated trees, shrubs and grass, to such an extent that it may be used as a shelter by vagrants, wild animals or vermin or may threaten the safety of any member of the community;
- (n) by an action directly or indirectly or by negligence allow that a public nuisance be created or continued;
- (o) bathe or wash himself or any animal or article or clothing or any other article or anything in any public stream, pool or water trough or at any public hydrant or fountain or at any place which has not been set aside by the municipality for that purpose;
- (p) at any time during the day or night disturb the public peace in any public or private place or premises or a street by making unseemly noises or by shouting, insistent hooting, wrangling or quarrelling, or by



collecting a crowd or by organising any demonstration or by fighting or challenging to fight, or by striking with or brandishing or using in a threatening manner any stick or other weapon or by any other riotous, violent or unseemly behaviour at any time of the day or night, or by loitering in any street or public place or by gathering in crowds on pavements;

- (q) advertise wares or services in any street or public place by means of any megaphone, loudspeaker, or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells;
  - (r) in or upon any property or premises disturb the public peace in the neighbourhood of such premises by making therein or thereon any unseemly noises, or by shouting, wrangling, quarrelling and singing or by playing therein or thereon a musical instrument or use or permit to be used any musical instruments, radios, television sets or the like or any loudspeaker or other device for the reproduction or amplification of sound, in such a manner or at such times or in such circumstances that the sound thereof is audible beyond the boundaries of such property or premises in such a manner that it creates a public nuisance and materially interfere with the ordinary comfort, convenience, peace or quiet of other people;
  - (s) in any street or public place use any abusive or threatening language or commit any act which may or is calculated to cause a breach of the public peace;
  - (t) cleanse or wash any vehicle or part in any street or public place;
  - (u) discharge any fire-arm, airgun or air pistol on any premises except premises or land zoned for agricultural purposes and which does not form part of a general plan of a township.
- (2) (a) In the event of a contravention of section 3(a) to (n), the municipality may issue a notice on the owner or occupier or the alleged offender to terminate the action or to abate the nuisance created. In the event of non-compliance with such order and without prejudice to the municipality's right to prosecute, the municipality may take the necessary steps to remove the cause or source of the nuisance and any costs incurred in connection therewith shall be recoverable from the person responsible for the nuisance or the owner or occupier or the premises on which the nuisance originates or is being continued, whether or not such owner or occupier is responsible therefore.

- (b) Where the municipality has evidence that any vacant or developed premises or land in the vicinity of a street is being used for any purposes by unauthorised persons or that any of the materials or things mentioned in subsection (l) are being dumped or deposited on such premises or, it may serve notice in writing on the owner or occupier thereof requiring him to enclose or fence it in to its satisfaction by a date specified in the notice. Every such enclosure or fence shall not be less than two metres in height and shall be of such a nature and so constructed that it will effectively prevent the entry of unauthorised persons and the dumping or depositing thereon of materials and things.
- (3) For the application of this by-law, any action or condition on any premises, including any building, structure or vegetation thereon, which endangers the safety of any person or property or which is untidy, annoying, troublesome, offensive or disturbing to the peace of other people, shall be considered a public nuisance.
- (4) Any person who contravenes or fails to comply with any provisions of this section or fails to comply with any notice lawfully given thereunder shall be guilty of an offence.

## **CHAPTER II**

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

#### **4. Permission to keep animals**

- (1) No person shall keep or permitted to keep on any premises or property any animals, excluding pets, without the written permission of the municipality.
- (2) For the purpose of managing the keeping of animals on premises, the municipality may determine the number of bee hives, as well as the kind, number and sex of animals that may be kept and the areas within which the keeping of such animals and bees shall be prohibited.
- (3) In order to consider an application in terms of subsection (1), the municipality may obtain the input or comments of the owners or occupants of surrounding premises.
- (4) A person who contravenes subsection (1) or who fails to comply with a determination in subsection (2) commits an offence.

#### **5. Plans for structures and management**

- (1) An application to keep animals must be submitted on an application form obtainable from the municipality, and be accompanied by a detailed site plan indicating all existing or proposed structures and fences on the premises for which the permit is required.
- (2) Detailed plans, according to specifications obtainable from the municipality, of structures in which it is proposed to keep animals must accompany the application in section 4 and such plans must be approved by the municipality.
- (3) Where possible, an exposition of the numbers, kinds and gender of animals must accompany the plans in subsection (2).

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

- (1) The municipality may, after consideration of –
  - (a) the input or comments obtained in terms of section 4(3);
  - (b) the location, geographical features or size of the premises in respect of which the application is submitted;
  - (c) the documents and expositions submitted in terms of section 5; or
  - (d) any other information relating to the application, refuse to grant consent or grant consent.

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

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

**7. Visibility of structures on premises**

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

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

**8. Wavering of requirements and withdrawal of authorisations**

Notwithstanding the aforementioned provisions, the municipality may after considering conditions particular to the property and on condition that no objection is received from the owners or occupants of surrounding premises, waive any or all of the requirements of this part and impose other conditions if appropriate and may further withdraw any consent in terms of section 6(3) if any of the conditions therein are not adhered to.

**9. Validity of authorisations**

All authorisations to keep animals granted in terms of any by-law or regulation repealed shall be deemed to have been granted in terms of this by-law.

**10. Duties of owner or keeper of animal**

(1) The owner of an animal or the keeper thereof –

(a) may not cause or allow an animal to interfere with the ordinary comfort, convenience, peace or quiet of other people;

(b) must provide such animal with bedding, shelter, water and proper food daily; and

(c) must at all times maintain the premises on which an animal is kept, and all appurtenances in good repair and in neat condition so as to prevent the occurrence of a public nuisance.

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

**11. Animals kept in unsatisfactory manner**

(1) Whenever animals kept on any premises, whether or not such premises have been approved by the municipality under this by-law, are a public nuisance, the municipality may by written notice require the owner or

occupier of such premises, within a period to be stated in such notice but not less than 24 hours after the date of such notice, to remove the cause of and to abate such nuisance and to carry out such work or take such steps necessary for the said purpose.

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

## **12. Destruction of animals**

- (1) The municipality may order the destruction of an animal which is –
- (a) dangerous or ferocious; or
  - (b) injured or diseased to such an extent that it would be humane to do so.
- (2) An animal to be destroyed in terms of subsection (1) must be destroyed with such instruments or appliances and in such a manner as to inflict as little suffering as possible.
- (3) A person who fails to comply with an order contemplated in subsection (1) or who contravenes subsection (2) commits an offence.

## **13. Hawking of animals**

- (1) No person may hawk an animal –
- (a) in a street or public place; or
  - (b) in or from a movable structure or vehicle.
- (2) A person who contravenes subsection (1) commits an offence.

**CHAPTER III****PROVISIONS RELATING TO KEEPING OF DOGS, CATS AND PETS*****Part 1 – General Provisions relating to dogs, cats and pets*****14. Number of dogs and cats**

- (1) Subject to the provisions of section 15, no person may, without the permission of the municipality, keep on any premises –
  - (a) more than two dogs; and
  - (b) more than two cats.
- (2) An application for permission in terms of subsection (1) must be submitted on an application form obtainable from the municipality and must contain an exposition of the breed, gender and number of dogs or cats applied for.
- (3) A restriction imposed under section 17 on the number of animals that may be kept on premises does not apply for a period of 10 weeks after the birth of a litter from an animal kept in terms of a permit.
- (4) A person who contravenes subsection (1) commits an offence.

**15. Breeders of dogs and cats**

- (1) A breeder of dogs who wishes to keep more than two dogs or a breeder of cats who wishes to keep more than two cats must obtain permission from the municipality.
- (2) An application in terms of subsection (1) must be submitted in the form prescribed by the municipality and must contain an exposition of the race, gender and number of dogs or cats applied for.
- (3) Plans and specifications of structures in which it is proposed to keep the dogs or cats as well as a site plan indicating all existing or proposed structures and fences on the premises for which the permit is required, must accompany the application in subsection (1) and such plans must be approved by the municipality.
- (4) A person who fails to obtain the permission of the municipality as contemplated in subsection (1) commits an offence.

**16. Breeders of pets**

- (1) A person who breeds with pets must obtain the approval of the municipality.

- (2) The provisions of section 15(2), (3) and (4) are with the necessary adjustment applicable to an application in terms subsection (1).
- (3) A person who contravenes subsection (1) commits an offence.

**17. Conditions and restrictions**

The municipality's consent in terms of sections 4, 14(1), 15(1) and 16(1) shall be granted subject to such conditions and restrictions as the municipality, in consultation with another responsible authority, may deem fit to impose.

**18. Withdrawal of permission**

- (1) Where a person contravenes or fails to adhere to a condition or restriction contemplated in section 17, the municipality may, after hearing that person, withdraw its consent and may order the removal of animals from the premises for care and safekeeping by an animal welfare organisation or pound.
- (2) Any costs incurred by the municipality for the removal and safekeeping of animals contemplated in subsection (1), shall be recovered from the owner or keeper of such animals.

**19. Dogs or cats in public places**

- (1) The owner or keeper of a dog or cat may not bring or allow it in a street or public place unless the dog is kept on a leash by a responsible person or the cat is under the physical control of the owner.
- (2) Except in the event of a blind person being led by a guide dog, a person in charge of a dog in a street or public place, must remove any faeces left by the dog by wrapping it in paper or plastic and disposing of it in a receptacle provided for litter or refuse.
- (3) A person who contravenes any of the provisions of subsection (1) or (2) commits an offence.

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

**20. Control of dogs**

- (1) No person may –
  - (a) permit a bitch on heat owned or kept by him or her to be in a street or public place without supervision;

- (b) urge a dog to attack, worry or frighten any person or animal, except where necessary for the defence of such first-mentioned person or his or her property;
  - (c) keep a dog if the premises where such a dog is kept, is not properly and adequately fenced to keep such dog inside when it is not on a leash; or
  - (d) permit a dog owned or kept by such person –
    - (i) to trespass on private property;
    - (ii) to constitute a hazard to traffic using any public road;
    - (iii) to constitute or to his knowledge be likely to constitute a source of danger or injury to a person outside the premises on which such dog is kept; or
    - (iv) to be a source of danger to employees of the municipality entering upon such premises for the purpose of carrying out their duties. A notice to the effect that a dog is being kept on such premises must be displayed in a conspicuous place.
  - (e) keep any dog which –
    - (i) by barking, yelping, howling or whining;
    - (ii) by having acquired the habit of charging any vehicles, animals, poultry, pigeons or persons outside any premises where it is kept; or
    - (iii) by behaving in any other manner, interferes materially with the ordinary comfort, convenience, peace or quiet of neighbours.
- (2) The municipality may seize and impound at a place designated by the municipality, a dog which is found in a street or public place in contravention with the provisions of this by-law.
- (3) A dog impounded in terms of subsection 2 may be released to the owner of such dog upon payment of a fee determined by the municipality.
- (4) A person who contravenes a provision of subsection (1) commits an offence.



**CHAPTER IV****DOG KENNELS, CATTERIES, PET SHOPS  
AND PET PARLOURS****21. Permission to operate**

- (1) No kennel, cattery, pet shop or pet parlour may be operated without the permission of the municipality, which permission may be subject to conditions.
- (2) Application for permission must be done on an application form obtainable from the municipality.
- (3) The person operating a kennel, cattery, pet shop or pet parlour may not conduct the business in such a manner so as to cause any nuisance or annoyance to other people.
- (4) A person who contravenes subsection (1) or (3) commits an offence.

**CHAPTER V****CO-OPERATION BETWEEN MUNICIPALITIES****22. Service delivery agreements**

In an effort to achieve optimal service delivery in terms of this by-law, the municipality may enter into agreements with the district municipality with which legislative and executive powers is shared, in respect of the following:

- (a) The practical arrangements with regard to the execution of the provisions of this by-law;
- (b) the imposition and enforcement of conditions with regard to any application in terms of this by-law, in so far as such conditions pertain to the functions and powers performed by the district municipality;
- (c) the recovery of costs and expenses related to any action in terms of this by-law;
- (d) subject to the provisions of section 86 of the Local Government: Municipal Structures Act, 2000 (Act 32 of 2000), mechanisms for the settlement of disputes with regard to execution of powers or functions in terms of this by-law or the matters on which have been agreed;
- (e) any other matter regarded necessary by the parties to achieve optimal service delivery in terms of this by-law.

**CHAPTER VI****POWERS OF MUNICIPALITY IN CASE OF OMISSION BY DISTRICT MUNICIPALITY****23. Failure or omission by District Municipality**

- (1) If the municipality is of the opinion that optimal service delivery referred to in section 22 in its area of jurisdiction is impeded by the refusal or omission by the district municipality to execute any of the practical arrangements envisaged in section 22(a), it may serve written notice on such district municipality to give effect or adhere to such arrangement within reasonable time, and upon failure to adhere to such notice, the municipality may proceed to give effect to such arrangement.
- (2) Any expenses or cost incurred by the municipality in giving effect to any arrangement referred to in subsection (1) may be recovered from the district municipality.

## **CHAPTER VII**

### **GENERAL PROVISIONS**

#### **24. Right of entry and inspection**

- (1) Any duly authorised employee of the municipality is authorised to inspect any premises within the municipal area in order to determine whether there is compliance with the provisions of this by-law.
- (2) When entering premises in terms of subsection (1), the authorised employee must on request by any person, identify him-/herself by producing written proof of authorisation.
- (3) The authorised employee may be accompanied by a person reasonably required to assist in conducting the inspection.
- (4) Any person who fails to give or refuses access to any authorised employee if he requests entrance on any land or premises, or obstructs or hinders him in the execution of his duties under this by-law, or who fails or refuses to give information that he may lawfully be required to give to such employee, or who gives false or misleading information knowing it to be false or misleading, shall be guilty of an offence.

#### **25. Service of documents and process**

- (1) Whenever a notice, order, demand or other document is authorised or required to be served on a person in terms of this by-law, it shall be deemed to have been effectively and sufficiently served on such person –
  - (a) when it has been delivered to him personally;
  - (b) when it has been left at his place of residence or business in the Republic with a person apparently over the age of sixteen years;
  - (c) when it has been posted by registered or certified mail to his last known residential or businesses address in the Republic and an acknowledgment of the posting thereof is produced;
  - (d) if his address in the Republic is unknown, when it has been served on his agent or representative in the Republic in the manner provided by paragraph (a), (b) or (c); or
  - (e) if his address and agent in the Republic are unknown, when it has been posted in a conspicuous place on the immovable property (if any) to which it relates.
- (2) When any notice, order, demand or other document as aforesaid is authorised or required to be served on a person by reason of his being or

having been the owner or occupier of or holding some other right in respect of immovable property, it shall not be necessary to name him but it shall be sufficient if he is therein described as the owner, occupier or holder of such immovable property or other right, as the case may be.

## **26. Transitional provisions**

A person who, at the commencement of this by-law, owns a larger number of animals than the number contemplated in section 4(2), may continue to keep such larger number of animals, but may not replace any animal in excess of that number should one or more of the animals die or be disposed of, unless permission is obtained from the municipality for exceeding that number.

## **27. Appeal**

- (1) A person whose rights are affected by a decision taken by a political structure, political office bearer, councillor or staff member of a municipality in terms of a power or duty delegated or sub-delegated by a delegating authority to the political structure, political office bearer, councillor or staff member, may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4).
- (3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (4) When the appeal is against a decision taken by –
  - (a) a staff member other than the municipal manager, the municipal manager is the appeal authority;
  - (b) the municipal manager, the executive committee or executive mayor is the appeal authority, or, if the municipality does not have an executive committee or executive mayor, the council of the municipality is the appeal authority; or
  - (c) a political structure or political office bearer, or a councillor –
    - (i) the municipal council is the appeal authority where the council comprises less than 15 councillors; or

- (ii) a committee of councillors who were not involved in the decision and appointed by the municipal council for this purpose is the appeal authority where the council comprises more than 14 councillors.
- (5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.
- (6) The provisions of this section do not detract from any appropriate appeal procedure provided for in any other applicable law.

## **28. Penalties**

A person who has committed an offence in terms of these by-laws is, upon conviction, liable to –

- (a) a fine or imprisonment, or to such imprisonment without the option of a fine or to both such fine and such imprisonment;
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued; and
- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

## **29. Exemptions**

Notwithstanding the provisions of this by-law, the municipality may exempt any person and/or class of persons from any or all of these requirements and may impose any other requirements it deems appropriate.

## **30. Repeal of by-laws**

Any by-laws relating to Prevention of Public Nuisances and Keeping of Animals adopted by the Council or any municipality now comprising part of the Walter Sisulu Local Municipality is repealed from the date of promulgation of this by-law.

## **31. Short title and commencement**

This by-law shall be known as the Prevention of Public Nuisances and Keeping of Animals by-law and shall come into operation on the date of publication thereof in the Provincial Gazette.



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[ ] Words in bold type in square brackets indicate omissions from existing enactments.

                     Words underlined with a solid line indicates insertions in existing enactments.

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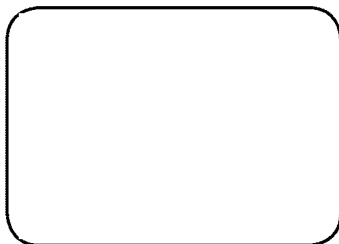
## **BY-LAW: REFUSE REMOVAL, REFUSE DUMPS AND SOLID WASTE DISPOSAL**

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

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## 1. Definitions

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

**"attendant"**, means an employee of the municipality or agent of the municipality duly authorized to be in charge of the disposal site;

**"municipality"** means the Walter Sisulu 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 authorized agent or any employee 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;

**"owner"** also means lessee, occupier, resident or any person who obtains a benefit from the premises or is entitled thereto and also includes any insolvent estate, executor, administrator, trustee, liquidator judicial manager;

**"premises"** means residential-, business-, and industrial premises and includes any land, whether vacant, occupied or with buildings thereon, forming part of a piece of land laid out as a township, irrespective of being proclaimed as a township;

**"removal day"** means the day fixed by the municipality for removal of waste from premises and depending on the case may be multiple removals per week;

**"waste"** includes -

(a) **"business waste"** which means any matter or substance arising out of the use of business premises but does not include, hazardous waste, material, domestic waste or garden waste;

(b) **"domestic waste"** which means any fruit or vegetable peels, fruit or vegetable waste, general domestic waste as well as garden waste which is of such size that it may be deposited in a refuse bin.

(c) **"garden waste"** which means waste originating from a gardening activity such as grass cutting, leaves, plants flowers or similar waste of such size that it can be placed in a refuse bin;

(d) **"hazardous waste"** which means any waste, matter or substance which may be hazardous or harmful to the environment and residents or which may pollute the environment including asbestos, motor oils or lubricants, or any other waste, matter or substance which constitutes hazardous waste;

(e) **"materials"** which means any stone, rock, sand, building materials or building rubble or any other type of composite or artificial materials such as plastic pipes and similar materials as well as materials which are utilized in the erection of buildings or structures or any other materials which constitute materials;

**"waste bin"** means a mobile container with a capacity determined by the municipality, or alternatively plastic bags, which the municipality may make available to each premises;

**"waste management activities"** means the generation, reduction and minimization of waste, waste handling, which includes the separation, storage, collection, and transfer of waste, and waste treatment, which includes the recovery of waste, recovery being the recycling, reclamation and re-use of waste, and disposal of waste, and any word to which a meaning has been assigned in the Environment Conservation Act, 1989 (Act 73 of 1989) and in the Directions with regard to the Control and Management of General Communal and General Small Waste Disposal Sites issued under the Act and published per GN R91 in Government Gazette No. 23053 dated 1<sup>st</sup> February 2002, bears that meaning.

## **2. PURPOSE OF BY-LAWS**

This by-law strive to promote the achievement of a safe and healthy environment for the benefit of residents within the area of jurisdiction of the municipality, and to provide for procedures, methods and practices to promote waste management activities such as, but not limited to, the dumping of waste and the management of solid waste disposal sites.

## **3. APPLICABLE LEGISLATION**

The Directions in terms of section 20(5)(b) of the Environment Conservation Act, 1989 (Act 73 of 1989) with regard to the Control and Management of General Communal and General Small Waste Disposal Sites as published in GN 91 in GG 23053 of 1 February 2002 apply.

#### **4. ESTABLISHMENT AND CONTROL OF DISPOSAL SITE**

The municipality may establish and control a disposal site, or may appoint agents or may contract some other person or body to control, manage and operate a disposal site on behalf of the municipality in accordance with the provisions of this by-law and the provisions of any other legislation that may be applicable.

#### **5. ACCESS TO DISPOSAL SITE**

- (1) Only a person wishing to dump waste who has paid the prescribed fees or who is in possession of a written permission issued by the municipality which permits him or her to dump such waste at a disposal site and a person having obtained the written consent of the municipality to recycle any materials or objects on such a site, is entitled to enter the disposal site or to be on the site.
- (2) Notwithstanding anything to the contrary contained in this by-law, any employee of the municipality or anybody acting on behalf of the municipality and duly authorized thereto, may enter a disposal site at any time in exercising his or her duties.
- (3) A person making use of the disposal site or entering the disposal site, do so at his or her own risk and the municipality accepts no responsibility for the safety of such person or any damages or losses sustained by such person.
- (4) A person who enters a disposal site or who is found on such a site in contravention of the provisions of this section commits an offence.

#### **6. OFF-LOADING OF WASTE**

- (1) A person who wishes to dump waste at a disposal site, must off-load such waste at such a place within the borders of the disposal site and in such a manner as the attendant may direct.
- (2) The municipality may-
  - (a) set aside any part of a disposal site where only waste of a particular kind may be dumped or deposited.

- (b) limit the type or size of vehicle from which waste may be dumped or deposited at any disposal site.
- (c) limit the quantity of waste in general or the quantity of a particular type of waste which may be dumped or deposited at any disposal site.
- (d) the days when and hours during which dumping may take place at any disposal site.
- (3) Any requirement imposed in terms of this by-law must be indicated to the public by means of an appropriate notice erected at the entrance of the disposal site concerned and any instruction issued by an official of the municipality or a person acting on behalf of the municipality in charge of access control at the dumping site, shall be strictly complied with.
- (4) The municipality reserves the right not to permit the dumping of toxic or offensive waste at a disposal site.
- (5) A person who contravenes any of the provisions of this section commits an offence.

## **7. OWNERSHIP OF WASTE**

- (1) Waste dumped at a disposal site, becomes the property of the municipality and no person who is not duly authorized by the municipality to do so may remove or interfere with such waste.
- (2) A person who contravenes subsection (1) commits an offence.

## **8. CATEGORIES OF WASTE**

The municipality may, for the purposes of this by-law, categorize waste into different categories.

## **9. SEPARATION OF WASTE**

The municipality may, for the purposes of this by-law, require that waste to be separated into different kinds and nature of waste.

## 10. PROVISION OF WASTE BINS

- (1) The municipality may -
    - (a) provide waste bins, or alternatively plastic bags, for the disposal of waste generated on premises; and
    - (b) Authorize the use of bins and lids constructed of rubber or other material where the design and construction has been approved by the municipality.
  - (2) Waste bins other than plastic bags provided in terms of subsection (1) remain the property of the municipality.
  - (3) The municipality may prescribe special waste bins for the reception and storage of such types of waste as the municipality may specify and may by written notice on the owner of premises require the owner to provide at his or her own expense such number of special waste bins as are specified in the notice.
  - (4) Where any waste bin provided on premises is -
    - a) of a size likely to hinder the efficient removal of waste there from by the officials of the municipality;
    - b) is insufficient for the reception of all waste which is to be removed from such premises by the municipality;
    - c) dilapidated; or
    - d) likely to cause a nuisance,
- 4.1 The municipality may by notice, require the owner of the premises to provide, at his or her own expense, an additional number of waste bins or such other means of storing receptacles as may be necessary to comply with the provisions of this by-law.
- (5) A waste bin shall be replaced as and when it is necessary, provided that where such waste bin has to be replaced as a result of theft or damage caused through the negligence of the owner, such owner shall be held liable for the cost of replacing it.

- (6) No person may dispose of any waste by placing it anywhere else than in a waste bin provided or approved by the municipality.
- (7) In respect of a group development the municipality may provide less waste bins per household subject to the following conditions -
  - a) a central refuse collection point must be provided by the managing body;
  - b) the managing body must apply in writing for the reduction of waste bins issued to the development;
  - c) the reduced number of bins must be approved by the municipality; and
  - d) the managing body shall be held liable for payment of the account for waste removal.
- (8) A person who contravenes a provision of subsection (6) or who fails to comply with a notice issued in terms of subsections (3) and (4) commits an offence.

#### **11. LOCATION OF WASTE BINS**

- (1) The owner of premises must provide adequate space on the premises where a waste bin or other receptacle for the purpose of depositing waste or a specific category of waste are kept, and the space must -
  - (a) comply with requirements imposed by the municipality by notice to the owner;
  - (b) where applicable, be constructed in accordance with the requirements of any applicable building regulations and be so located that the waste bin or receptacle is not visible from a street or public place;
  - (c) where applicable, be so located as to permit convenient access to and egress from such place for a waste collection vehicle; and
  - (d) be in a location convenient for the use by users or occupants of the premises so as to discourage littering or the unhealthy accumulation of waste.



- (2) In the case of multi-storey buildings, the municipality may approve the installation of refuse chutes of an approved design and specification, and subject to the submission and approval of the plans for such installation.
- (3) The owner of premises must place or cause the waste bins to be placed in the space provided and must at all times keep it there.
- (4) A person who contravenes a provision of subsection (1) or (3) commits an offence.

## **12. MAINTENANCE OF WASTE BINS**

- (1) The occupier of premises must ensure that a waste bin other than plastic bags is-
  - a) at all times maintained in good order and repair;
  - b) emptied and cleansed when full, so that its contents do not become a nuisance or provide grounds for complaint;
  - c) protected against unauthorized disturbance or interference at all times when waste is not being deposited into it or discharged from it.
- (2) No person may remove a waste bin from any premises to which it has been allocated or destroy or damage it, or permit it to be removed, destroyed or damaged.
- (3) A person who contravenes any provision of this section commits an offence.

## **13. COLLECTION OF WASTE**

- (1) The municipality may indicate a position within or outside the premises where waste bins must be placed for the collection and removal thereof and may require certain kinds of waste, such as garden waste, to be bundled or packaged and be placed in that position at the times and for a period as the municipality may require.
- (2) The municipality shall on removal days collect only waste placed in waste bin or other container approved by it or is which bundled or packaged in a manner approved by the municipality.

- (3) Where a particular kind of waste as stipulated by the municipality is not collected by the municipality from premises, the owner of the waste must arrange for the collection and transport of the waste as often as may be necessary to prevent undue accumulation or any nuisance arising there from, to a waste disposal or processing site under the control of the municipality, or to such other place as may be approved by the municipality.
- (4) The municipality may decide on separate times on which particular categories of waste are to be collected.
- (5) The municipality may -
  - (a) Cause collections to be made at regular periods daily or otherwise, and may alter dates of collection;
  - (b) Increase the number of collections as it may deem necessary or desirable; or
  - (c) Make additional collections should it be desirable.
- (6) In the event of any additional collection being required by the owner of premises, the additional collection will be subject to the approval of the municipality and each additional collection must be paid for by the owner of premises from which the waste is collected at the tariff prescribed by the municipality.
- (7) The municipality may, upon application by the owner of premises, approve alternative arrangements for removal of waste from such premises.
- (8) A person who contravenes the provisions of section (1) or (3) commits an offence.

#### **14. ACCESS TO PREMISES**

Except where otherwise approved by the municipality, the owner of premises must ensure that access from the nearest public road to the waste storage area on a premise is independent and unimpeded, and the owner who fails to do so, commits an offence.

#### **15. RIGHT OF ENTRY**

- (1) Any duly authorized employee of the municipality is entitled to enter premises in respect of which the municipality's waste management services are rendered at any reasonable time

on any day, or at any other time at which the service is ordinarily rendered for any of the following purposes:

- (a) for collecting and supervising the collection of waste;
  - (b) for replacing waste bins; or
  - (c) for inspecting the means of access to the premises, or the space where waste bins are kept so as to ensure that they are accessible and convenient for the collectors.
- (2) The owner of the premises may not refuse access to the premises by an employee of the municipality.
- (3) An owner of premises commits an offence if he or she -
- (a) denies access to the premises to an authorized employee of the municipality in the performance of his or her duties; or
  - (b) obstructs or impedes such employee of the municipality in the performance of his or her duties.

## **16. DUMPING AND LITTERING**

- (1) No person may -
- (a) except by permission of the owner or of the person or authority having control thereof; or
  - (b) unless authorized by law to do so, dump, accumulate, place, deposit or leave any waste whatsoever, whether for gain or otherwise, or cause or allow to be dumped, accumulated, placed, deposited or left such waste on or in -
    - (i) any road, highway, street, lane, public footway or pavement or any road verge;
    - (ii) any commonage land, village green, park, recreation ground or other open space to which the public have access;
    - (iii) any drain, watercourse, flood prone areas, tidal or other water in or abutting on any such road, highway, street, lane, public footway or pavement, roadside or other open space to which the public have access; or

(iv) private or municipal land,

(2) Should a person do any of the acts contemplated in subsection (1), the municipality may by written notice require any of the following persons to dispose of, destroy or remove the waste within the period stated in the notice:

(a) the person directly or indirectly responsible for dumping, accumulating, placing, depositing, or leaving the waste;

(b) the owner of the waste, whether or not he is responsible for dumping, accumulating, placing, depositing, or leaving the waste; or

(c) the owner of the premises on which the waste was dumped, accumulated, placed, deposited, or left, whether or not he or she is responsible therefor.

(3) If a person fails to comply with the requirements of a written notice, the municipality may dispose of, destroy or remove the waste and may recover the cost of doing so from the person or persons to whom the notice was issued.

(4) If waste has been deposited in or on any land in contravention of subsection (1) and-

(a) in order to remove or prevent pollution of land, water or air or harm to human health, it is necessary that the waste be forthwith removed or other steps taken to eliminate or reduce the consequences of the deposit or both; and

(b) there is no occupier of the land; or

(c) the owner neither made nor knowingly permitted the deposit of the waste, the municipality may remove the waste or take other steps to eliminate or reduce the consequences of the deposit and is entitled to recover the cost incurred by it-

(i) from the owner of the land unless he or she proves that he or she neither made nor knowingly caused nor knowingly permitted the deposit of the waste;  
or

(ii) from any person who deposited or knowingly caused or knowingly permitted the deposit of any of the waste.

(5) Any waste removed by the municipality belongs to the municipality and may be dealt with as the municipality deems fit.

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

## **17. BURNING OF WASTE**

No person may burn waste without the written approval of the municipality.

## **18. CHARGES**

(1) The municipality may fix the charges payable to it for the removal of waste from premises or the dumping of waste at a disposal site under the control of the municipality.

(2) A person who fails or refuses to pay the charges contemplated in subsection (1) commits an offence.

## **19. EXEMPTIONS**

(1) 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 provision of this bylaw.

(2) 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.

(3) 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), however, 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.

## **20. LIAISON FORUMS IN COMMUNITY**

- (1) The municipality may establish one or more liaison forums in a community for the purposes of-

- (a) creating conditions for a local community to participate in the affairs of the municipality; and
- (b) promoting the waste management activities of the municipality.

- (2) A liaison forum may consist of-

- (a) a member or members of an interest group, or an affected person, in the spirit of section 2(4)(f) - (h) of the National Environmental Management Act, 1998 (Act 107 of 1998);
- (b) a member or members of a community in whose immediate area a solid waste disposal site exists or may come be established;
- (c) a designated official or officials of the municipality;
- (d) a councilor; and
- (e) such other person or persons the municipality may decide on.

- (3) (a) The municipality may, when considering an application for consent, permit or exemption certificate in terms of this by-law, where applicable, request the input of a liaison forum.

- (b) A liaison forum, person or persons contemplated in subsection (2), or any other person may, on own initiative, having regard to the provisions of section 31 of the National Environmental Management Act, 1998, submit an input to the municipality for consideration.

## **21. AUTHENTICATION AND SERVICE OF ORDER, NOTICE OR OTHER DOCUMENT**

- (1) An order, notice or other document requiring authentication by the municipality must be sufficiently signed by the Municipal Manager and it shall be deemed to be duly issued if it is signed by the Municipal Manager.

- (2) Any notice or other document that is served on a person in terms of this bylaw is regarded as having been served -
- (a) when it has been delivered to that person personally;
  - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
  - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgment of the posting thereof from the postal service is obtained;
  - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
  - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates; or
  - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate.
- (3) Service of a copy shall be deemed to be service of the original.
- (4) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

## **22. APPEAL**

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



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[ ] Words in bold type in square brackets indicate omissions from existing enactments.

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## 2. PURPOSE OF BY-LAWS

This by-law strive to promote the achievement of a safe and healthy environment for the benefit of residents within the area of jurisdiction of the municipality, and to provide for procedures, methods and practices to promote waste management activities such as, but not limited to, the dumping of waste and the management of solid waste disposal sites.

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- (2) Notwithstanding anything to the contrary contained in this by-law, any employee of the municipality or anybody acting on behalf of the municipality and duly authorized thereto, may enter a disposal site at any time in exercising his or her duties.
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- (b) limit the type or size of vehicle from which waste may be dumped or deposited at any disposal site.
- (c) limit the quantity of waste in general or the quantity of a particular type of waste which may be dumped or deposited at any disposal site.
- (d) the days when and hours during which dumping may take place at any disposal site.
- (3) Any requirement imposed in terms of this by-law must be indicated to the public by means of an appropriate notice erected at the entrance of the disposal site concerned and any instruction issued by an official of the municipality or a person acting on behalf of the municipality in charge of access control at the dumping site, shall be strictly complied with.
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- (8) A person who contravenes a provision of subsection (6) or who fails to comply with a notice issued in terms of subsections (3) and (4) commits an offence.

## **11. LOCATION OF WASTE BINS**

- (1) The owner of premises must provide adequate space on the premises where a waste bin or other receptacle for the purpose of depositing waste or a specific category of waste are kept, and the space must -
  - (a) comply with requirements imposed by the municipality by notice to the owner;
  - (b) where applicable, be constructed in accordance with the requirements of any applicable building regulations and be so located that the waste bin or receptacle is not visible from a street or public place;
  - (c) where applicable, be so located as to permit convenient access to and egress from such place for a waste collection vehicle; and
  - (d) be in a location convenient for the use by users or occupants of the premises so as to discourage littering or the unhealthy accumulation of waste.

- (2) In the case of multi-storey buildings, the municipality may approve the installation of refuse chutes of an approved design and specification, and subject to the submission and approval of the plans for such installation.
- (3) The owner of premises must place or cause the waste bins to be placed in the space provided and must at all times keep it there.
- (4) A person who contravenes a provision of subsection (1) or (3) commits an offence.

## **12. MAINTENANCE OF WASTE BINS**

- (1) The occupier of premises must ensure that a waste bin other than plastic bags is-
  - a) at all times maintained in good order and repair;
  - b) emptied and cleansed when full, so that its contents do not become a nuisance or provide grounds for complaint;
  - c) protected against unauthorized disturbance or interference at all times when waste is not being deposited into it or discharged from it.
- (2) No person may remove a waste bin from any premises to which it has been allocated or destroy or damage it, or permit it to be removed, destroyed or damaged.
- (3) A person who contravenes any provision of this section commits an offence.

## **13. COLLECTION OF WASTE**

- (1) The municipality may indicate a position within or outside the premises where waste bins must be placed for the collection and removal thereof and may require certain kinds of waste, such as garden waste, to be bundled or packaged and be placed in that position at the times and for a period as the municipality may require.
- (2) The municipality shall on removal days collect only waste placed in waste bin or other container approved by it or is which bundled or packaged in a manner approved by the municipality.



- (3) Where a particular kind of waste as stipulated by the municipality is not collected by the municipality from premises, the owner of the waste must arrange for the collection and transport of the waste as often as may be necessary to prevent undue accumulation or any nuisance arising there from, to a waste disposal or processing site under the control of the municipality, or to such other place as may be approved by the municipality.
- (4) The municipality may decide on separate times on which particular categories of waste are to be collected.
- (5) The municipality may -
  - (a) Cause collections to be made at regular periods daily or otherwise, and may alter dates of collection;
  - (b) Increase the number of collections as it may deem necessary or desirable; or
  - (c) Make additional collections should it be desirable.
- (6) In the event of any additional collection being required by the owner of premises, the additional collection will be subject to the approval of the municipality and each additional collection must be paid for by the owner of premises from which the waste is collected at the tariff prescribed by the municipality.
- (7) The municipality may, upon application by the owner of premises, approve alternative arrangements for removal of waste from such premises.
- (8) A person who contravenes the provisions of section (1) or (3) commits an offence.

#### **14. ACCESS TO PREMISES**

Except where otherwise approved by the municipality, the owner of premises must ensure that access from the nearest public road to the waste storage area on a premise is independent and unimpeded, and the owner who fails to do so, commits an offence.

#### **15. RIGHT OF ENTRY**

- (1) Any duly authorized employee of the municipality is entitled to enter premises in respect of which the municipality's waste management services are rendered at any reasonable time

on any day, or at any other time at which the service is ordinarily rendered for any of the following purposes:

- (a) for collecting and supervising the collection of waste;
  - (b) for replacing waste bins; or
  - (c) for inspecting the means of access to the premises, or the space where waste bins are kept so as to ensure that they are accessible and convenient for the collectors.
- (2) The owner of the premises may not refuse access to the premises by an employee of the municipality.
- (3) An owner of premises commits an offence if he or she -
- (a) denies access to the premises to an authorized employee of the municipality in the performance of his or her duties; or
  - (b) obstructs or impedes such employee of the municipality in the performance of his or her duties.

## **16. DUMPING AND LITTERING**

- (1) No person may -
- (a) except by permission of the owner or of the person or authority having control thereof; or
  - (b) unless authorized by law to do so, dump, accumulate, place, deposit or leave any waste whatsoever, whether for gain or otherwise, or cause or allow to be dumped, accumulated, placed, deposited or left such waste on or in -
    - (i) any road, highway, street, lane, public footway or pavement or any road verge;
    - (ii) any commonage land, village green, park, recreation ground or other open space to which the public have access;
    - (iii) any drain, watercourse, flood prone areas, tidal or other water in or abutting on any such road, highway, street, lane, public footway or pavement, roadside or other open space to which the public have access; or

- (iv) private or municipal land,
- (2) Should a person do any of the acts contemplated in subsection (1), the municipality may by written notice require any of the following persons to dispose of, destroy or remove the waste within the period stated in the notice:
  - (a) the person directly or indirectly responsible for dumping, accumulating, placing, depositing, or leaving the waste;
  - (b) the owner of the waste, whether or not he is responsible for dumping, accumulating, placing, depositing, or leaving the waste; or
  - (c) the owner of the premises on which the waste was dumped, accumulated, placed, deposited, or left, whether or not he or she is responsible therefor.
- (3) If a person fails to comply with the requirements of a written notice, the municipality may dispose of, destroy or remove the waste and may recover the cost of doing so from the person or persons to whom the notice was issued.
- (4) If waste has been deposited in or on any land in contravention of subsection (1) and-
  - (a) in order to remove or prevent pollution of land, water or air or harm to human health, it is necessary that the waste be forthwith removed or other steps taken to eliminate or reduce the consequences of the deposit or both; and
  - (b) there is no occupier of the land; or
  - (c) the owner neither made nor knowingly permitted the deposit of the waste, the municipality may remove the waste or take other steps to eliminate or reduce the consequences of the deposit and is entitled to recover the cost incurred by it-
    - (i) from the owner of the land unless he or she proves that he or she neither made nor knowingly caused nor knowingly permitted the deposit of the waste; or

(ii) from any person who deposited or knowingly caused or knowingly permitted the deposit of any of the waste.

(5) Any waste removed by the municipality belongs to the municipality and may be dealt with as the municipality deems fit.

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

## **17. BURNING OF WASTE**

No person may burn waste without the written approval of the municipality.

## **18. CHARGES**

(1) The municipality may fix the charges payable to it for the removal of waste from premises or the dumping of waste at a disposal site under the control of the municipality.

(2) A person who fails or refuses to pay the charges contemplated in subsection (1) commits an offence.

## **19. EXEMPTIONS**

(1) 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 provision of this bylaw.

(2) 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.

(3) 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), however, 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.

## **20. LIAISON FORUMS IN COMMUNITY**

- (1) The municipality may establish one or more liaison forums in a community for the purposes of-

- (a) creating conditions for a local community to participate in the affairs of the municipality; and
- (b) promoting the waste management activities of the municipality.

- (2) A liaison forum may consist of-

- (a) a member or members of an interest group, or an affected person, in the spirit of section 2(4)(f) - (h) of the National Environmental Management Act, 1998 (Act 107 of 1998);
- (b) a member or members of a community in whose immediate area a solid waste disposal site exists or may come be established;
- (c) a designated official or officials of the municipality;
- (d) a councilor; and
- (e) such other person or persons the municipality may decide on.

- (3) (a) The municipality may, when considering an application for consent, permit or exemption certificate in terms of this by-law, where applicable, request the input of a liaison forum.

- (b) A liaison forum, person or persons contemplated in subsection (2), or any other person may, on own initiative, having regard to the provisions of section 31 of the National Environmental Management Act, 1998, submit an input to the municipality for consideration.

## **21. AUTHENTICATION AND SERVICE OF ORDER, NOTICE OR OTHER DOCUMENT**

- (1) An order, notice or other document requiring authentication by the municipality must be sufficiently signed by the Municipal Manager and it shall be deemed to be duly issued if it is signed by the Municipal Manager.

- (2) Any notice or other document that is served on a person in terms of this bylaw is regarded as having been served -
- (a) when it has been delivered to that person personally;
  - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
  - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgment of the posting thereof from the postal service is obtained;
  - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
  - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates; or
  - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate.
- (3) Service of a copy shall be deemed to be service of the original.
- (4) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

## **22. APPEAL**

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

**23. PENALTIES**

A person who has committed an offence in terms of this by-law shall be guilty of an offence and upon conviction, liable to a fine not exceeding R 1000 or imprisonment for a period not exceeding 30 days or to both the fine and the imprisonment

**24. REPEAL OF BY-LAWS**

Any by-laws relating to Refuse Removal, Refuse Dumps, Solid Waste Disposal adopted by the Council or any municipality now comprising part of the Walter Sisulu Local Municipality is repealed from the date of promulgation of this by – law.

**25. SHORT TITLE AND COMMENCEMENT**

This by-law may be cited as the Refuse Removal, Refuse Dumps and Solid Waste Disposal By-law, and commences on the date of publication thereof in the Provincial Gazette.

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**PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS**

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**PROVINCIAL NOTICE 224 OF 2019**

Nelson Mandela Bay Municipality (EASTERN CAPE)

Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act, 2013  
(Act 16 of 2013)

ERF 100 NEWTON PARK, PORT ELIZABETH, EASTERN CAPE

Under Section 47 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and upon instructions by the Local Authority, notice is hereby given that conditions A. and B.1., B.3., B.4., B.6., B.7., B.8., B.9. and B.10 in Deed of Transfer Number T1676/2018 applicable to Erf 100 Newton Park, Port Elizabeth, are hereby removed.

**PROVINCIAL NOTICE 225 OF 2019**

DR, BEYERS NAUDE MUNICIPALITY (EASTERN CAPE)

**Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)**

**ERF 3707, GRAAFF-REINET, EASTERN CAPE**

Under Section 47 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and upon instructions by the Local Authority, a notice is hereby given that conditions 6.(B) and 6(d) in deed of Transfer No. 68578/2013 applicable to Erf 3707, Graaff-Reinet is hereby removed.

**PROVINCIAL NOTICE 226 OF 2019**

Nelson Mandela Bay Municipality (EASTERN CAPE)

Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act, 2013  
(Act 16 of 2013)

ERF 2113 NEWTON PARK, PORT ELIZABETH, EASTERN CAPE

Under Section 47 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and upon instructions by the Local Authority, notice is hereby given that conditions C.1., C.2., C.3., C.5., C.6., C.7. and C.8. in Deed of Transfer No. T81300/2007 applicable to Erf 2113 Newton Park are hereby removed.

**PROVINCIAL NOTICE 227 OF 2019**

Nelson Mandela Bay Municipality (EASTERN CAPE)

Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act, 2013  
(Act 16 of 2013)

REMAINDER ERF 872 LORRAINE, PORT ELIZABETH, EASTERN CAPE

Under Section 47 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and upon instructions by the Local Authority, notice is hereby given that conditions A. and B.1.(a),(b),(c) in Deed of Transfer No. T103955/2005 applicable to Remainder Erf 872 Lorraine are hereby removed.

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**LOCAL AUTHORITY NOTICES • PLAASLIKE OWERHEIDS KENNISGEWINGS**

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**LOCAL AUTHORITY NOTICE 192 OF 2019****Buffalo City Metropolitan Municipality (EASTERN CAPE)****Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)****ERF 8698, EAST LONDON (42 HUDSON AVENUE, VINCENT).**

Under Section 47 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and upon instructions of by the Local Authority, a notice is hereby given that condition/s C. 4. (a, b, c & d) in Deed of Transfer No. T318/2006, applicable to Erf 8698, East London are hereby removed.

**LOCAL AUTHORITY NOTICE 193 OF 2019****Buffalo City Metropolitan Municipality (EASTERN CAPE)****Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)****ERF 1207, BEACON BAY (11 GRACE CRESCENT, BEACON BAY).**

Under Section 47 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and upon instructions of by the Local Authority, a notice is hereby given that condition/s C. 3. (a)-(d) in Deed of Transfer No. T6900/1992, applicable to Erf 1207, Beacon Bay are hereby removed.

**LOCAL AUTHORITY NOTICE 194 OF 2019****BUFFALO CITY METROPOLITAN MUNICIPALITY****SPLUMA, ACT 16 of 2013 : ERF 50525 EAST LONDON : REMOVAL OF RESTRICTIONS**

Under Section 47 (1) of the Spatial Planning and Land Use Management Act, No. 16 of 2013, read with Section 59 of the Buffalo City Metropolitan Municipal Spatial Planning and Land Use Management By-law of 2016, and upon instruction from the abovementioned municipality, notice is hereby given that, following application by the owner of Erf 50525 East London, conditions A.3.(i)(a)(b)(c)(d)&(ii), B.3. AND C.2. found in Deed of Transfer No. T 8039 / 1999, pertaining to Erf 50525 East London, are hereby removed.

**LOCAL AUTHORITY NOTICE 195 OF 2019****BUFFALO CITY METROPOLITAN MUNICIPALITY****SPLUMA, ACT 16 of 2013 : ERF 8688 EAST LONDON : REMOVAL OF RESTRICTIONS**

Under Section 47 (1) of the Spatial Planning and Land Use Management Act, No. 16 of 2013, read with Section 59 of the Buffalo City Metropolitan Municipal Spatial Planning and Land Use Management By-law of 2016, and upon instruction from the abovementioned municipality, notice is hereby given that, following application by the owner of Erf 8688 East London, conditions B.3.(a)(b)(c)(d) AND C.1.2.3.4.5.6. found in Deed of Transfer No. T 4374/2016, pertaining to Erf 8688 East London, are hereby removed.

**LOCAL AUTHORITY NOTICE 196 OF 2019**  
**KING SABATA DALINDYEBO MUNICIPALITY**



**NOTICE NO. 38 OF 2019**

**RESOLUTION LEVYING PROPERTY RATES FOR THE FINANCIAL YEAR 01 JULY 2019 TO 30 JUNE 2020**

Notice is hereby given in terms of section 14 (1) and (2) of Local Government: Municipal Property Rates Act, 2004 that the Council resolved by way of Council Resolution Number **SCM 497/05/19** on Friday 31 May 2019 to levy the rates on property reflected in the schedule below with effect from 01 July 2019.

	2018/2019	2019/2020	
<b>PROPERTY RATES AND LEVIES</b>			
<b>Proposed increment 2019/2020 5.4%</b>			
<b>General Rate</b>			
Domestic (cents in a Rand)	0.73916 Cents in a Rand	0.77907	Cents in a Rand
Business/ Commercial (cents in a Rand)	1.47832 Cents in a Rand	1.55815	Cents in a Rand
Government/ Parastatals (State Owned) (cents in a Rand)	2.03269 Cents in a Rand	2.14245	Cents in a Rand
Agricultural (cents in a Rand)	0.18609 Cents in a Rand	0.19614	Cents in a Rand
PSI (cents in a Rand)	0.18609 Cents in a Rand	0.19614	Cents in a Rand
Public Benefit Organisation	0.18609 Cents in a Rand	0.19614	Cents in a Rand
Parking Development Rate (cents in a Rand)	0.22843 Cents in a Rand	0.24077	Cents in a Rand
<b>Fire Levy</b>			
Domestic - Per annum	373.87	394.06	
Business/ Commercial Per Annum	672.99	709.34	

Full details of the Council resolution and rebates, reductions and exclusion specific to each article of owners of specific category of properties as determined through criteria in the Municipality's Rates Policy are available for inspection from the Municipality's offices, website ([www.ksdlm.co.za](http://www.ksdlm.co.za)) and all Public Libraries.

**N. PAKADE (MR)**  
**MUNICIPAL MANAGER**  
**26 JUNE 2019**