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<u>PLEASE TAKE NOTE: THAT THE LAST PUBLICATION OF THE PROVINCIAL GAZETTE FOR THE YEAR 2010 WILL BE ON 10 DECEMBER 2010. THE NEXT PUBLICATION WILL BE ON 14 JANUARY 2011</u>			
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PROVINCIAL NOTICES

[NO. 157 OF 2010]

NOTICE IN TERMS OF SECTION 14(2)(b)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: STANDARD DOGS AND CATS BY-LAWS

- [1.] I, MJ Zwane, Member of the Executive Council responsible for Cooperative Governance Traditional Affairs and Human Settlements in the Free State Province in terms of Section 14(2)(b) of the Local Government: Municipal Structures Act, 2000 (Act 32 of 2000) hereby publish standard draft by-laws as set out in the Schedule hereto for public comment.
- [2.] The public and interested parties are invited to submit comments in writing on these proposed standard draft by-laws by not later than 30 days from the date of publication of this notice, to:-

The Chief Director
Systems And Capacity Building
Department of Cooperative Governance
and Traditional Affairs
Local Government Branch
PO Box 211
BLOEMFONTEIN
9301

Comments may also be submitted by facsimile to number 086 698 8906 or by e-mail to

chohne@lgh.f.sgov.za

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**CHAPTER 1
INTERPRETATION**

Definitions

1. (1) In these By-laws, unless the context otherwise indicates –
 - "agricultural property"** means land zoned for agricultural use in terms of any of the Council's Town Planning Schemes or any other law;
 - "authorised official"** means any official of the Council who has been authorised by the Council to administer, implement and enforce the provisions of these By-laws ;
 - "cat"** means a male or a female cat;
 - "cat breeder"** means a person who is registered as a cat breeder with a cat breeders association;
 - "cattery"** means premises in or upon which –
 - (a) boarding facilities for cats are provided; or
 - (b) cats are bred for commercial purposes;
 - "Council"** means –
 - (a) the Local Municipality ofestablished in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), exercising its legislative and executive authority through its municipal Council ; or
 - (b) its successor in title; or
 - (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-laws has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000); or
 - (d) except for the purposes of sections 3 and 4, and the prescribing of a fee, a service provider fulfilling a responsibility under these By-laws assigned to it in terms of section 81(2) of the Local Government : Municipal Systems Act, 2000, or any other law;
 - "dog"** means a male or a female dog;
 - "dog breeder"** means a person who is registered as a dog breeder with a dog breeders association;
 - "dwelling house"** means a single building designed for use as a residence for a single family situated on premises containing not more than two such buildings;
 - "dwelling unit"** means an inter-connected suite of rooms including a kitchen or scullery designed for occupation by a single family, other than a dwelling house, irrespective of whether such unit is a single building or forms part of a building containing two or more such units;
 - "environmental health officer"** means an official appointed by the Council, and who is duly registered as an environmental health officer, or environmental health practitioner, with the Health Professions Council of South Africa in terms of section 17 of the Health Professions Act, 1974 (Act No. 56 of 1974);
 - "kennels"** means premises in or upon which –
 - (a) boarding facilities for dogs are provided;
 - (b) dogs are bred for commercial purposes;
 - (c) dogs are kept for the purposes of being trained or hired out with or without handlers; or
 - (d) dogs are kept for commercial security purposes;
 - "owner"**, in relation to a dog or cat, means any person who keeps a dog or cat or has a dog or cat in his or her possession or care or under his or her control or, in relation to a dog, on whose private premises a dog is present;
 - "pound"** means a place designated by the Council in terms of any law for the impounding, sale and destruction of dogs or cats or both;
 - "pound master"** means the person who has been appointed by the Council to be in charge of a pound;
 - "premises"** means any unit of land, whether built on or not and whether public or private;
 - "prescribed"** means prescribed by the Council from time to time by resolution; and
 - "public place"** means any road, street, thoroughfare, bridge, overhead bridge, subway, pavement, footpath, sidewalk, lane, square, open space, garden, park, path, bus or taxi rank, servitude or enclosed space vested in the Council and includes any road, place or thoroughfare which is in the undisturbed use of the public or which the public have the right to use.
- (2) If any provision in these By-laws vests or imposes any power, function or duty of the Council in or on any employee of the Council and such power, function or duty has in terms of section 81(2) of the Local Government : Municipal Systems Act, 2000, or any other law, been assigned to a service provider, the reference 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.

**CHAPTER 2
CONTROL OF DOGS**

Restriction on number of dogs

2. (1) Subject to the provisions of subsections (2) and (3), no person may keep more than –
 - (a) two dogs, or allow more than two dogs, over the age of six months to be kept in or at a dwelling unit;
 - (b) four dogs, or allow more than four dogs, over the age of six months to be kept in or at premises containing one or two dwelling houses;
 - (c) six dogs, or allow more than six dogs, over the age of six months to be kept on an agricultural property; or
 - (d) four dogs, or allow more than four dogs, over the age of six months to be kept on or at any other premises excluding a dwelling unit.

- (2) Subsection (1) does not apply to any person who –
- (a) is the holder of a permit issued in terms of section 3 to keep a greater number of dogs;
 - (b) is the owner or manager or is in charge of, a pet shop and who has written proof that all the dogs under the control of such owner or manager have been vaccinated against canine distemper, hepatitis, kennel cough and parvovirus;
 - (c) is the owner or is in charge of premises where guide dogs for the blind are being kept or trained;
 - (d) is blind or poor sighted, in respect of a guide dog kept by him or her;
 - (e) is the owner or manager of a veterinary clinic; or
 - (f) any person who is in charge of dogs owned by the Council as specified in paragraph (a) of the definition of "Council", the South African Police Service or the South African Defence Force, and are kept for operational or breeding purposes.

Permits to keep dogs

3. (1) Any person who wants to keep a greater number of dogs on premises than the number permitted in terms of section 2(1), must apply to the Council for a permit.
- (2) An application in terms of subsection (1) must be in writing on a prescribed form and must be accompanied by –
- (a) the prescribed fee;
 - (b) an affidavit by the applicant and other documentary evidence that the applicant has for a period of 14 days prior to the date of the application in a place on the premises concerned within one metre of, clearly visible from, a public street, displayed and maintained in a prescribed form, notice of his or her intention to apply for a permit in terms of subsection (1) and inviting inhabitants of the area to lodge with the applicant during such period, in writing, any objection to, or representations relating to, the granting of the application;
 - (c) a copy of any objection or representation lodged in terms of paragraph (b);
- (3) The Council may require the applicant to provide any further information which it considers relevant to enable it to make an informed decision.
- (4) The Council may refuse to consider an application in terms of subsection (1) in respect of which the provisions of subsection (2) have not been complied with or information contemplated in subsection (3), has not been furnished.
- (5) The Council may only consider an application in terms of subsection (1) after receipt of a written report from an environmental health officer –
- (a) as to whether the dog for which the permit is required is likely to cause a public health hazard or the keeping of such dog may result in a contravention of section 5;
 - (b) setting out the results of an inspection of the premises on which the dog concerned is being kept or to be kept.
- (6) The Council may refuse an application in terms of subsection (1) or approve it subject to any conditions aimed at reducing the risk of any public health hazard created by the dogs on the premises concerned occurring, continuing or recurring or to reduce such risk to a level acceptable to the Council.
- (7) The Council may publish guidelines in the Provincial Gazette which describe –
- (a) appropriate measures that can be taken and objects and materials that can be used, to eliminate the risk of any public health hazard occurring, continuing or recurring, or to reduce that risk to a level acceptable to the Council; and
 - (b) the circumstances in which taking these measures or using these objects or materials are acceptable to the Council.
- (8) If a person has applied for a permit in terms of subsection (1), such person may continue to keep the number of dogs on the premises that are not permitted in terms of section 2 in the absence of a permit, until the Council has informed him or her in writing of the outcome of such application.
- (9) In respect of any application approved in terms of subsection (6), an authorised official must issue a permit on a prescribed form specifying every condition imposed by the Council.
- (10) A permit issued in terms of subsection (9) is not transferable from one person to another or from the premises in respect of which it had been issued, to other premises.

Amendment, suspension and cancellation of permits

4. The Council may, subject to the provisions of the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), and after consideration of a report and recommendation of an environmental health officer or veterinary surgeon, by written notice to the holder of a permit contemplated in section 3 –
- (a) amend, suspend or cancel that permit if it is satisfied that failure to do so would result in –
 - (i) the creation or continuation of a public health hazard; or
 - (ii) a continued contravention of any provision of section 5;
 - (b) with immediate effect amend, suspend or cancel that permit if such officer is of the view that it is urgently necessary to do so to eliminate or reduce a significant risk to the public posed by a public health hazard or potential public health hazard.

Prohibitions relating to the keeping of dogs

5. No person may keep a dog –
- (a) which is wild, dangerous or ferocious to such an extent that the dog is a danger to any person who legally enters upon the premises on which the dog is kept;
 - (b) which barks, whimpers or howls to such an extent that it, or has another habit which, causes a disturbance or nuisance to inhabitants of the neighbourhood;
 - (c) which suffers from an infectious or contagious disease which, in the opinion of a veterinary surgeon, is of such a nature that such dog cannot be beneficially treated or boarded at a veterinary clinic;
 - (d) on premises which are not fenced in such a manner that the dog is at all times confined to the premises, unless the dog is confined to the premises in some other manner.

Dogs in public places

6. (1) Subject to any provision to the contrary in these By-laws or any other law, no person may bring or allow a dog into any public place if that dog –
- (a) is wild, dangerous or ferocious;
 - (b) is in a habit of charging at or chasing people or vehicles; or
 - (c) is an unsterilised female dog which is on heat.
- (2) No person may permit any dog to be in a public place unless it is kept on a leash and under control of a person.
- (3) Any person in control of a dog in a public place, excluding a blind or poor sighted person who is led by a guide-dog, must remove any defecation of such dog.

Prohibited behaviour in respect of dogs

7. (1) No person may without reasonable grounds –
- (a) incite a dog against a person, animal or bird; or
 - (b) allow a dog in his or her custody or under his or her control to attack or threaten any person, animal or bird.
- (2) No person may provoke, harass or tease any dog.
- (3) No person may terrify or cause stress or fear to any dog with fireworks or by any other means.

Council's power to sterilise dogs

8. The Council may sterilise –
- (a) a dog at the request of its owner, subject to payment of the costs thereof by the owner; and
 - (b) a stray dog, and recover the costs thereof from the owner of such dog.

CHAPTER 3 CONTROL OF CATS

Restriction on number of cats

9. (1) Subject to the provisions of subsection (2), no person may keep more than –
- (a) two cats, or allow more than two cats, over the age of six months to be kept in or at a dwelling unit;
 - (b) four cats, or allow more than four cats, over the age of six months to be kept in or at premises containing one or two dwelling houses; or
 - (c) six cats, or allow more than six cats, to be kept on an agricultural property.
- (2) (a) The provisions of section 2(2) and (3), except paragraph (c) of subsection (3), read with the necessary changes, apply in respect of subsection (1);
- (b) For the purpose of applying the provisions of Section 2 (3) in terms of paragraph (a) –
- (i) paragraph (b) thereof is deemed to refer to a cattery; and
 - (ii) paragraph (c) thereof is deemed to refer to cat flu and feline respiratory diseases.
- (3) The provisions of sections 3 and 4, read with the necessary changes, apply in respect of permits with regard to cats.

Council's powers to sterilise cats

10. The Council may sterilise –
- (a) a tom cat or a she cat at the request of its owner, subject to payment of the costs thereof by the owner; and
 - (b) a stray tom cat or she cat, and recover the costs thereof from the owner.

CHAPTER 4 IMPOUNDING OF DOGS AND CATS

Duties of pound master

11. A pound master –
- (a) (i) must keep the pound open between 08:00 and 16:30 from Monday to Friday and Saturday between 08:00 and 12:00 unless any such day is a public holiday;
 - (ii) may notwithstanding the provisions of subparagraph (i), keep the pound open during such earlier or later hours as he considers necessary, subject to displaying an easily legible notice to that effect at the entrance to the pound and on the Council's official notice board.

- (b) must accept, take charge of and impound any dog or cat brought to the pound with a view to impounding it, during the hours when the pound is open and must, subject to the further provisions of this Chapter, detain that dog or cat in the pound: Provided that the pound master may refuse to receive, or may release, any dog or cat if he or she reasonably believes that such dog or cat was not lawfully taken into custody or impounded;
- (c) Must keep a register in which the following particulars in respect of every impounded dog or cat are recorded :
- (i) the name of the authorised official or the name, residential address and telephone number of any other person, who brought the dog or cat to be impounded;
 - (ii) the time at which and date on which the dog or cat was impounded;
 - (iii) the place where the dog or cat was found immediately before it was taken into custody;
 - (iv) the date on which and the time at which the dog or cat was taken into custody before being brought to the pound;
 - (v) the reason for impounding the dog or cat;
 - (vi) a description of the dog or cat indicating the estimated age, breed, sex, colour, markings and any injury found on the dog or cat when the pound master accepted it;
 - (vii) whether the dog or cat was released, sold or destroyed and the date and time of such release, sale or destruction;
 - (viii) the amount or money realised in respect of such release or sale;
 - (ix) the amount of veterinary expenses, if any, incurred in respect of the dog or cat;
- (d) must ensure that the pound and all equipment used in connection with impounding dogs and cats are at all times kept in a clean condition and free from flies and other vermin, to the satisfaction of the Council's Director: Health;
- (e) must ensure that every dog and cat in the pound is properly fed and cared for;
- (f) must isolate any female dog or cat on heat;
- (g) must take all reasonable steps to prevent fighting amongst dogs or cats in the pound;
- (h) must isolate any diseased dog or cat from the healthy dogs or cats, have such dog or cat attended to by a veterinarian and take all steps to recover the expenses incurred in this regard from the owner if the identity and address of the owner are known;
- (i) must take all necessary steps to have any dog or cat destroyed as contemplated in section 15 and recover any expenses incurred in this regard from the owner if the identity and address of the owner are known; and
- (j) must levy the prescribed fees for impoundment and daily holding fees in respect of any dog or cat.

Taking dogs into custody

12. (1) An authorised official or an employee authorised thereto by a person, body or structure contemplated in paragraph (c) or (d) of the definition of "Council" may, for the purpose of having a dog impounded, take into custody any dog which –
- (a) is at large and apparently ownerless;
 - (b) suffers from an infectious or contagious disease;
 - (c) is found in a public place and is not on a leash and in the control of a person;
 - (d) overturns, damages or tears any refuse receptacle or refuse bag;
 - (e) is brought into a public place in contravention of the provisions of section 6;
 - (f) is being kept in contravention of the provisions of section 2 or 5; or
 - (g) enters any premises in an effort to escape being taken into custody.
- (2) Any person may on premises of which he or she is the owner or occupier, take into custody any dog found trespassing thereon or therein for the purpose of having it impounded.
- (3) Notwithstanding the provisions of subsections (1) and (2), no person may take any dog into custody for the purpose of having it impounded if there are reasonable grounds to believe that the dog is a female dog with unweaned young, unless such dog and unweaned young are taken into custody together.
- (4) Any person who has taken a dog into custody in terms of this section –
- (a) must ensure that the dog is not ill-treated; and
 - (b) may, when the pound is closed, keep the dog in his or her custody until the pound re-opens.
- (5) No person may free any dog which has been taken into custody, or is being kept in custody in terms of this section or which has been impounded, in terms of section 11.

Taking cats into custody

- 13 (1) An authorised official or an employee authorised thereto by a person, body or structure contemplated in paragraph (c) or (d) of the definition of "Council" may, for the purpose of having a cat impounded, take into custody any cat which is kept in contravention of section 9.
- (2) The provisions of section 12 (1) (a), (b), (d) and (g) and section 12(2), (3), (4) and (5), read with the necessary changes, apply to the taking into custody of cats.

Claiming of impounded dogs and cats

14. (1) Any person may claim an impounded dog or cat if he or she –

- (a) satisfies the pound master that he or she is the owner or is otherwise entitled to the custody of the dog or cat concerned;
 - (b) satisfies the pound master that releasing the dog or cat into his or her custody will not result in any provision of section 2, 5 or 9 being contravened; and
 - (c) pays to the pound master the prescribed fees and the amount of veterinary expenses, if any, incurred in respect of the dog or cat.
- (2) The pound master must, if the provisions of subsection (1) have been complied with, surrender the dog or cat concerned to the person claiming it.

Destruction or sale of unclaimed dogs and cats

15. (1) If an impounded dog or cat is not claimed by a person entitled thereto within 96 hours after the dog or cat has been impounded, the pound master may in the manner prescribed in section 5(1) of the Animals Protection Act, 1962 (Act No. 71 of 1962), destroy such dog or cat or cause it to be destroyed, or may sell such dog or cat or cause it to be sold.
- (2) Unless the Council has instructed the pound master to the contrary, he or she must have any unsterilised dog or cat sterilised before it is sold in terms of subsection (1) and may recover the costs incurred from the buyer.

CHAPTER 5 MISCELLANEOUS

Designation of authorised officials

16. The Council may designate any authorised official to execute work, conduct any inspection and monitor and enforce compliance with these By-laws.

Offences and penalties

17. Any person who –
- (a) contravenes or fails to comply with any provision of these By-laws; or
 - (b) fails to comply with any notice issued for the purposes of these By-laws; or
 - (c) fails to comply with any lawful instruction given for the purposes of these By-laws; or
 - (d) obstructs or hinders any authorised official or employee of the Council in the execution of his or her duties under these By-laws,
- is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding six months and in the case of a continuing offence, to a further fine not exceeding R50, or in default of payment to imprisonment not exceeding one day, for every day during the continuance of such offence after a written notice has been issued by the Council and served on the person concerned requiring the discontinuance of such offence.

Application to the State and Council

18. These By-laws bind the State and the Council.

Repeal

19. Any by-laws relating to dogs and cats adopted by the municipality or any municipality now comprising an administrative unit of the Council is repealed from the date of promulgation of these by-laws.

Short title

20. These By-laws are called the Dogs and Cats By laws, 201...

[NO. 158 OF 2010]

NOTICE IN TERMS OF SECTION 14(2)(b)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: STANDARD DUMPING AND LITTERING BY-LAW

- [1.] I, MJ Zwane, Member of the Executive Council responsible for Cooperative Governance Traditional Affairs and Human Settlements in the Free State Province in terms of Section 14(2)(b) of the Local Government: Municipal Structures Act, 2000 (Act 32 of 2000) hereby publish standard draft by-laws as set out in the Schedule hereto for public comment.
- [2.] The public and interested parties are invited to submit comments in writing on these proposed standard draft by-laws by not later than 30 days from the date of publication of this notice, to:-

The Chief Director
 Systems And Capacity Building
 Department of Cooperative Governance
 and Traditional Affairs
 Local Government Branch
 PO Box 211
 BLOEMFONTEIN
 9301

Comments may also be submitted by facsimile to number 086 698 8906 or by e-mail to

chohne@lgh.f.sgov.za

SCHEDULE

DUMPING AND LITTERING BY-LAW

DEFINITIONS

1. In this by-law, unless the context indicates otherwise—

"council" means the Local Municipality or its successor(s) in-law or any officer employed by the Council or any committee designated by the Council, acting by virtue of a delegated authority vested in him/her or it by the Council in connection with these By-laws.

"dump" means to dispose of waste in any manner other than a manner permitted by law and includes, without derogating from the generality of the a foregoing, to deposit, discharge, spill or release waste, whether or not the waste is in a container or receptacle, in or at any place whatsoever, whether publicly or privately owned, including but not limited to vacant land, rivers, waterways, catchments and sewage and storm water systems. The act of "littering", which retains its ordinary meaning, is excluded from the definition of "dump";

"municipality" means the Local Municipality established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"person" includes a natural person, company, closed corporation, trust, association and partnership;

"waste" means any matter, whether liquid or solid or a combination thereof, which is a by-product, emission, residue or remainder of any product, process or activity and which has been discarded, but excludes any radioactive matter.

DUMPING AND LITTERING

2. (1) No person may—

- (a) litter or cause or permit littering of waste;
- (b) dump or cause or permit the dumping of waste.

(2) If the provisions of subsection (1) are contravened, Council may direct, by way of a written notice in terms of subsection (5),

- (a) any person who committed, or who directly or indirectly caused or permitted, the contravention;
- (b) the generator of the waste, whether or not the generator is responsible for the contravention;
- (c) the owner of the land or premises where the contravention took place, if the owner failed to take the steps set out in subsection (3);
- (d) the person in control of, or any person who has or had, at the time of the contravention, a right to use, the land or premises where the contravention took place, if that person failed to take the steps set out in subsection (3);
- (e) any person who negligently failed to prevent the contravention from taking place;

to cease the contravention in a specified time, or to prevent a further contravention or the continuation of the contravention, and to take whatever steps Council considers necessary to clean up or remove the waste, to rehabilitate the affected facets of the environment and to ensure that the waste, and any contaminated material which cannot be cleaned or rehabilitated, is disposed of lawfully.

(3) A person who owns land or premises, or who is in control of or has a right to use land or premises, may not use or permit the use of the land or premises for unlawful dumping of waste and must take reasonable steps to prevent the use of the land or premises for this purpose.

(4) Council may issue notices—

- (a) for the purposes of giving directions in terms of subsection (2);
- (b) for compelling persons to comply with their obligations under subsections (3); and
- (c) for any other purpose under this by-law, and may, in the notice, specify a reasonable time within which the directions given in the notice must be complied with.

- (5) In addition, or as an alternative to, the steps set out in subsection (2), or if a person fails to comply with directions given in a notice issued under subsection (4), Council may itself take whatever steps it considers necessary to clean up or remove the waste, to rehabilitate the premises or place and affected facets of the environment at which the waste has been dumped and to ensure that the waste, and any contaminated material which cannot be cleaned or rehabilitated, is disposed of lawfully. Council may then recover the costs of taking these steps from any of the persons listed in subsection (2), who shall be jointly and severally liable therefore.
- (6) The costs claimed under subsection (5) must be reasonable and may include, but are not limited to, labour, administrative, overhead, investigation and prosecution costs.

OFFENCES

3. Any person who contravenes section is guilty of an offence.

PENALTIES AND CONVICTIONS

4. (1) Any person guilty of an offence under section 3 is liable to a fine or imprisonment for a period not exceeding one year, or to both a fine and such imprisonment.
- (2) A court convicting a person of a first offence under this by-law may impose a sentence of community service in place of a fine or imprisonment.
- (3) A court may, when considering sentence, take into account as aggravating circumstances that, inter alia—
- (a) a convicted person has delayed in complying with the terms of any notice or directions given to the person under this by-law;
- (b) a financial advantage was or would have been gained by a convicted person in consequence of the commission of the offence.
- (c) the dumped waste posed a potential or actual threat to public health, public safety or the environment.
- (4) If a person is convicted of an offence under this by-law which has caused damage to or loss of property or which has had an adverse impact on the environment then, in addition to any other sentence it imposes, the court may—
- (a) if the property belongs to another person, and on the application of the injured person or the prosecutor acting on the instructions of the injured person, order the convicted person to pay the injured person compensation for the damage or loss in accordance with section 300 of the Criminal Procedure Act, 51 of 1977;
- (b) order the convicted person to, at his or her cost, and to the satisfaction of the Council, repair the damage and/or make good the loss and/or rehabilitate the environment.
- (5) If a person is convicted of an offence under this by-law, the court may, in addition to any other punishment which it imposes, issue an order compelling the person to comply, within a period determined by the court, with the relevant provisions of this by-law or, where applicable, with the relevant provisions of any notice issued under this by-law.
- (6) If—
- (a) a manager, agent or employee does or omits to do an act which it was his or her duty to do or refrain from doing and which, under this by-law, is an offence for the employer to do or refrain from doing; and
- (b) the act or the omission of the manager, agent or employee took place because the employer failed to take all reasonable steps to prevent the act or omission, then the employer is guilty of the offence and proof of the act or omission by the manager, agent or employer is prima facie evidence that the employer is guilty under this subsection; provided that no penalty other than a fine shall be imposed if a conviction is based on this subsection.

REPEAL OF BY-LAWS

5. Any by-laws relating to dumping and littering adopted by the municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these bylaws.

SHORT TITLE

6. This by-law is called the Dumping and Littering By-law, 20..

[NO. 159 OF 2010]

NOTICE IN TERMS OF SECTION 14(2)(b)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: STANDARD ELECTRICITY SUPPLY BY-LAWS

- [1.] I, MJ Zwane, Member of the Executive Council responsible for Cooperative Governance Traditional Affairs and Human Settlements in the Free State Province in terms of Section 14(2)(b) of the Local Government: Municipal Structures Act, 2000 (Act No. 32 of 2000) hereby publish standard draft by-laws as set out in the Schedule hereto for public comment.

- [2.] The public and interested parties are invited to submit comments in writing on these proposed standard draft by-laws by not later than 30 days from the date of publication of this notice, to:-

The Chief Director
Systems And Capacity Building
Department of Cooperative Governance
and Traditional Affairs
Local Government Branch
PO Box 211
BLOEMFONTEIN
9301

Comments may also be submitted by facsimile to number 086 698 8906 or by e-mail to

chohne@lgh.f.sgov.za

SCHEDULE

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CHAPTER 1: GENERAL

Definitions

1. For the purpose of these by-laws, any word or expressions to which a meaning has been assigned in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and referred to in these by-laws as the Systems Act, must bear the same meaning in these by-laws, and unless the context indicates otherwise—
 - “**accredited person**” means a person registered in terms of the Regulations as an electrical tester for single phase, an installation electrician or a master installation electrician, as the case may be;
 - “**applicable standard specification**” means the standard specifications as listed in Schedule 2 of these by-laws;
 - “**authorised official**” means a person authorised by the municipality in terms of these by-laws to execute work, conduct an inspection and monitor and enforce compliance with these by-laws;
 - “**certificate of compliance**” means a certificate issued in terms of the Regulations in respect of an electrical installation or part of an electrical installation by an accredited person;
 - “**consumer**” in relation to premises means—
 - (a) any occupier of premises or any other person with whom the municipality has contracted to supply, or is actually supplying, electricity at those premises; or
 - (b) if premises are not occupied, any person who has a valid existing agreement with the municipality for the supply of electricity to those premises; or
 - (c) if there is no such person or occupier, the owner of the premises;

- “**credit meter**” means a meter where an account is issued subsequent to the consumption of electricity;
- “**electrical contractor**” means an electrical contractor as defined in the Regulations;
- “**electrical installation**” means an electrical installation as defined in the Regulations;
- “**high voltage**” means the set of nominal voltage levels that are used in power systems for bulk transmission of electricity in the range of 44kV to 220 kV;
- “**low voltage**” means the set of nominal voltage levels that are used for the distribution of electricity and whose upper limit is generally accepted to be an ac voltage of 1000V (or a dc voltage of 1500 V);
- “**medium voltage**” means the set of nominal voltage levels that lie above low voltage and below high voltage in the range of 1 kV to 44 kV;
- “**meter**” means a device which records the demand or the electrical energy consumed and includes conventional and prepayment meters;
- “**motor load, total connected**” means the sum total of the kW input ratings of all the individual motors connected to an installation;
- “**motor rating**” means the maximum continuous kW output of a motor as stated on the maker’s rating plate;
- “**motor starting current**” in relation to alternating current motors means the root mean square value of the symmetrical current taken by a motor when energised at its rated voltage with its starter in the starting position and the rotor locked;
- “**municipality**” means the Local Municipality established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;
- “**municipal manager**” means the municipal manager as defined in section 82(1)(a) of the Structures Act;
- “**occupier**” includes any person in actual occupation of the land or premises without regard to the title under which he occupies, and, in the case of premises, or parts of premises, let to a lodger or any other person, includes the person receiving the rent payable by a lodger or any other person whether for himself or as an agent for any other person;
- “**owner**” includes any person that has the title to any premises or land, or any person receiving the rent or profits for allowing the occupation or use of any land, premises or part of any premises who would receive such rent or profit if the land or premises were let or used whether he does so himself or for another;
- “**point of consumption**” means a point of consumption as defined in the Regulations;
- “**point of metering**” means the point at which the consumer’s consumption of electricity is metered and which may be at the point of supply or at any other point on the distribution system of the municipality or the electrical installation of the consumer, as specified by the municipality or any authorised official; provided that it must meter all of, and only, the consumer’s consumption of electricity;
- “**point of supply**” means the point determined by the municipality or any authorised official at which electricity is supplied to any premises by the municipality;
- “**premises**” means any land, or any part of, any building or structure above or below ground level and includes any vehicle, aircraft or vessel;
- “**prepayment meter**” means a meter that can be programmed to allow the flow of pre-purchased amounts of energy in an electrical circuit;
- “**Regulations**” means Regulations made in terms of the Occupational Health and Safety Act, 1993 (Act 85 of 1993), as amended from time to time;
- “**SANS Codes**” means the South African National Standards Codes or the South African Bureau of Standards Codes as defined in Regulation No 1373 published in Government Gazette 24002, dated 8 November 2002 in terms of the Standards Act, 1993 (Act 29 of 1993) or as may be published in the future in terms of that Act;
- “**safety standard**” means the Code of Practice for the Wiring of Premises SANS 0142 incorporated in the Regulations;
- “**service connection**” means all cables and equipment required to connect the supply mains to the electrical installation of the consumer at the point of supply;
- “**service delivery agreement**” means an agreement between the municipality and a service provider in terms of which the service provider is required to provide electricity services;
- “**service provider**” means any person who has entered into a service delivery agreement with the municipality in terms of section 81(2) of the Systems Act;
- “**service protective device**” means any fuse or circuit breaker installed for the purpose of protecting the municipality’s equipment from overloads or faults occurring on the installation or on the internal service connection;
- “**standby supply**” means an alternative electricity supply not normally used by the consumer;
- “**supply mains**” means any part of the municipality’s electricity network;
- “**Structures Act**” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998)
- “**Systems Act**” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);
- “**tariff**” means the charge to users for the provision of electricity services or for any related charge, determined and promulgated by the municipality, or adjusted by a service provider, in terms of Tariff Policy by-laws adopted under section 75 of the Systems Act;
- “**token**” means the essential element of a prepayment metering system used to transfer information from a point of sale for electricity credit to a prepayment meter and vice versa; and
- “**voltage**” means the root-mean-square value of electrical potential between two conductors.

CHAPTER 2: GENERAL CONDITIONS OF SUPPLY

The Provision of Electricity Services

2. (1) The municipality must take reasonable measures within its available resources progressively to ensure regular access by the local community to electricity services-
- (a) In planning for and setting service standards and levels of service for the provision of electricity services, and
 - (b) In providing electricity services -
- the municipality may differentiate between geographical areas and categories of users within the local community but, in doing so, the municipality must comply with national legislation and in particular the requirements of section 73 of the Systems Act.

Exclusive Provision of Electricity Services

3. Save for Eskom Limited, providing electricity services under the Electricity Act, 1987 (Act No. 41 of 1987), only the municipality may supply or contract for the supply of electricity services within its jurisdiction.

Supply by agreement

4. (1) No person must use or be entitled to use electricity supplied by the municipality or service provider unless or until he or she has entered into an electricity supply agreement in writing with the municipality or service provider for the provision of electricity services
- (2) The provisions of an agreement relating to the supply of electricity services (henceforth the "Electricity Supply Agreement") together with the provisions of these by-laws must in all respects govern electricity supply.
- (3) A person who uses an electricity supply without entering into an electricity supply agreement is liable for the cost of electricity used as stated in section 38 of these by-laws notwithstanding the fact that he or she has not entered into an agreement.

Application for Supply

5. (1) Application for the supply of electricity services must be made in writing by the prospective consumer on the prescribed form obtainable at the office of the municipality, and the estimated load, in kVA, of the installation, must be stated in the form.
- (2) An application made under subsection (1) must be made as early as possible before the supply of electricity is required in order to facilitate the work of the Municipality.
- (3) An application for the supply of electricity services for a period of less than one year must be regarded as an application for a temporary supply of electricity and must be considered at the discretion of the municipality, which may specify any special conditions to be satisfied in such a case.

Processing of Requests for Supply

6. Applications for the supply of electricity may be processed and the supply made available within the periods stipulated in NRS 047.

Permission to Use Property

7. (1) The municipality may refuse to lay or erect a service connection above or below ground on any thoroughfare or land not vested in the municipality, or on any private property, unless and until the prospective consumer has obtained and deposited with the municipality written permission granted by the owner of the private property or by the person in whom is vested the legal title to the land or thoroughfare, as the case may be, authorising the laying or erection of the service connection on the property.
- (2) If permission under subsection (1) is withdrawn at any time, or if the private property or thoroughfare changes, and the new owner refuses to grant or continue such permission, the cost of any alteration required to be made to a service connection in order that the supply of electricity may be continued, as well as that of any removal of a connection which may become necessary in the circumstances, must be borne by the consumer to whose premises the supply of electricity is required to be continued.

Statutory Servitude

8. (1) Subject to the provisions of subsection (3) and in order to provide, establish and maintain electricity services within its municipal area, the municipality may—
- (a) acquire, construct, lay, extend, enlarge, divert, maintain, repair, discontinue the use of, and close up and destroy electricity supply mains;
 - (b) construct, erect or lay any electricity supply main on, across, through, over or under any street or immovable property and the ownership of any such main must vest in the municipality;
 - (c) do any other thing necessary or desirable for or incidental, supplementary or ancillary to any matter contemplated by paragraphs (a) to (c).

- (2) If the municipality constructs, erects or lays any electricity supply main on, across, through, over or under any street or immovable property neither owned by the municipality nor under the control or management of the municipality, it must pay the owner of the street or property compensation in an amount agreed upon by the affected owner and the municipality or, in the absence of agreement, compensation determined either by arbitration or a court of competent jurisdiction.
- (3) The municipality must, before commencing any work other than repairs or maintenance, on or in connection with any electricity supply main on or under immovable property not owned by the municipality or not under the control or management of the municipality, give the owner or occupier of the property reasonable notice of the proposed work and the date on which it proposes to commence its work.

Improper Use

9. (1) If the consumer uses electricity for any purpose, or deals with it in any manner, which the municipality has reasonable grounds for believing interferes in an improper or unsafe manner, or is calculated to interfere in an improper or unsafe manner, with the efficient supply of electricity to any other consumer, the municipality may, with reasonable notice, disconnect the electricity supply but such supply must be restored as soon as the cause for the disconnection has been permanently remedied or removed: Provided that the consumer has been given reasonable notice of the intention to disconnect, and the reasons for doing so, and an adequate opportunity to make representations as to why it should not be disconnected, unless in the opinion of the municipal manager it would be unsafe to do so in the circumstances.
- (2) The fee as prescribed by the municipality for the disconnection and reconnection must be paid by the consumer before the electricity supply is restored, unless it can be shown by the consumer that the consumer did not use or deal with the electricity in an improper or unsafe manner.

Deposits

10. (1) The municipality reserves the right to require the consumer to deposit a sum of money as security in payment of any charges which are due or may become due to it.
- (2) The amount of the deposit in respect of each electricity installation must be determined by the municipality, and each such deposit may be increased if the municipality considers the deposit held to be inadequate.
- (3) Deposits paid under this section must not be regarded as being in payment or part payment of any accounts due for the supply of electricity for the purpose of obtaining any discount provided for in the electricity tariff referred to in this by-law.
- (4) On cessation of the supply of electricity, the amount of such a deposit, free of any interest, less any payments due to the municipality, must be refunded to the consumer by the municipality.

Payment of Charges

11. (1) The consumer is liable to pay for the provision of electricity services according to the tariff, a copy of which is obtainable free of charge from the municipality.
- (2) All accounts are due and payable when issued by the municipality and each account must, on its face, reflect the due date and a warning indicating that the supply of electricity may be disconnected should the charges in respect of such supply remain unpaid after the due date.
- (3) An error or omission in any account or failure to render an account does not relieve the consumer of his or her obligation to pay the correct amount due for electricity supplied to the premises and the onus is on the consumer to satisfy himself or herself that the account rendered is in accordance with the prescribed tariff of charges in respect of electricity supplied to his or her premises.
- (4) Where an authorised official has visited the premises for the purpose of disconnecting the supply of electricity in terms of subsection (2) and is obstructed or prevented from effecting a disconnection, the prescribed fee is payable for each visit necessary for the purpose of disconnecting the service.
- (5) After disconnection for non-payment of an account, the prescribed tariff and any amounts due for electricity consumed must be paid to the municipality before the electricity supply is re-connected.

Interest on Overdue Accounts

12. The municipality may charge interest on accounts which are not paid by the due date appearing on the account, at an interest rate as approved by the municipality from time to time.

Principles for the Resale of Electricity

13. (1) Unless otherwise authorised by the municipality, no person must sell or supply electricity, supplied to his or her premises under an agreement with the municipality, to any other person or persons for use on any other premises, or permit or suffer such resale or supply to take place.
- (2) If electricity is resold for use upon the same premises, the electricity resold must be measured by a sub-meter of a type which has been approved by the South African Bureau of Standards and supplied, installed and programmed in accordance with the standards of the municipality.

- (3) The tariff, rates and charges at which and the conditions of sale under which electricity is resold under subsection (2) must not be less favourable to the purchaser than those that would have been payable and applicable had the purchaser been supplied directly with electricity by the municipality or a service provider.
- (4) Every reseller must furnish the purchaser with monthly accounts that are at least as detailed as the relevant billing information details provided by the municipality to its electricity consumers.

Right to Disconnect Supply

14. (1) The municipality may give notice to any consumer that it intends to disconnect the supply of electricity if, in its opinion, there is an appreciable risk of harm or damage to any person or property.
- (2) The notice referred to in subsection (1) must —
 - (a) be for 14 (fourteen) days;
 - (b) inform the consumer of the nature of the risk;
 - (c) call upon him or her, if he or she does not wish the discontinuation to take place, to give good and adequate reasons within that period why this should not happen.
- (3) Where he or she has failed either to give good and adequate reasons or to remedy the cause of the risk, the municipality may disconnect the supply of electricity to such premises.
- (4) Where any person, who is liable in law to pay for any supply of electricity, fails to pay for it, the municipality may give such a person notice calling on him or her to make such payment and the notice must —
 - (a) be for 14 (fourteen) days;
 - (b) inform him or her of the amount due and payable;
 - (c) notify him or her that if he or she does not pay it, his electricity must be disconnected unless he or she gives good and adequate reasons within that period why this should not happen.
- (5) Where he or she has failed either to pay the due amount or to give good and adequate reasons as envisaged in subsection (4), the municipality may disconnect the supply of electricity to such premises.
- (6) Where the municipality is of the opinion, on reasonable grounds, that risk of harm to person or property is immediate or imminent, the municipality may, subject to any other provision in these by-laws, disconnect the supply of electricity to any premises.
- (7) In the case where an installation has been illegally reconnected on a consumer's premises after having been previously legally disconnected by the municipality, or in the case where the municipality's electrical equipment has been tampered with to prevent the full registration of consumption by the meter, the electricity supply may be physically removed from those premises by the municipality.

Non-Liability of the Municipality

15. (1) A person who applies to the municipality for the supply of electricity in terms of section 5 of these by-laws does so on the basis that, if his application is accepted by the municipality, it must be agreed that the municipality is not liable for any loss or damage, direct or consequential, suffered or sustained by a consumer as a result of or arising from the cessation, interruption or any other abnormality of the supply of electricity.
- (2) The provisions of subsection (1) must be included in the application form and must also be brought to the attention of the applicant by the municipality, where it is possible to do so, when the applicant lodges an application.

Leakage of Electricity

16. Under no circumstances must any rebate be allowed on the account for electricity supplied and metered in respect of electricity wasted owing to leakage or any other fault in the electrical installation.

Failure of Supply

17. (1) The municipality does not undertake to attend to a failure of supply of electricity due to a fault in the electrical installation of the consumer, except when such failure is due to the operation of the service protective device of the municipality.
- (2) When any failure of supply of electricity is found to be due to a fault in the electrical installation of the consumer or to the faulty operation of apparatus used in connection therewith, the municipality has the right to charge the consumer the tariff as prescribed by the municipality for each restoration of the supply of electricity in addition to the cost of making good or repairing any damage which may have been done to the service main and meter by such fault or faulty operation as aforesaid.

Seals of the Municipality

18. The meter, service protective devices and all apparatus belonging to the municipality must be sealed or locked by an authorised official, and no other person must in any manner or for any reason whatsoever remove, break, deface, or tamper or interfere with the seal or lock.

Tampering With Service Connection or Supply Mains

19. (1) No person must in any manner or for any reason whatsoever tamper or interfere with any meter or metering equipment or service connection or service protective device or supply mains or any other equipment of the municipality.
- (2) Where the municipality has good grounds for believing that a consumer has contravened subsection (1), the municipality has the right to disconnect the supply of electricity immediately and without prior notice to the consumer in circumstances where, in the opinion of the municipality, there are good grounds to believe that a failure to disconnect could constitute an appreciable risk of harm or damage to person or property, in which case the person is liable for all tariffs levied by the municipality for such disconnection; but if that risk is not immediate or imminent or appreciable, the provisions of subsections 14(1) to (3) must apply with any necessary changes.
- (3) Where a consumer or any person has contravened subsection (1) and the contravention has resulted in the meter recording less than the true consumption, the municipality must have the right to recover from the consumer the full cost of his or her estimated consumption.

Protection of Municipality's Supply Mains

20. (1) No person must, except with the consent of the municipality and subject to any conditions imposed by it—
- (a) construct, erect or lay, or permit the construction, erection or laying of any building, structure or other object, or plant trees or vegetation over or in such a position or in a manner which interferes with or endangers the supply mains;
 - (b) excavate, open up or remove the ground above, next to, under or near any part of the supply mains;
 - (c) damage, endanger, remove or destroy, or do any act likely to damage, endanger or destroy any part of the supply mains;
 - (e) make any unauthorized connection to any part of the supply mains or divert or cause to be diverted any electricity there from; and
 - (f) the owner or occupier must limit the height of trees or length of projecting branches in the proximity of overhead lines, or provide a means of protection which in the opinion of the municipality will adequately prevent the tree from interfering with the conductors should the tree, or a branch of it, fall or be cut down; and should the owner fail to observe this provision, the municipality has the right, after prior written notification, or at any time in an emergency, to cut or trim the trees or any other vegetation which has the same effect, in such a manner as to comply with this provision and must be entitled to enter the property for this purpose.
- (2) The municipality may subject to obtaining an order of court, demolish, alter or other wise deal with any building, structure or other object constructed, erected or laid in contravention with these by-laws.
- (3) The municipality may in the case of an emergency or disaster remove anything damaging, obstructing or endangering or likely to damage, obstruct, endanger or destroy any part of the electrical distribution system.

Prevention of Tampering with Service Connection or Supply Mains

21. If the municipality decides that it is necessary or desirable to take special precautions in order to prevent tampering with any portion of the supply mains, service connection or service protective device or meter or metering equipment, the consumer must either supply and install the necessary protection or pay the costs involved where such protection is supplied by the municipality.

Unauthorised Connections

22. No person other than a person specifically authorised thereto by the municipality in writing must directly or indirectly connect, attempt to connect or cause or permit to be connected any electrical installation or part thereof to the supply mains or service connection.

Unauthorised Reconnections

23. (1) No person other than a person specifically authorised thereto by the municipality in writing must reconnect, attempt to reconnect or cause or permit to be reconnected to the supply mains or service connection any electrical installation or installations which has or have been disconnected by the municipality.
- (2) Where the supply of electricity that has previously been disconnected is found to have been reconnected—
- (a) the consumer using the supply of electricity is liable for all charges for electricity consumed between the date of disconnection and the date the electricity supply was found to be reconnected and any other charges raised in this regard;
 - (b) the municipality reserves the right to remove part or all of the supply equipment until such time as payment has been received in full; and
 - (c) the consumer will be responsible for all the costs associated with the reinstatement of such supply equipment.

Temporary Disconnection and Reconnection

24. (1) The municipality must, at the request of the consumer, temporarily disconnect and reconnect the supply of electricity to the consumer's electrical installation upon payment of the tariff prescribed for each such disconnection and subsequent reconnection.
- (2) In the event of a necessity arising that requires the municipality to effect a temporary disconnection and reconnection of the supply of electricity to a consumer's electrical installation, and if the consumer is in no way responsible for bringing about this necessity, the municipality is not entitled to payment of the tariff referred to in subsection (1).

- (3) Where there are circumstances which the municipality has good grounds to believe are exceptional, the municipality may temporarily disconnect the supply of electricity to any premises without notice for the purpose of effecting repairs or carrying out tests or for any other legitimate purpose, but, where there are no such exceptional circumstances, the municipality must provide adequate notice to the user of the electricity before a temporary disconnection of electricity services may take place.

Temporary Supplies

25. (1) A person who receives a temporary supply of electricity will receive it on the clear understanding that it is a condition of the giving of any temporary supply of electricity that, if such a supply is found to interfere with the efficient and economical supply of electricity to other consumers, the municipality has the right, after giving reasonable written notice to the consumer, or, under circumstances which it has good grounds to consider exceptional without notice, to terminate the supply at any time and, the municipality is not liable for any loss or damage occasioned by the consumer by such a termination other than loss or damage caused by a wrongful intentional or negligent act or omission by the municipality.
- (2) A person who receives a temporary supply must be notified by the municipality, before or at the time when he or she receives it, of the provisions of subsection (1).

Temporary Work

26. (1) Electrical installations requiring a temporary supply of electricity must not be connected directly or indirectly to the supply mains except with the special permission in writing of the municipality.
- (2) Full information as to the reasons for and nature of temporary work must accompany the application for permission, and the municipality may refuse the permission or may grant the permission upon terms and conditions as it may consider desirable and necessary.

Load Reduction

27. (1) At times of peak load, or in an emergency, or when, in the opinion of the municipality, it is necessary for any reason to reduce the load on its electricity supply system, the municipality may without notice interrupt and, for a period as the municipality considers necessary, discontinue the electricity supply to any consumer's electrically operated thermal storage water heater or any specific appliance or the whole installation.
- (2) The municipality is not liable for any loss or damage directly or consequentially due to or arising from an interruption and discontinuance of the electricity supply envisaged in subsection (1).
- (3) The municipality may install upon the premises of the consumer any apparatus or equipment necessary to give effect to the provisions of subsection (1), and any authorised official may at any reasonable time enter any premises for the purpose of installing, inspecting, testing adjusting or changing apparatus or equipment.
- (4) The consumer or the owner, as the case may be, must, when installing an electrically-operated water storage heater, provide any necessary accommodation and wiring.

High, Medium and Low Voltage Switchgear and Equipment

28. (1) In cases where a supply of electricity is given at either high, medium or low voltage, the supply and installation of the switchgear, cables and equipment forming part of the service connection must, unless otherwise approved by the municipality, be paid for by the consumer.
- (2) All equipment contemplated in subsection (1) must be compatible with the municipality's electrical performance standards.
- (3) No person must open, close, isolate, link or earth high or medium voltage switchgear or equipment without giving reasonable prior notice to the municipality.
- (4) In the case of a high or medium voltage supply of electricity, where the consumer has high or medium voltage switchgear installed, the municipality must be advised of the competent person appointed by the consumer in terms of the Regulations, and of any changes made to the appointment.
- (5) In the case of a low voltage supply of electricity, the consumer must provide and install a low voltage main switch and any other equipment required by the municipality or any authorised official.

Substation Accommodation

29. (1) The municipality may, on such conditions as it considers fit, require an owner to provide and maintain accommodation which must constitute a substation and which consists of a separate room or rooms to be used exclusively for the purpose of housing medium voltage cables and switchgear, transformers, low voltage cables and switchgear and other equipment necessary for the supply of electricity requested by the applicant.
- (2) The accommodation must be situated at a point to which free, adequate and unrestricted access is available at all times for purposes connected with the operation and maintenance of the equipment.
- (3) The municipality reserves the right to supply its own networks from its own equipment installed in such accommodation, and if additional accommodation is required by the municipality, the additional accommodation must be provided by the applicant at the cost of the municipality.

Wiring Diagram and Specification

30. (1) When more than one electrical installation or electricity supply from a common main or more than one distribution board or meter is required for any building or block of buildings, the wiring diagram of the circuits starting from the main switch and a specification must if requested by the municipality be supplied to it in duplicate for approval before the work commences.
- (2) Where an electrical installation is to be supplied from a substation on the same premises on which the current is transformed from high voltage, or from one of the substations of the municipality through mains separate from the general distribution system, a complete specification and a set drawings which in the opinion of the municipality is adequate, for the plant to be installed by the consumer, must if so required by the municipality be forwarded to it for approval before any material in connection therewith is ordered.

Standby Supply

31. No person is entitled to a standby supply of electricity from the municipality for any premises having a separate source of electricity supply except with the written consent of the municipality and subject to any terms and conditions laid down by the municipality.

Consumer's Emergency Standby Supply Equipment

32. (1) No emergency standby equipment provided by a consumer in terms of the Regulations or for his or her own operational requirements must be connected to any installation without the prior written approval of the municipality.
- (2) Application for an approval in subsection (1) must be made in writing and must include a full specification of the equipment and a wiring diagram.
- (3) The standby equipment must be so designed and installed that it is impossible for the municipality's supply mains to be energized by means of a back-feed from the equipment and the consumer must provide and install the required protective equipment.
- (4) Where by special agreement with the municipality, the consumer's standby generating equipment is permitted to be electrically coupled to, and run in parallel with the municipality's supply mains, the consumer is responsible for providing, installing and maintaining all the necessary synchronizing and protective equipment required for the safe parallel operation, to the satisfaction of the municipality.

Circular Letters

33. The municipality may from time to time issue Circulars detailing its requirements regarding matters not specifically covered in the Regulations or these by-laws but which are necessary for the safe, efficient operation and management of the provision of electricity services.

**CHAPTER 3:
SERVICE PROVIDERS****Agreement and Assignment**

34. (1) The municipality may, subject to its responsibilities under section 81 of the Systems Act, discharge any of its obligations under section 2 of these by-laws by entering into a service delivery agreement with a service provider or service providers.
- (2) Subject to the provisions of the Systems Act or any other law, the municipality may assign to a service provider any right or power enjoyed by the municipality under these by-laws whenever the assignment is required to enable the service provider to discharge an obligation under its service delivery agreement.
- (3) If a municipality has entered into a service delivery agreement with a service provider, it must publish a notice in the Provincial Gazette listing which rights and powers of the municipality under which provisions of these by-laws have been assigned to the service provider.
- (4) Where the term "municipality" appears in a provision of these by-laws listed in the notice in subsection (3) it must be read as "service provider" in that provision.

Customer Charter

35. Service providers must provide services in accordance with a customer charter which must be drawn up in consultation with the municipality and must—
- accord with the provisions of these by-laws;
 - be accessible to the public;
 - establish the conditions of supplying the service; and
 - provide for the circumstances in which electricity services may be limited.

**CHAPTER 4:
RESPONSIBILITIES OF CONSUMERS****Consumer to Erect and Maintain Electrical Installation**

36. Any electrical installation connected or to be connected to the supply mains, and any additions or alterations to it which may be made from time to time, must be provided and erected and maintained and kept in good order by the consumer at his or her own expense and in accordance with these by-laws and the Regulations.

Fault in Electrical Installation

37. (1) If any fault develops in the electrical installation, which constitutes a hazard to any person or to livestock, or property, the consumer must immediately disconnect the electricity supply and without delay give notice to the municipality which must immediately take steps to remedy the fault.
- (2) The municipality may require the consumer to reimburse it for any expense to which it may incur in connection with a fault in the electrical installation.

Discontinuance of Use of Supply

38. If a consumer wishes to discontinue using an electricity supply, he or she must give at least two full working days' notice in writing of the intended discontinuance, failing which he or she remains liable for all payments due in terms of the tariff for the supply of electricity until the expiration of two full working days after the notice has been given.

Change of Occupier

39. (1) A consumer vacating any premises must give the municipality not less than two full working days' notice in writing of his or her intention to discontinue using the electricity supply, failing which he or she remains liable for the supply.
- (2) If the person taking over occupation of the premises wishes to continue using the electricity supply, he or she must make application in accordance with the provisions of section 5 of these by-laws, and if he fails to make application for electricity services within ten working days of taking occupation of the premises, the supply of electricity must be disconnected, and he or she is liable to the municipality for the provision of electricity services from the date of occupation till the time when the supply is disconnected.
- (3) Where premises are fitted with a pre-payment meter any person occupying the premises at that time is presumed to be a consumer, unless he or she satisfies the municipality that he or she did not use the electricity supplied to the premises, and if he or she fails to satisfy the municipality, he or she is liable for all tariffs owed to the municipality for that metering point as well as for any outstanding tariffs whether accrued by him or her or not until he or she ceases to occupy the premises or until an application made by him or her in terms of section 5 has been accepted, whichever happens sooner.

Service Apparatus

40. (1) A consumer who applies for the supply of electricity services in terms of section 5 does so on the basis that if the application is granted, he or she is liable for all costs to the municipality arising from damage to or loss of any metering equipment, service protective device, service connection or other apparatus on the premises, unless such damage or loss is shown to have been occasioned by an Act of God or an act or omission of an employee of the municipality or caused by an abnormality in the supply of electricity to the premises; and the municipality must inform him that it agrees to supply it to him only on that basis.
- (2) If, during a period of disconnection of an installation from the supply mains, the service main, metering equipment or any other service apparatus, being the property of the municipality and having been previously used, are removed without its permission or damaged so as to render reconnection dangerous, the owner or occupier of the premises during such period must bear the cost of overhauling or replacing the equipment or service apparatus.
- (3) Where there is a common metering position, the liability detailed in subsection (2) must devolve on the owner of the premises.
- (4) The amount due in terms of subsection (2) must be stated in a certificate from the municipality which is presumed, unless the contrary is proved, correctly to reflect the amount stated to be due.

**CHAPTER 5:
SPECIFIC CONDITIONS OF SUPPLY****Service Connection**

41. (1) The consumer bears the cost of the service connection.
- (2) Notwithstanding the fact that the consumer bears the cost of the service connection, ownership of the service connection, laid or erected by the municipality, vests in the municipality; and the municipality is responsible for the maintenance of the service connection up to the point of supply.
- (3) The municipality must determine what work should be carried out in order to install a service connection to the consumer's premises.
- (4) A service connection must be laid underground, whether the supply mains are laid underground or erected overhead, unless an overhead service connection is specifically required by the municipality.
- (5) The consumer must provide, fix and maintain on his or her premises those ducts, wire ways, trenches, fastenings and clearance to overhead supply mains as are required by the municipality for the installation of the service connection.

- (6) The conductor used for the service connection must have a cross-sectional area according to the size of the electrical supply but must not be less than 10 mm² (copper or copper equivalent), and all conductors must have the same cross-sectional area, unless otherwise approved by an authorised official.
- (7) Unless otherwise approved by the municipality, only one service connection must be provided by the municipality to each registered erf.
- (8) In respect of two or more premises belonging to one owner and situated on adjacent erven, a single bulk supply of electricity may be made available provided the erven are consolidated or notarially tied.
- (9) Any covers of a wire way carrying the supply circuit from the point of supply to the metering equipment must be made to accept the seals of the municipality.
- (10) Within the meter box, the service conductor or cable, as the case may be, must terminate in an un-obscured position and the conductors must be visible throughout their length when cover plates, if present, are removed.
- (11) In the case of blocks of buildings occupied by a number of individual consumers, separate wire ways and conductors or cables must be laid from the common metering room or rooms to each individual consumer in the blocks of buildings. Alternatively, if trunking is used, the conductors of the individual circuits must be clearly identified (tied together every 1,5m) throughout their length.

Metering Accommodation

42. (1) The consumer must, if required by the municipality, provide accommodation in an approved position, the meter board and adequate conductors for the municipality's metering equipment, service apparatus and protective devices.
- (2) The accommodation and protection referred to in subsection (1) must be provided and maintained, to the satisfaction of the municipality, at the cost of the consumer or the owner, as the circumstances may demand, and must be situated, in the case of credit meters, at a point to which free and unrestricted access can be had at all reasonable hours for the reading of meters but at all times for purposes connected with the operation and maintenance of the service equipment.
- (3) Access to premises at all reasonable hours must be afforded to any authorised official for the inspection of prepayment meters.
- (4) Where sub-metering equipment is installed, accommodation separate from the municipality's metering equipment must be provided.
- (5) The consumer or, in the case of a common meter position, the owner of the premises must provide adequate electric lighting in the space set aside for accommodating the metering equipment and service apparatus.
- (6) Where in the opinion of the municipality the position of the meter, service connection, protective devices or main distribution board is no longer readily accessible or becomes a course of danger to life or property or in any way becomes unsuitable, the consumer must remove it to a new position, and the cost of such removal, which must be carried out with reasonable dispatch, must be borne by the consumer.
- (7) The accommodation for the municipality's metering equipment and protective devices may, if approved, include the consumer's main switch and main protective devices.
- (8) No apparatus other than that used in connection with the supply of electricity and use of electricity may be installed or stored in such accommodation unless approved by the municipality.

CHAPTER 6: SYSTEMS OF SUPPLY

Load Requirements

43. Alternating current supplies must be provided as prescribed by the Electricity Act, 1987 (Act 41 of 1987), and in the absence of a quality of supply agreement, as set out in applicable standard specification.

Load Limitations

44. (1) Where the estimated load, calculated in terms of the safety standard, does not exceed 15 kVA, the electrical installation must be arranged for a two-wire single-phase supply of electricity, unless otherwise approved by the municipality.
- (2) Where a three-phase four-wire supply of electricity is provided, the load must be approximately balanced over the three phases but the maximum out-of-balance load must not exceed 15kVA, unless otherwise approved by the municipality.
- (3) No current-consuming appliance, inherently single phase in character, with a rating which exceeds 15kVA must be connected to the electrical installation without the prior approval of the municipality.

Interference with Other Persons' Electrical Equipment

45. (1) No person must operate electrical equipment having load characteristics which, singly or collectively, give rise to voltage variations, harmonic currents or voltages, or unbalanced phase currents which fall outside the applicable standard specification.

- (2) The assessment of interference with other persons' electrical equipment must be carried out by means of measurements taken at the point of common coupling.
- (3) Should it be established that undue interference is in fact occurring, the consumer must, at his or her own cost, install the necessary equipment to filter out the interference and prevent it reaching the supply mains.

Supplies to Motors

- 46. (1) Unless otherwise approved by the municipality the rating of a low voltage single-phase motor must be limited to 2kW and the starting current must not exceed 70A; and motors exceeding these limits must be wound for three phases at low voltage or a higher voltage as may be required.
- (2) The starting current of three-phase low voltage motors permitted must be related to the capacity of the consumer's service connection, as follows:

Insulated service cable, size in mm ² , copper equivalent mm ²	Maximum permissible starting current A	Maximum motor rating in kW		
		Direct on line (6x full-load current)	Star/Delta (2,5 x full-load current)	Other means (1,5 x full-load current)
		kW	kW	kW
16 25	72 95	6 7,5	13,5 18	23 30
35 50	115	9 10	22 25	36,5 45
70 95	135	13 16	31 38	55 67
120	165	18 20	46 52	77 87
150	200			
	230			
	260			

- (3) In an installation supplied at medium voltage the starting current of a low voltage motor must be limited to 1,5 times the rated full-load current of the transformer supplying such a motor; and the starting arrangement for medium voltage motors must be subject to the approval of the municipality.

Power Factor

- 47. (1) If required by the municipality, the power factor of any load must be maintained within the limits 0,85 lagging and 0,9 leading.
- (2) Where, for the purpose of complying with subsection (1), it is necessary to install power factor corrective devices, such corrective devices must be connected to the individual appliance terminals unless the correction of the power factor is automatically controlled.
- (3) The consumer must, at his or her own cost, install such corrective devices.

Protection

- 48. Electrical protective devices for motors must be of such a design as effectively to prevent sustained over-current and single phasing, where applicable.

**CHAPTER 7:
MEASUREMENT OF ELECTRICITY**

Metering

- 49. (1) The municipality must, at the consumer's cost in the form of a direct charge or prescribed fee, provide, install and maintain metering equipment rated by the municipality at the point of metering for measuring the electricity supplied.

- (2) Except in the case of prepayment meters, the electricity used by a consumer during any metering period must be ascertained by the reading of the appropriate meter or meters supplied and installed by the municipality and read at the end of such period except where the metering equipment is found to be defective, or the municipality invokes the provisions of section 51(3) of these by-laws, in which case the consumption for the period must be estimated.
- (3) Where the electricity used by a consumer is charged at different tariff levels, the consumption must be metered separately for each rate.
- (4) The municipality must be entitled to meter the supply to blocks of shops and flats, tenement-houses and similar buildings for the buildings as a whole, or for individual units, or for groups of units.
- (5) No alterations, repairs or additions or electrical connections of any description must be made on the supply side of the point of metering unless specifically approved in writing by the municipality.

Accuracy of Metering

50. (1) A meter is presumed, unless the contrary is proved, to be registering accurately if its error, when tested in the manner prescribed in subsection (6), is found to be within the limits of error as provided for in the applicable standard specifications.
- (2) The municipality has the right to test its metering equipment.
- (3) If it is established by test or otherwise that the municipality's metering equipment is defective, the municipality must—
- (a) in the case of a credit meter, adjust the account rendered; or
- (b) in the case of prepayment meters—
- (i) render an account where the meter has been under-registering, or (ii) issue a free token where the meter has been over-registering.
- (4) The consumer is entitled to have the metering equipment tested by the municipality on payment of the prescribed fee. If the metering equipment is found not to comply with the system accuracy requirements as provided for in the applicable standard specifications, an adjustment in accordance with the provisions of subsections (3) and (7) must be made and the aforesaid fee must be refunded.
- (5) In case of a dispute, the consumer has the right at his or her own cost to have the metering equipment under dispute tested by an independent testing authority, approved by the municipality, and the result of the test is final and binding on both parties.
- (6) Meters must be tested in the manner as provided for in the applicable standard specifications.
- (7) When an adjustment is made to the electricity consumption registered on a meter, the adjustment must either be based on the percentage error of the meter as determined by the test referred to in subsection (5) or upon a calculation by the municipality from consumption data in its possession; and where applicable, due allowance must be made, where possible, for seasonal or other variations which may affect the consumption of electricity.
- (8) When an adjustment is made as contemplated in subsection (7) the adjustment may not exceed a period of six months preceding the date on which the metering equipment was found to be inaccurate, but the application of this section does not prevent a consumer from claiming back overpayment for any longer period where the consumer is able to prove his or her claim in a court of competent jurisdiction.
- (9) Where the actual load of a consumer differs from the initial estimated load provided for under section 5(1) to the extent that the municipality considers, on good grounds, that it necessary to alter or replace its metering equipment to match the load, the costs of such alteration or replacement must be borne by the consumer.
- (10) Prior to the municipality making any upward adjustment to an account in terms of subsection (7), it must—
- (a) notify the consumer in writing of the monetary value of the adjustment to be made and the reasons therefore;
- (b) in such notification provide sufficient particulars to enable the consumer to submit representations relating to what has been said in the notice, and
- (c) call upon the consumer in such notice to provide it with reasons in writing, if any, within 21 days or such longer period as the municipality may permit, why his or her account should not be adjusted as notified.
- (11) The municipality is entitled to adjust the account as notified in subsection (10), but may do so only if—
- (a) it has considered any reasons provided by the consumer in terms of subsection (10) and must not make any adjustment unless satisfied that there are good grounds for doing so; and
- (b) an authorized official decides, after having considered the representation made by the consumer that the representations do not establish a case warranting an amendment to the monetary value established in terms of subsection (7), the municipality is entitled to adjust the account as notified in terms of subsection (10), subject to the consumer's right to appeal against the decision of the official in terms of section 62 of the Systems Act.

Reading of Credit Meters

51. (1) Unless decided otherwise by the municipality, credit meters must normally be read at intervals of one month and the fixed or minimum charges due in terms of the tariff must be assessed accordingly.

- (2) The municipality is not obliged to effect any adjustments to the charges contemplated in subsection (1).
- (3) If for any reason the credit meter cannot be read, the municipality may render an estimated account based on rational principles taking into account factors including previous usage; and the electrical energy consumed must be adjusted in a subsequent account in accordance with the electrical energy actually consumed.
- (4) When a consumer vacates a property and a final reading of the meter is not possible, an estimation of the consumption may be made by the municipality and the final account rendered accordingly.
- (5) If a special reading of the meter is desired by a consumer, this may be obtained upon payment of the prescribed fee to the municipality.
- (6) If any calculating, reading or metering error is discovered in respect of any account rendered to a consumer, the error must be corrected in subsequent accounts; and any such correction must only apply in respect of accounts for a period of 6 months preceding the date on which the error in the accounts was discovered, and must be based on the actual tariffs applicable during the period.
- (7) The application of subsection (6) does not prevent a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in any court of competent jurisdiction.

Prepayment Metering

52. No refund of the amount tendered for the purchase of electricity credit must be given at the point of sale after initiation of the process by which the prepayment meter token is produced.
- (1) Copies of previously issued tokens for the transfer of credit to the prepayment meter may be issued at the request of the consumer.
 - (2) When a consumer vacates any premises where a prepayment meter is installed, no refund for the credit remaining in the meter must be made to the consumer by the municipality.
 - (3) The municipality is not liable for the reinstatement of credit in a prepayment meter lost due to tampering with, or the incorrect use or the abuse of, prepayment meters or tokens.
 - (4) The municipality may, at its discretion, appoint vendors for the sale of credit for prepayment meters and must not guarantee the continued operation of any vendor.

CHAPTER 8: ELECTRICAL CONTRACTORS

Additional Requirements

53. (1) Where an application for a new or increased supply of electricity has been made to the municipality, it may at its discretion accept notification of the completion of any part of an electrical installation, the circuit arrangements of which permit the electrical installation to be divided up into well-defined separate portions, and such part of the electrical installation may, at the discretion of the municipality, be inspected, tested and connected to the supply mains as though it were a complete installation.
- (2) An application for a new or increased supply of electricity is done on the condition that the person making the application accepts that the examination, test and inspection that may be carried out at the discretion of the municipality, in no way relieves the electrical contractor, accredited person or the user or lessor, as the case may be, from his or her responsibility for any defect in the installation; and the examination, test and inspection and must not be taken under any circumstances (even where the electrical installation has been connected to the supply mains) as indicating or guaranteeing in any way that the electrical installation has been carried out efficiently, or with the most suitable materials for the purpose, or that it is in accordance with these by-laws or the safety standard, and the municipality must not be held responsible for any defect or fault in such electrical installation.
- (3) Before the municipality accepts notification in terms of subsection (1), it or he must inform the applicant of the provisions of subsection (2).

Damage by Electrical Contractors

54. Where an electrical contractor, or any person accredited by the municipality, performs work on a consumer's premises, he or she does so on behalf of the consumer and under the control or supervision of the consumer, and the municipality is neither liable for the cost arising from the work done nor in any way liable for any loss or damage which may be occasioned by fire or by an accident arising from the state of the wiring on the premises.

CHAPTER 9: COST OF WORK

Cost of Work

55. (1) The municipality may repair and make good any damage to property done in contravention of these by-laws or resulting from a contravention of these by-laws, provided that in effecting any repairs it does so in a manner that is fair.

- (2) The cost of any such work carried out by the municipality which was necessary due to the contravention of these by-laws by a consumer must be borne by the consumer and must be reflected as a debit against his or her account.

**CHAPTER 10:
ADMINISTRATIVE ENFORCEMENT PROVISIONS**

**Part I:
Appointment of Authorised Officials**

Appointment of Authorised Officials

56. (1) The municipality must appoint authorised officials vested with the power to exercise the powers of an authorised official under these by-laws and to discharge the municipality's right of access to premises in terms of section 101 of the Systems Act.
- (2) An authorised official is not a peace officer within the meaning of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) and has no powers of arrest in respect of any offence created in these by-laws.
- (3) In appointing an authorised official, the municipality must have regard to—
- (a) a person's technical understanding and experience of matters related to electricity services; and
 - (b) any other factor that may be relevant to supervision and enforcement of these by-laws, whether technical or administrative.
- (4) An authorised official may be an employee of the municipality or any service provider of the municipality.
- (5) Upon appointment, authorised officials must be issued with a means of identification by the municipality which must state the name and function of the authorised official, and must include a photograph of the officer.
- (6) An authorised official, acting within the powers vested in him or her by these by-laws, is required to present identification on demand by any member of the public.

**Part II:
Powers of Authorised Officials**

Right of Admittance to Inspect, Test or do Maintenance Work

57. (1) An authorised official may, by notice in writing served on the owner or occupier of any property, require the owner or occupier to provide, on the day and at the hour specified in such notice, access to such property to the authorised official for the purpose of—
- (a) doing anything authorised or required to be done by the municipality under these by-law or any other law;
 - (b) inspecting and examining any service mains and anything connected with it;
 - (c) enquiring into and investigating any possible source of electricity supply or the suitability of immovable property for any work, scheme or undertaking of the municipality and making any necessary survey in this connection;
 - (d) ascertaining whether there is or has been a contravention of the provisions of these by-law or any other law, and
 - (e) enforcing compliance with the provisions of these by-laws or any other law,
- (2) Notwithstanding subsection (1), an authorised official who has reasonable grounds to suspect that harm or damage to property may arise or has arisen as a result of the electricity supply to a premises, or in any way related with the provision of electricity services, the authorised official may, without notice, enter and search any affected premises and take any action necessary to prevent the harm or damage to property including disconnecting the system in terms of section 9.
- (3) Any action under this section, must be conducted with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.

Refusal or Failure to Give Information

58. (1) In order to monitor or enforce compliance with these by-laws, an authorised official, may, require any person to disclose information, either orally or in writing, and either alone or in the presence of witnesses, on any matter to which these by-laws relate and require that the disclosure be made on oath or affirmation.
- (2) An authorised official may be accompanied by an interpreter and any other person reasonably required to assist the authorised official in conducting the inspection.
- (3) An authorised official must, on request by a person requested to give information, provide his identification as an authorised official.
- (4) No person must refuse or fail to give such information as may be reasonably and lawfully required of him or her by any authorised official or render any false information to any such official regarding any electrical installation work completed or contemplated.

Refusal of Admittance

59. No person must wilfully hinder, obstruct, interfere with or refuse admittance to any authorised official in the performance of his or her duty under these by-laws or of any duty connected with or relating to these by-laws.

**Part III:
Administrative Penalties**

Establishment of an Administrative Penalty System

60. (1) The municipality may establish an administrative penalty system in terms of this chapter.
 (2) A decision to establish an administrative penalty system in terms of subsection (1) must be published by a notice in the Provincial Gazette and comes into operation on the date announced in the notice which may not be less than 3 months from the date of its publication.

Infringement Notices

61. (1) If a municipality has established an administrative penalty system, an authorised official may issue an infringement notice to any person who commits an offence listed in Column A of Annexure 2.
 (2) The infringement notice must—
 (a) Specify, at the time when the notice is issued, the name and also the residential and postal address, if either or both of these be known, of the person on whom the infringement notice is served;
 (b) state the particulars of the infringement;
 (c) specify the amount of the penalty payable in respect of that infringement designated in Column B of Annexure 2;
 (d) specify the place where the penalty may be paid; and
 (e) inform the person on whom the infringement notice is served that, not later than 28 calendar days after the date of service of the infringement notice, he or she may—
 (i) pay the penalty; or
 (ii) inform the municipality in writing at an address set out in the notice that he or she elects to be tried in court on a charge of having committed an offence in terms of Chapter 11 of these by-laws.
 (3) If it appears to the authorised official that an alleged offence cannot be adequately punished by the payment of the administrative penalty then the authorised official may refrain from accepting the administrative penalty and may take proceedings against the alleged offender in an appropriate Court in terms of Chapter 11 of these by-laws.

Trial

62. If a person who elects to be tried in court in terms of subsection 61(2)(e)(ii) notifies the municipality of his or her election, the authorised official must within 10 calendar days take all necessary steps, as envisaged in the Criminal Procedure Act, 1977 (Act 51 of 1977), in order to secure the attendance and prosecution of the accused, in which event the infringement notice must be cancelled.

Withdrawal of Infringement Notice

63. (1) Within one year after the infringement notice has been issued an authorised official may, whether or not the penalty has been paid, withdraw an infringement notice on the basis that new information has been received by the municipality or on any other good cause, by—
 (a) sending to the alleged offender a notice in the prescribed form stating that the infringement notice has been withdrawn; and
 (b) providing reasons to the municipal manager for the withdrawal of the infringement notice.
 (2) Where an infringement notice is withdrawn after the penalty has been paid, the amount must be refunded.

Infringement Notice Not an Admission

64. Payment of a penalty is not regarded as an admission for the purposes of any proceedings, whether civil or criminal.

**CHAPTER 11:
JUDICIAL ENFORCEMENT PROVISIONS**

Offences

65. (1) Subject to subsection (2), any person who—
 (a) contravenes or fails to comply with any provisions of these by-laws, other than a provision relating to payment for electricity services;

- (b) fails to comply with any notice or order issued or condition imposed in terms of or for the purposes of these by-laws;
 - (c) fails to comply with any lawful instruction given in terms of or for the purposes of these by-laws; or
 - (d) who obstructs or hinders any authorised representative or employee of the municipality in the execution of his duties under these by-laws;
- is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months and in the case of any continued offence, to a further fine not exceeding R50 or in default of payment, to imprisonment not exceeding one day for every day during the continuance of such offence after a written notice has been issued by the municipality and served on the person concerned requiring the discontinuance of such an offence.
- (2) Any person committing a breach of the provisions of these by-laws is liable to recompense the municipality for any loss or damage suffered or sustained by it in consequence of the breach.

CHAPTER 12: GENERAL

Service of Documents and Process

66. For the purposes of the service of any notice, order or other document relating to non-payment for the provision of electricity services, the address of the owner of the premises to which electricity services are provided is the place where service of documents and process must be made.

Service of Notices

67. (1) Any notice, order or other document that is served on any person in terms of these by-laws must, subject to the provisions of the Criminal Procedure Act 1977 (Act 51 of 1977), be served personally, falling which it may regarded as having duly been served—
- (a) when it has been left at that person's place of residence or business, or, where his household is situated in the Republic, when it has been left with a person who is apparently 16 years or older;
 - (b) 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 either personally or in the manner provided by paragraphs (a), (c) or (d); or
 - (c) if that person's address and the identity or the address of his 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
 - (d) subject to section 66, if sent by registered post, whether service by registered post is, or is not required, if effected by sending it by properly addressing it to the addressee's last known residence, place of business or postal address, prepaying and posting a registered letter containing the notice, order or other document, and unless the contrary be proved, is presumed to have been effected at the time at which the letter would be delivered in the ordinary course of post.
- (2) 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.
- (3) 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.
- (4) Any legal process is effectively and sufficiently serviced on the service provider when it is delivered to the managing director or a person in attendance at the managing director's office.

Compliance with Notices

68. Any person on whom a notice duly issued or given under this by-law is served must, within the time specified in such notice, comply with its terms.

CHAPTER 13: REPEAL OF BY-LAWS

Repeal of By-Laws

69. (1) Any by-laws relating to electricity supply adopted by the Municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these by-laws.
- (2) Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, must be deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision (if any) of this By-law, as the case may be.

Short title

70. This By-law is called the Electricity Supply By-law, 201... .

ANNEXURE 1: APPLICABLE STANDARD SPECIFICATION

“applicable standard specification” means—

SANS 1019 Standard voltages, currents and insulation levels for electricity supply;
 SANS 1607 Electromechanical watt-hour meters;
 SANS 1524 Parts 0, 1 & 2 - Electricity dispensing systems;
 SANS IEC 60211 Maximum demand indicators, Class 1.0;
 SANS IEC 60521 Alternating current electromechanical watt-hour meter (Classes 0.5, 1 & 2);
 SANS 0142 Code of practice for the wiring of premises;
 NRS 047 National Rationalised Specification for the Electricity Supply - Quality of Service;
 NRS 048 National Rationalised Specification for the Electricity Supply - Quality of Supply; and
 NRS 057 Electricity Metering: Minimum Requirements.

[NO. 160 OF 2010]

NOTICE IN TERMS OF SECTION 14(2)(b)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: STANDARD ENCROACHMENT ON PROPERTY BY-LAW

- [1.] I, MJ Zwane, Member of the Executive Council responsible for Cooperative Governance Traditional Affairs and Human Settlements in the Free State Province in terms of Section 14(2)(b) of the Local Government: Municipal Structures Act, 2000 (Act 32 of 2000) hereby publish standard draft by-laws as set out in the Schedule hereto for public comment.
- [2.] The public and interested parties are invited to submit comments in writing on these proposed standard draft by-laws by not later than 30 days from the date of publication of this notice, to:-

The Chief Director
 Systems And Capacity Building
 Department of Cooperative Governance
 and Traditional Affairs
 Local Government Branch
 PO Box 211
 BLOEMFONTEIN
 9301

Comments may also be submitted by facsimile to number 086 698 8906 or by e-mail to

chohne@lgh.f.sgov.za

SCHEDULE

ENCROACHMENT ON PROPERTY BY-LAW

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14. Short title

Definitions

1. (1) In these By-laws, any word or expression which has been defined in the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), has that meaning and, unless the context otherwise indicates -
 - "Council"** means -
 - (a) the Local Municipality ofestablished in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), exercising its legislative and executive authority through its municipal Council ; or
 - (b) its successor in title; or
 - (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these by-laws has been delegated or sub- delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000); or
 - (d) a service provider fulfilling a responsibility under these by-laws, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act (Act No 32 of 2000) or any other law, as the case may be;
 - "encroachment"** means any physical object which intrudes on or over municipal property, or property which the Council has control over or other property in respect of which a servitude or other property right has been registered in favour of the Council;
 - "prescribed"** means determined by resolution of the Council made from time to time;
 - "prescribed fee"** means a fee determined by the Council by resolution in terms of any applicable legislation;
 - "public road"** means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes -
 - (a) the verge of any such road, street or thoroughfare;
 - (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and
 - (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;
- (2) If any provision in these By-laws vests or imposes any power, function or duty of the Council in or on an employee of the Council and such power, function or duty has in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000 (Act No. 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.

Council permission required

2. (1) No person may, without prior written permission of the Council, make or construct any colonnade, veranda, balcony, bay window, pavement light, showcase or other encroachment on or over any part of a public road, and pavement opening in or under any public road.
- (2) The Council may refuse the permission required in terms of subsection (1) or may grant such permission either unconditionally or upon the conditions and subject to the payment of the prescribed fee annually or the performance of the work or service determined by the Council in each case and subject to payment of the prescribed fee.
- (3) The prescribed fee mentioned in subsection (2) is payable in advance at the beginning of each year which is calculated from date of the written permission or the date determined by the Council, and the owner of the encroachment is liable for the payment of the prescribed fee for each encroachment.
- (4) The owner of an encroachment must within 90 days after the date of commencement of these By-laws notify the Council in writing of-
 - (a) the existence of the encroachment; and
 - (b) the horizontal dimension of every encroachment measured - parallel to the road boundary on or over which the encroachment exists.
- (5) Until the Council is notified of the horizontal dimension of the encroachment in terms of subsection (4)(b), every encroachment relating to a building is deemed to have an aggregate horizontal dimension equal to the total road frontage on or over which the encroachment exists, of the property on which the building concerned is situated.

Rules for the construction of encroachments

3. (1) The design, arrangement and construction of a veranda, balcony, bay window or other encroachment on or over a public road, as well as the paving, kerb and gutter thereof must be to the satisfaction of and to the levels approved by the Council.
- (2) If corrugated iron is used for covering a veranda, its exposed surfaces must be painted.
- (3) A veranda over a public road must correspond in line, height and detail with existing adjoining verandas.

Columns

4. (1) The Council may determine areas within the municipal area where no person is permitted to place veranda columns over any public road or pavement.
- (2) No person is permitted to place any veranda column over any pavement where such pavement is less than 2,6 m wide.
- (3) No person may place any veranda column more than 3 m from the building line measured to the outside of the column or at less than 3 m centre to centre.
- (4) No person may place any veranda column over any pavement at the corner of a public road that is beyond the alignment of the building lines.
- (5) No person may place a portion of any veranda column at a distance less than 600 mm back from the front edge of any kerb.
- (6) No person may place a twin or double veranda column over any public road or pavement.
- (7) If a veranda is supported on columns, the columns may not have square arris, no base may project more than 50 mm beyond the bottom diameter of the column and the maximum horizontal axial dimensions of such base may not exceed 350 mm.
- (8) If the form of a column is classic in character, the shaft must have suitable entasis and cap and base in due proportions.
- (9) No column, including cap and base, may be less than 3 m or more than 3,6 m in height and more than 4,5 m including plinth.
- (10) No person may, without the prior written permission of the Council place a column on a public road where the footway or sidewalk is, or is likely to be occupied by any cable, pipe or other municipal service.
- (11) The minimum height from the footway or sidewalk to the underside of each cantilever or fascia girder is 3 m.
- (12) Plain piping or tubing may not be used for any column for a veranda and balcony over or on a public road unless architecturally treated for aesthetic purposes.
- (13) The coping, blocking course or balustrade, if any, may not extend less than 750 mm nor more than 1,05 m above the floor of a balcony.
- (14) Nothing in these By-laws prohibits -
- (a) the erection and use of a party column common to two adjoining verandas if the column stands partly on the extended boundary lines of two properties or adjoins the same; or
 - (b) in the case of adjoining verandas, the placement of any column upon a plinth if this is necessary for alignment and all the other provisions of these By-laws are complied with.

Balconies and bay windows

5. (1) No balcony, bay window or encroachment may overhang a public road if it is at a height of less than 3 m above the pavement.
- (2) No balcony may encroach more than 1,35 m over any public road.
- (3) No bay window may encroach more than 900 mm over any public road.
- (4) The aggregate horizontal length of a bay window at any level over a public road may not exceed one-third of the length of the building frontage on to that road.
- (5) Any balcony superimposed upon a veranda must be set back at least 1,2 m from the line of such veranda.
- (6) No part of a balcony which is attached to any veranda may be carried up to a height greater than two storeys above the pavement level except that, if the top portion of the balcony is roofed with a concrete flat roof forming a floor, a balustrade not exceeding 1 m in height is allowed above the level of the floor.
- (7) No dividing wall across a balcony over a public road may exceed 1 m in height or 225 mm in thickness.
- (8) A balcony over any public road may not be the sole means of access to any room or apartment.
- (9) No person may place or permit or cause to be placed any article upon any balcony over a public road, except ornamental plants, tables, chairs, canvas blinds and awnings not used for signs or advertisements.
- (10) If any floor of a building is used solely for the parking of motor vehicles, no bay window at the level of the floor may project over any public road for more than 1,35 m for the full length of the building frontage on to that road.

Plinths, pilasters, corbels and cornices

6. (1) No plinth, pilaster or other encroachment beyond a building line carried up from ground level is permitted to encroach on a public road.
- (2) Any pilaster, cornice, corbel or similar architectural feature which is at least 3 m above the ground may not exceed the following encroachment over a public road:
- (a) A pilaster: 450 mm the total aggregate frontage length of the pilaster may not exceed one-fifth of the building frontage and any bay window in the same storey must be included in the calculation of the maximum aggregate length for bay windows;

- (b) a fire-resisting ornamental hood or pediment over a door: 600 mm and in any part not less than 2,75 m in height above the footway or pavement;
- (c) a cornice: 1,05 m if not exceeding 10,5 m above the footway or pavement and one-tenth of the height from the footway or pavement if exceeding 10,5 m with a maximum of 1,8 m.

Verandas around corners

7. If a veranda is built around a corner of a public road it must be properly splayed or rounded to follow the curve of the kerb.

Pavement openings

8. (1) No pavement opening may be the sole means of access to any vault or cellar.
 (2) No pavement opening on any public road may extend more than 1,2 m beyond the building line.
 (3) If flaps are permitted in a pavement opening, no flap may exceed 0,75 square metres in area and must open upwards and while open, must be provided with stout iron guardrails and stanchions.
 (4) A flap opening may be opened and used only for the purpose of lowering and raising goods and must be kept closed except when lowering and raising operations are in progress.
 (5) The front wall or wall parallel to the kerb in every pavement opening must be built with a suitable batter to the satisfaction of the Council.
 (6) No pavement opening may be covered with a metal bar grating or with a metal plate or with wood.

Maintenance, removal and tenancy of projections

9. (1) The owner of any encroachment must maintain the encroachment in good order and repair.
 (2) Any pavement opening, pavement light, wall thereof and basement wall must be made and kept water-tight by the owner.

Encroachment erected in front of building

10. If any encroachment has been erected or constructed in front of any building, the owner must at his, her or its own expense -
 (a) pave the whole of the footway or pavement under the encroachment or in front of the building in which the pavement opening is fixed; and
 (b) lay the road kerbing and guttering and paving in front of the building for the full width of the footway or pavement.

Encroachments

11. (1) (a) Any person wishing to erect or construct an encroachment on, under or over any public road, or any immovable property owned by or vested in the Council, must apply to the Building Control Officer on a form prescribed by the Council for that purpose.
 (b) If, in the opinion of the Building Control Officer, drawings are required for the conclusion of an encroachment agreement, the prescribed charge in addition to any other prescribed charge is payable to the Council.
 (2) The owner of any encroachment or fixture, whether in the course of construction or erection or completed, on, under or over any public road, is regarded as a tenant in respect of the encroachment and, if notified in writing by the Council under the hand of the Building Control Officer to remove any such encroachment or fixture, must do so within a reasonable period stated in the notice.
 (3) The owner of the building in connection with which any encroachment exists, or is proposed -
 (a) must defray any cost incurred in connection with wires or property of the Council;
 (b) must allow the Council to erect on, or attach to the encroachment or fixture or anything required in connection with electrical or other activities of the Council.

Offences and penalties

12. Any person who -
 (a) contravenes or fails to comply with any provision of these By-laws
 (b) fails to comply with any notice issued in terms of these By-laws; or
 (c) fails to comply with any lawful instruction given in terms of these By-laws; or
 (d) who obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties under these By-laws,
 is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding six months, and in the case of a continuing offence, to a further fine not exceeding R50, or in default of payment to imprisonment not exceeding one day, for every day during the continuance of such offence after a written notice has been issued by the Council and served on the person concerned requiring the discontinuance of such offence.

Repeal of by-laws

13. Any by-laws relating to encroachment on property adopted by the municipality or any municipality now comprising an administrative unit of the Council is repealed from the date of promulgation of these by-laws.

Short title

14. These By-laws are called the Encroachment on Property By-laws, 20....

NOTICES

PLEASE TAKE NOTE THAT AS FROM 1 NOVEMBER 2010 THE BANKING DETAILS OF THE DEPARTMENT OF THE PREMIER WILL BE AS FOLLOWS:

BANKING DETAILS FOR DEPARTMENT OF THE PREMIER

NEW BANK:	STANDARD BANK
ACCOUNT NAME:	FSPG: DEPARTMENT OF THE PREMIER
ACCOUNT NUMBER:	240 322 029
BRANCH NAME:	BRANDWAG BRANCH
BRANCH CODE:	05 5534 00
REFERENCE NO.:	AS DISCUSSED UNDERNEATH
ACCOUNT HOLDER:	FSPG: DEPT PREMIER
FAX NO.	(051) 405 4396

- **NB: FOR CHEQUES PURPOSE (PAY) PLEASE WRITE FSPG: DEPT. PREMIER.**
- **YOU ONLY USE REFERENCE NUMBER WHEN YOU PHYSICALLY GO TO BANK AND FILL IN DEPOSIT SLIP. AFTER DEPOSITING, YOU FAX ME BACK YOUR DEPOSIT SLIP AND SUBSCRIPTION FORM PLEASE.**
- **WHEN DEPOSIT MONEY ELECTRONICALLY YOU WILL USE COMPANY NAME AS A REFERENCE NUMBER AND FAX ME BACK YOUR PROOF OF PAYMENT AND SUBSCRIPTION FORM PLEASE.**

ENQUIRIES CONTACT:**TEL NO.**

MS C TSHABALALA	(051) 403 3139
MRS M.E. MATILE	(051) 403 3590

NOTICE

PLEASE TAKE NOTE: THAT THE LAST PUBLICATION OF THE PROVINCIAL GAZETTE FOR THE YEAR 2010 WILL BE ON 10 DECEMBER 2010.

THE NEXT PUBLICATION WILL BE ON 14 JANUARY 2011.
