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SPECIAL

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PROVINCIAL NOTICE

[NO. 145 OF 2010]

NOTICE IN TERMS OF SECTION 14(2)(b)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: STANDARD CREDIT CONTROL AND DEBT COLLECTION 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 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:

DEFINITIONS AND APPLICATION

Definitions

1. In these By-laws any word or expression to which a meaning has been assigned in the Act bears the same meaning, and unless the context otherwise indicates –

"account" means a notification by means of a statement of account to a person liable for payment of any amount for which he or she is liable to pay the Council in respect of the following :

(a) Electricity consumption based on a meter reading or estimated consumption;

(b) water consumption based on a meter reading or estimated consumption ;

(c) refuse removal and disposal;

(d) rates;

(e) interest; and

(f) miscellaneous and sundry fees and collection charges;

"Act" means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); **"arrears"** includes collection charges and interest in respect of the principal amount in arrears;

"authorised official" means any official or agent of the Council who has been authorised by it to administer, implement and enforce the provisions of these By-laws;

"by-law" means a by-law adopted and promulgated by the Council;

"collection charges" means charges which may be recovered by the Council in terms of section 75A of the Act, and includes –

(a) the cost of reminding customers of arrears;

(b) the cost of the termination, restriction and reinstatement of municipal services;

(c) the costs of any notice rendered, sent or delivered in terms of these By-laws;

(d) the costs and administration fees contemplated in section 22;

(e) all legal costs, including attorney and client costs, incurred in the recovery of arrears; and (f) any commission and other expenses relating to the recovery of arrears payable by the Council to any person or partnership.

"Council" means - (a) the Local Municipality ofestablished in terms of the Local Government: Municipal Structures Act, 1998, as amended, 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 Act; or

(d) a service provider fulfilling a responsibility under these By-laws, assigned to it in terms of section 81(2) of the Act, or any other law, as the case may be;

"customer" means any occupier of premises to which the Council has agreed to provide or is actually providing any municipal service, or if there is no occupier, the owner of the premises concerned;

"fee" means a fee prescribed for or in respect of any municipal service;

"Municipal Manager" means - (a) the person appointed by the Council as the Municipal Manager in terms of section 82 of the Local Government : Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any person acting in that position; or

(b) in relation to a service provider referred to in paragraph (d) of the definition of "Council", the chief executive officer of that service provider.

"municipal service" means any or all of the services specified in subparagraphs (i) to (iv), inclusive, of section 2(1)(b) of this by-law;

"occupier" means any person who occupies any premises or part thereof, without regard to the title under which he or she so occupies;

"owner" –

(a) in relation to a property referred to in paragraph (a) of the definition of "property", means a person in whose name ownership of the property is registered;

(b) in relation to a right referred to in paragraph (b) of the definition of "property", means a person in favour of whom the right is registered;

(c) in relation to a right referred to in paragraph (c) of the definition of "property", means a person in favour of whom the right is registered or to whom it was granted in terms of any law; and (d) in relation to public service infrastructure referred to in paragraph (d) of the definition of "property", means the organ of state which owns or controls that public service infrastructure, and includes a person who the Council may for the purpose of these By-laws regard as the owner of a property in the following cases:

(i) A trustee, in the case of a property in a trust, but excluding state trust land in relation to rates contemplated in the Local Government: Municipal Property Rates Act, 2004 (Act No.6 of 2004);

(ii) an executor or administrator, in the case of a property in a deceased estate;

(iii) a trustee or liquidator, in the case of a property in an insolvent estate or the owner of which is in liquidation;

(iv) a judicial manager, in the case of a property in the estate of a person under judicial management;

(v) a curator, in the case of a property in the estate of a person under curatorship;

(vi) a person in whose favour a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;

(vii) a lessee, in the case of a property that is registered in the name of the Council and is let by it; or

(viii) a buyer, in the case of a property that was sold by the Council and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

"Policy" means the Credit Control and Debt Collection Policy adopted by the Council;

"prescribed" means prescribed by the Council from time to time, by resolution;

"premises" means any piece of land, with or without any building or structure thereon, the external surface boundaries of which are delineated on –

(a) a general plan or diagram registered in terms of the Land Survey Act, 1927 (Act No. 9 of 1927), or in terms of the Deeds Registry Act, 1937 (Act No. 47 of 1937); or

(b) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), which is situated within the area of jurisdiction of the Council;

"property" means - (a) immovable property registered in the name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person;

(b) a right registered against immovable property in favour of a person, excluding a mortgage bond registered against the property;

(c) a land tenure right registered in favour of a person or granted to a person in terms of any law; or

(d) public service infrastructure;

"rates" means a municipal rate on property levied in terms of the Local Government : Municipal Property Rates Act, 2004 (Act No. 6 of 2004), and

"working days" means a day, other than a Saturday, Sunday or public holiday.

Application of By-laws

2. (1) These By-laws only apply in respect of amounts of money due and payable to the Council for:-
 - (a) rates;

- (b) fees and surcharges on fees in respect of the following municipal services:
 - (i) The provision of water and the availability thereof;
 - (ii) refuse removal and disposal;
 - (iii) sewerage and the availability thereof; and
 - (iv) electricity consumption and the availability thereof;
 - (c) interest which has or will accrue in respect of any amount of money due and payable or which will become due and payable to the Council in regard to rates and municipal services; and
 - (d) collection charges;
- (2) These By-laws also apply to any municipal service provided through pre-paid meters, in so far as the By-laws may be relevant.

CHAPTER 2

SERVICE AGREEMENTS AND TERMS AND CONDITIONS OF THE PROVISION OF MUNICIPAL SERVICES

Provision of municipal services to applicants

3. (1) No municipal service may be provided to any applicant, unless and until –
- (a) application for the service has been made in writing on a form substantially similar to the form prescribed;
 - (b) any information and documentation required by the Council have been furnished;
 - (c) a service agreement, in a form substantially similar to the form of agreement prescribed, has been entered into between the customer and the Council; and
 - (d) an amount equal to the amount prescribed, in cash or a bank cheque, has been deposited as security or other acceptable security, as prescribed, has been furnished.
- (2) If an applicant for a municipal service is an existing customer of the Council in respect of any other municipal service in respect of which any amount is in arrears –
- (i) such arrears must be paid; or
 - (ii) an agreement for payment of the arrears in terms of section 21 must have been entered into and payment in terms thereof must not be in arrears,
- before an application for a new service in terms of this section may be considered.
- (3) The Council may at any time require a customer to increase a deposit paid or security furnished in terms of subsection (1)(d);
- (4) No interest is payable on any amount deposited in terms of subsection (1)(d) or (3).

General terms and conditions for the provision of municipal services

4. The general terms and conditions for the provision of any municipal service set out in a service agreement contemplated in section 3(1)(c) are deemed to be incorporated in these By-laws and apply to the provision of such service to any customer.

Estimated consumption

5. The Council may have an estimate made of the consumption of water or electricity for any relevant period if –
- (a) no meter reading could be obtained in respect of the period concerned; or
 - (b) no meter has been installed to measure the consumption on the premises concerned,
- and the customer concerned is liable for payment of the prescribed fee in respect of such estimated consumption.

New service agreements and deposits or security by existing customers

6. (1) Any existing customer, or the trustee, liquidator, judicial manager or curator of such customer, may be required by the Council to enter into a new service agreement to replace an existing agreement of the customer concerned, and to pay a deposit or furnish security contemplated in section 3, notwithstanding the fact that a service agreement was previously entered into in respect of the municipal service concerned and the provisions of section 3(3) apply in respect of such new agreement.
- (2) The provisions of section 3(4) apply to a deposit referred to in subsection (1).

Termination of service agreements

7. (1) Subject to the provisions of sections 13 and 21 –
- (a) a customer may terminate an agreement for the provision of any municipal service by notice in writing of not less than seven working days to the Council, of his or her intention to do so;
 - (b) the Council may, subject to compliance with the provisions of these By-laws and any other applicable law, by notice in writing of not less than 14 working days, to a customer, terminate his or her agreement for the provision of the municipal service concerned, if the customer –

- (i) has not used the municipal service during the preceding six months and has not made arrangements to the satisfaction of the Council for the continuation of the agreement;
 - (ii) has failed to pay any prescribed fee or arrears due and payable in respect of the municipal service concerned;
 - (iii) has made an arrangement with another services provider to provide the municipal service concerned to the customer;
 - (iv) has vacated the premises to which the agreement concerned relates.
- (2) A customer to whom notice has been given in terms of subsection (1)(b), may within the period of 14 working days referred to in that subsection, make written representations to the Council why the agreement concerned should not be terminated and if such representations are unsuccessful, either wholly or in part, the agreement concerned may be terminated.

CHAPTER 3

ACCOUNT ADMINISTRATION

Accounts

8. (1) Accounts must be rendered and administered in accordance with the Credit Control and Debt Collection Policy, other prescribed requirements and any other law.
- (2) The Council may, in accordance with the provisions of section 102 of the Act –
- (a) consolidate any separate accounts of a customer liable for payments in terms of these By-laws to the Council;
 - (b) credit any payment by such customer against any account of that customer; and
 - (c) implement any of the debt collection and credit control measures provided for in these By-laws in relation to any arrears on any of the accounts of a customer.
- (3) The amount due and payable by a customer constitutes a consolidated debt, and any payment made by a customer of an amount less than the total amount due, will, subject to the provisions of section 19(1), be allocated in reduction of the consolidated debt in the order prescribed.
- (4) (a) Any amount paid by a customer in excess of an existing debt may be held in credit for the customer in anticipation of future rates and fees for municipal services or for the purposes contemplated in section 14(b).
- (b) No interest is payable on any amount contemplated in paragraph (a).

Account information

9. Accounts must contain at least the following information –
- (a) the consumption or estimated consumption of water and electricity as determined for the measuring or consumption period;
 - (b) the measuring or consumption period for water and electricity;
 - (c) the amount due based on the measured or estimated consumption of services;
 - (d) the amount due and payable for any other municipal service;
 - (e) the amount in arrears, if any;
 - (f) the interest payable on any arrears, if any;
 - (g) collection charges insofar as they may be relevant;
 - (h) the final date for payment; and
 - (i) the methods, places and approved agents where payment may be made.

Account administration

10. The Council must, subject to the provisions of section 5, endeavour to ensure –
- (a) accurate metering of consumption at fixed intervals with the minimum delay between service connection and first and subsequent rendering of accounts;
 - (b) accurate and up-to-date information in accounts;
 - (c) accurate monthly accounts with the application of the appropriate and correct prescribed fees, rates and other related amounts due and payable;
 - (d) the timely dispatch of accounts;
 - (e) adequate provision and the efficient operation of facilities for payment throughout the municipal area;
 - (f) the appointment of agents to accept payments on behalf of the Council; and
 - (g) appropriate hours of business in order to facilitate account payments.

Queries or complaints in respect of accounts

11. (1) A customer may lodge a query or complaint in respect of the accuracy of any amount due and payable in terms of an account rendered to him or her in terms of these By-laws.
- (2) A query or complaint must be lodged with the Council before or on the due date for payment specified in the account concerned, or as soon as reasonably possible thereafter.
- (3) If a query or complaint contemplated in subsection (1), is lodged –
 - (a) before the due date for payment specified in the account concerned, an amount at least equal to the average amount that was due and payable in respect of rates or the municipal service concerned, as specified in the accounts for the preceding three months which are not in dispute, must be paid by the customer concerned before or on such due date; or
 - (b) after the due date for payment specified in the account concerned, such query or complaint must if the full amount in dispute has not been paid, be accompanied by at least the amount contemplated in paragraph (a); and
 - (c) before or after the due date for payment specified in the account concerned, the customer concerned must pay the full amount of any account, insofar as it relates to rates or the municipal service concerned, rendered in respect of a subsequent period, before or on the due date for payment specified in such account, except insofar as that account may incorporate the amount in dispute.
- (4) An authorised official must register the query or complaint and provide the customer with a reference number.
- (5) The Council must –
 - (a) investigate or cause the query or complaint to be investigated within 14 days, or as soon as possible after the query or complaint was received; and
 - (b) inform the customer, in writing, of its decision as soon as possible after conclusion of the investigation, instructing that any amount found to be due and payable must, subject to the provisions of section 21, be paid within 21 days from the date on which the customer is notified thereof, unless an appeal is lodged within that period in terms of subsection (6) or section 12.
- (6) A customer may, subject to the provisions of section 12, lodge an appeal with the Municipal Manager in terms of section 62 of the Act against a decision referred to in subsection (5), within 21 days of the date of the notification of the decision.
- (7) The Council must inform the customer concerned in writing of the decision of the appeal, instructing that any amount found to be due and payable, must be paid within seven days from the date on which the customer is notified thereof.

Appeals against decision by service providers on queries and complaints

12. (1) If a decision contemplated in section 11(5) has been made in respect of a municipal service provided by a service provider referred to in paragraph (d) of the definition of Council in section 1, a customer may lodge an appeal against that decision by giving written notice of the appeal and reasons to the chief executive officer of the service provider concerned, within 21 days of the date of the notification of the decision.
- (2) The chief executive officer must promptly submit the appeal to the appropriate appeal authority specified in subsection (4).
- (3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation may detract from any rights that may have accrued as a result of the decision.
- (4) If an appeal is against a decision taken by –
 - (a) a staff member, other than the chief executive officer, the chief executive officer is the appeal authority;
 - (b) the chief executive officer or any committee of the service provider –
 - (i) the board of directors of the service provider; or
 - (ii) a committee of directors who were not involved in the decision concerned and appointed by the board of directors for this purpose, is the appeal authority.
- (5) An appeal authority contemplated in subsection (4), must commence with an appeal within 42 days after submission of the appeal and decide the appeal within a reasonable period.
- (6) A service provider must comply with the provisions of section 11(7).

Arrear accounts

13. (1) If a customer fails to pay an amount due and payable for any municipal service or rates on or before the due date for payment specified in the account concerned, a final demand notice may be sent to the customer.
- (2) A final demand notice referred to in subsection (1), must contain the following :
 - (a) the amount in arrears and any interest payable, and a statement that payment must be made within 14 days of the date of the final demand notice;
 - (b) that the customer may in terms of section 21, within the period contemplated in paragraph (a), conclude a written agreement with the Council for payment of the arrears in instalments;
 - (c) that if no such agreement is entered into within the period stipulated in paragraph (b), the municipal service concerned may be terminated or restricted and that legal action may be instituted for the recovery of any amount in arrear without further notice;

- (d) that the customer's name may be made public, and may be listed with a credit bureau in terms of section 20(1)(a);
- (e) that the account may be handed over to a debt collector or attorney for collection;
- (f) that proof of registration as an indigent person in terms of section 23 and any other documentation required by the Council must be furnished to the Council on or before the date for payment contemplated in paragraph (a);
- (g) that an indigent person referred to in paragraph (f) is only entitled to benefits relating to municipal services as stipulated in the Council's policy relating to the supply of municipal services to indigent persons; and
- (h) that the customer has an opportunity to make representations in writing on any matter referred to in a final demand notice within the period of 14 days contemplated in paragraph (a).

Action to secure payment

14. The Council may, in addition to the normal civil legal steps to secure payment of any arrears, take the following action to secure payment of such amount:
- (a) The termination or restriction of the provision of any municipal service in terms of section 15; and
 - (b) the allocation of the whole or a portion of a payment of an account, or the whole or a portion of a pre-payment for future accounts as contemplated in section 8(4)(a), as payment for arrear municipal service fees or rates, in terms of section 19.

Power to terminate or restrict provision of municipal services

15. (1) For the purposes of subsection (2), a final demand notice means a notice contemplated in sections 11(5)(b), 11(7), 12(6) and 13(1).
- (2) Subject to the provisions of subsection (4), the Council may terminate or restrict the provision of water or electricity, or both, whichever service is relevant, in terms of the termination and restriction procedures prescribed or contained in any law, to any premises if the customer in respect of the municipal service concerned –
- (a) fails to make full payment of arrears specified in a final demand notice sent to the customer concerned, before or on the date for payment contemplated in sections 11(5)(b), 11(7), 12(6) or 13(1), whichever is applicable, and no circumstances have arisen which require the Council to send a further final demand notice to that customer in terms of any of those sections, and the customer –
 - (i) fails to enter into an agreement in terms of section 21, in respect of the arrears concerned before termination or restriction of the service concerned; or
 - (ii) fails to submit written proof of registration as an indigent person in terms of section 23, before such termination or restriction;
 - (b) fails to pay any instalment payable in terms of an agreement referred to in paragraph (a)(i) before or on the due date;
 - (c) fails to comply with any condition or provision in respect of the supply of electricity or water, as the case may be, imposed by the Council;
 - (d) obstructs the efficient provision of electricity or water to another customer;
 - (e) provides electricity or water to a person who is not entitled thereto or permits such provision to continue;
 - (f) causes a situation relating to electricity or water which, in the opinion of the Council, is dangerous or constitutes a contravention of any applicable law, including the common law;
 - (g) in any way reinstates the provision of a previously terminated or restricted electricity or water service;
 - (h) is placed under provisional sequestration, provisional liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, 1936 (Act No. 24 of 1936) or is subject to an administration order granted in terms of section 74 of the Magistrates Court Act, 1944 (Act No. 32 of 1944), and there is a failure to enter into a new service agreement within 14 days of the Council requiring such service agreement in terms of section 6.
- (3) The Council may send a termination notice or a restriction notice to a customer informing him or her –
- (a) that the provision of the municipal service concerned will be, or has been terminated or restricted on the date specified in such notice; and
 - (b) of the steps which can be taken to have the municipal service concerned reinstated.
- (4) Any action taken in terms of subsections (2) and (3) is subject to compliance with: –
- (a) sections 3 and 4 of the Water Services Act, 1997 (Act No. 108 of 1997), if the provision of water is involved;
 - (b) the relevant provisions of the Electricity Regulation Act, 2006 (Act No. 4 of 2006), if the provision of electricity is involved;
 - (c) the relevant provisions of the Health Act, 1977, (Act No. 63 of 1977), and any regulations made in terms of that Act; and
 - (d) the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), in so far as it is applicable.

Reinstatement of municipal services

16. (1) The Council must reinstate full levels of provision of any electricity or water service terminated or restricted in terms of section 15 after –
- (a) the full amount of arrears has been paid; or
 - (b) an agreement for payment of the arrears contemplated in paragraph (a) has been entered into in terms of section 21; or
 - (c) the full amount of arrears in respect of any agreement entered into in terms of section 21, and any increased deposit, have been paid, or any additional security required has been provided, and any other condition of the Policy that the Council may consider appropriate, has been complied with.
- (2) Any reinstatement in terms of subsection (1) may only be done after an authorised official has issued a written certificate of authorisation to the effect that every applicable condition contemplated in subsection (1) has been complied with and that the municipal service concerned may be reinstated.

Interest

17. All arrears in respect of accounts for rates and municipal services bear interest at a rate prescribed.

Collection charges

18. Collection charges, prescribed where relevant, may be levied against a customer in respect of any relevant action taken in terms of, or for the purposes of, these By-laws.

Full and final settlement of an amount

19. (1) The Council may appropriate monies received in respect of any debt contemplated in these By-laws at its sole discretion, unless the customer otherwise instructs in writing.
- (2) If any amount due and payable to the Council in terms of these By-laws has not been paid in full, any lesser amount tendered to and accepted by any employee of the Council, does not constitute payment in full and final settlement of the full amount, unless the lesser amount was accepted in full and final settlement in writing, under a power delegated or sub-delegated to such employee in terms of section 59 of the Act or by a service provider contemplated in paragraph (d) of the definition of "Council".

Accounts outstanding after the due date

20. (1) If an account for assessment rates or any municipal service is rendered to a customer and remains unpaid, wholly or in part, for more than 14 days after the due date for payment stipulated in the account concerned –
- (a) the defaulting customer's name may be made public, and may be listed with a credit bureau; and
 - (b) may be handed over to a debt collector or an attorney for collection.
- (2) A customer is liable for any interest and collection charges and, in addition, payment of a higher deposit or the provision of additional security if required by the Council.
- (3) No action taken in terms of this section may be suspended or withdrawn, unless the arrears and a higher deposit, if required by the Council, have been paid in full or additional security has been provided, if so required.

Agreements for the payment of arrears in installments

21. (1) A customer with positive proof of identity or a person authorised, in writing, by such customer, may, subject to the approval of the Council, enter into an agreement in a form substantially similar to a form prescribed, for the payment of arrears in installments.
- (2) The amount due and payable by a customer in terms of an agreement contemplated in subsection (1), constitutes a consolidated debt and any payment made by a customer of an amount less than the total amount due, must be allocated in reduction of the consolidated debt in the order prescribed, unless the customer otherwise instructs in writing.
- (3) A customer may be required to arrange a debit order for the payment of arrears in respect of which an agreement, contemplated in subsection (1), has been entered into.
- (4) Subject to the provisions of subsection (5), no agreement for the payment of arrears may allow for a period of payment of longer than 24 months.
- (5) (a) The Council may allow a period of payment in excess of 24 months for the payment of arrears, but not exceeding a period of 60 months, if special circumstances which the customer could not reasonably have prevented or avoided, prevail and which, in the opinion of the Council, warrant a longer period of payment.
- (b) Documentary proof of any special circumstances as contemplated in paragraph (a), must be furnished by a customer on request by the Council.

- (6) The Council must, in exercising its discretion in terms of subsection (5), have regard to a customer's –
- (a) credit record;
 - (b) electricity and water consumption;
 - (c) ability to afford the proposed installments, taking into account the customer's financial situation;
 - (d) level of service;
 - (e) previous breaches of agreements for the payment of arrears in installments; and
 - (f) any other relevant factor.
- (7) A copy of an agreement contemplated in subsection (1), must, on request, be furnished to the customer concerned.
- (8) If a customer fails to comply with an agreement contemplated in subsection (1), the total arrears, and payment of a higher deposit if required by the Council, will immediately become due and payable, and additional security, if so required, must be provided, without further notice.
- (9) If a customer fails to comply with an agreement contemplated in subsection (1), entered into after receipt of a termination or restriction notice for water or electricity services, or both, as the case may be, the municipal service concerned may be terminated or restricted without further notice, in addition to any other action taken, or which may be taken, against the customer concerned.
- (10) No customer is permitted to enter into an agreement contemplated in subsection (1), if that customer has failed to honour a previous agreement for the payment of arrears in installments, unless the Council otherwise decides.
- (11) Once an agreement contemplated in subsection (1), has been concluded, the amount in arrears must be reflected as a current amount, and no further interest may be added.

Dishonoured cheques

22. If any payment is made to the Council by a negotiable instrument, and such negotiable instrument is dishonoured, the Council may levy costs and administration fees against the account of the defaulting customer at a prescribed rate.

CHAPTER 4

INDIGENT PERSONS

Registration as indigent person

23. (1) A person who wishes to receive assistance in terms of the Council's policy for the provision of municipal services to indigent persons, must make application for registration as an indigent person on a prescribed form at any of the Council's offices.
- (2) An application in terms of subsection (1), must be considered by the Council which must adhere to the principles of transparency, equity, consistency, non-discrimination, accessibility, empathy, integrity, confidentiality and objectivity during the evaluation process.
- (3) An applicant, contemplated in subsection (1), must, at the request of the Council, furnish any further information to enable the Council to arrive at a decision and the Council may, for the purpose of properly evaluating the application, conduct any investigation which it considers appropriate.
- (4) An applicant must be informed that he or she will automatically be disqualified from receiving any assistance contemplated in subsection (1), and be liable to-
- (a) refund the amount of any such assistance received from the Council, if the application or information contemplated in subsection (3), contains any false information; and
 - (b) prosecution if any false information as contemplated in paragraph (a) is furnished by the applicant.
- (5) If the Council finds an applicant to be indigent, such applicant is entitled to assistance in terms of the policy referred to in subsection (1), and his or her personal particulars must be recorded in a prescribed register of indigent persons.
- (6) The position of every indigent person so recorded, must be reviewed annually by an authorised official in accordance with the directives of the Council.
- (7) A successful applicant must be informed in writing that he or she must immediately notify the Council when his or her indigent status has changed.

CHAPTER 5

MISCELLANEOUS

Council's right of access to premises

24. The Council may exercise its right of access to premises in terms of section 101 of the Act through the City Manager or any authorised official or any duly appointed agent of the Council, authorised thereto in writing.

Preservation of rights consequent on non-compliance

25. A failure by the Council to render an account in terms of section 8(1), to send a final demand notice contemplated in section 15(1) or to comply with any other provision of these By-laws does not in any way affect the liability of any person to pay any amount due and payable to the Council as contemplated in these By-laws, nor the Council's right to recover such amount.

Transmission of documentation

26. Subject to the provisions of any law, if in terms of or for the purposes of these By-laws any written communication must or may be rendered, sent or delivered –
- (a) by the Council to any person, such communication must be –
 - (i) delivered by hand –
 - (aa) to that person's domicilium citandi et executandi, as stipulated in an agreement entered into in terms of section 3(1)(c) or 6(1) or 21(1); or
 - (bb) in the absence of such agreement, to that person's most recently recorded address; or
 - (cc) to the premises concerned in respect of which rates are levied or any municipal service is provided, whichever is relevant; or
 - (ii) sent by post to the address referred to in subparagraph (i)(aa) or (bb), whichever is applicable, or to the address of the premises contemplated in subparagraph (i)(cc).
 - (b) by any person to the Council, such communication must be –
 - (i) delivered by hand to –
 - (aa) the Council's domicilium citandi et executandi stipulated in the agreement contemplated in paragraph (a)(i)(aa); or
 - (bb) another address, if the Council has in writing furnished such an address to the person concerned; or
 - (ii) sent by post to the address referred to in subparagraph (i)(aa) or, in the circumstances contemplated in subparagraph (i)(bb), to the address contemplated in that subparagraph.

Prima facie evidence of documentation

27. For the purposes of the recovery of any amount due and payable to the Council in terms of these By-laws –
- (a) a copy of any relevant account ; and
 - (b) an extract from the Council's records relating to the quantity of consumption or provision of any municipal service and the period of provision of such service, certified by an authorised official as being correct, constitute prima facie evidence of the information contained in such documents.

Repeal and amendments

28. Any by-laws relating to credit control and debt collection adopted by the Council or any municipality now comprising an administrative unit of the Council is repealed from the date of promulgation of these by-laws

Conflicting laws

29. If there is any conflict between a provision in these By-laws and a provision of any other by-law of the Council, the provisions of these By-laws prevail.

Short title

30. These By-laws are called the Credit Control and Debt Collection By-laws, 200...

[NO. 146 OF 20100**NOTICE IN TERMS OF SECTION 14(2)(b) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: STANDARD ADVERTISING 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

ADVERTISING BY-LAW

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1. DEFINITIONS

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

Advertisement means any representation of a word, name, letter, figure or object or of an abbreviation of a word or name, or of any sign or symbol; or any light which is not intended solely for illumination or as a warning against any danger, which is visible from any street or public place.

Advertising hoarding means a screen, fence, wall or other structure in a fixed position to be used, or intended to be used, for the purpose of posting, displaying or exhibiting any advertisement.

Advertising sign means any advertisement or object, structure or device which is in itself an advertisement or which is used to display an advertisement, in view of any street or public place.

Advertising structure means any physical structure built to display advertising.

Aerial sign means any sign attached to a kite, balloon, or similar device whereby it is suspended in the air over any part of the area.

Affix means to firmly secure which includes to paint onto and "affixed" has a corresponding meaning.

Animation means moving units or pictures, flashing lights, and other non-stationery devices which are used to gain added attention and awareness.

Approved means approved by the Council and "approval" has a corresponding meaning.

Arcade means a covered pedestrian thoroughfare not vested in the Council, whether or not located at ground level passing wholly or partly through a building and to which the public normally has regular and unrestricted access.

Backlight units (backlit) means advertising structures which house illumination in a box to throw light through translucent advertising printed on plastic or heavy duty paper for a higher visibility and extended night viewing.

Billboard means a large free-standing structure used or intended to be used for the purpose of posting, displaying or exhibiting any advertisement.

Building means any structure whatsoever with or without walls, having a roof or canopy and a normal means of ingress and egress there under, covering an area in excess of 4.6m² and having an internal height of more than 1.650m.

Canopy means a structure in the nature of a roof projecting from the facade of a building and cantilevered from that building or anchored otherwise than by columns or posts.

Charge means the appropriate monetary charge determined by the Council.

Clear height means the vertical distance between the lowest edge of the sign and the level of the ground, footway or roadway immediately below such sign.

Copy (Artwork) means the complete advertising message to be displayed.

Commercial Advertising means any words, letters, logos, figures, symbols, pictures relating to the name of a business, a trade, a partnership or an individual or any information, recommendation or exhortation in respect of any particular goods manufactured or sold or any particular services rendered or offered.

Controlling Authority means a controlling authority as contemplated in the Advertising On Roads And Ribbon Development Act, 1940 (Act No. 21 of 1940).

Composite sign means a sign linked to a standardised background of a specific size similar to a poster board on which logos or other tourist-related information can be attached.

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.

Cut-outs / embellishments / add-ons means letters, packages, figures or mechanical devices attached to the face of an outdoor sign which extend beyond the rectangular area for greater attention value. (Can provide a three dimensional effect.)

Depth of a sign means the vertical distance between the uppermost and lowest edges of the sign.

Directional sign means a sign indicating the way to a place, undertaking or activity for the purpose of advertising or directing public attention as contemplated in the definition of "Advertisement".

Display of a sign includes the erection of any structure if such structure is intended solely or primarily for the support of a sign.

Display period means the exposure time during which the individual advertising message is on display.

Election means either National, Provincial or Local Government elections or by-elections held from time to time.

Erf means any piece of land registered in a deeds registry as an erf, lot, plot, stand or agricultural holding.

Flashing sign means a sign in which a symbol, figure, message or illustration intermittently appears and/or disappears and/or illuminated with varying colour or intensity.

Flat sign means any sign which is affixed to or painted directly on a main wall and which at no point projects more than 250mm in front of the surface of such wall.

Fly poster means any poster which is pasted by means of an adhesive directly onto a surface.

Ground sign means any sign detached from a building, other than an aerial sign, hoarding, billboard or advertising structure.

Illuminated means the installation of electrical equipment on an outdoor structure for illumination of the copy message at night.

Illuminated sign means a sign, the continuous or intermittent functioning of which depends upon it being illuminated.

Inflatable sign means any hoarding erected and maintained by means of air or gas used for the purpose of posting or displaying any advertisement.

Main wall of a building means any external wall of such building, but does not include a parapet wall, balustrade or railing of a veranda or a balcony.

Municipality means the.....Local Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with 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;

Movable temporary sign means a sign not permanently fixed and not intended to remain fixed in one position, but does not include any moving part in a fixed permanent sign.

Non-profit body means a body established to promote a social goal without the personal financial gain of any individual or profit making commercial organization involved and which submits adequate proof to the satisfaction of the Council of its non-profit status.

Person includes both natural and juristic persons.

Poster and notices means any placard announcing or attracting public attention to any meeting, event, function, activity or undertaking or to the candidature of any person nominated for election to National, Provincial or Local Government or similar body or to a referendum.

Projected sign means any sign projected by a cinematograph or other apparatus, but does not include a sign projected onto the audience's side of a drive-in cinema screen during a performance.

Projecting sign means a sign, whether stationary or actuated, attached to and protruding from the facade of a building.

Public place means any road, street, thoroughfare, bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden, park or enclosed space vested in the Council.

Pylon sign means any sign whether stationary or actuated, displayed on or forming an integral part of a pylon or mast or similar structure other than a building or advertising hoarding.

Residential purposes means the use of a building as a dwelling house, two or more dwelling units, a hostel, a boarding house, and a residential club.

Road traffic sign means any road traffic sign as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996), the detailed dimensions and applications of which are controlled by the regulations to this Act and the South African Road Traffic Signs Manual.

Rotating sign means a sign, which rotates about any axis.

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

Shelter displays means posters positioned as an integral part of a freestanding covered structure.

Sign Alley is a section of road where advertising structures have been permitted at less than prescribed distances but in such a manner that no advertising structure obstructs another in any way.

Sky sign means any sign erected or placed on or above any roof, parapet wall or the eaves of a building, but does not include a sign painted on a roof of a building.

Spectacular (an industry term) means a giant, modern, illuminated advertising billboard.

Storey means the space within a building which is situated between one floor level and the next floor level next above, or if there are no clearly defined storeys, the height of a storey must be taken as 4,5m.

Street means any street, road or thoroughfare shown on the general plan of a township, agriculture holding or any other division of land or in respect of which the public have acquired a prescriptive or other right of way and which vests in the Council.

Temporary advertisements means signs and advertisements which are usually displayed to publicise a forthcoming event or to advertise a short term use of the advertisement site.

Temporary sign means a sign not permanently fixed and not intended to remain fixed in one position.

Third-party advertising means any advertising displayed which is not appropriate to the type of activity on the erf or site to which it pertains.

Transit advertising means all advertising on normally moving vehicles including taxis, buses, trailers, trams, vessels, etc.

Tri-vision means a display embellishment, which, through use of a triangular louver construction, permits the display of three different copy messages in a predetermined sequence.

Veranda means a structure in the nature of a roof attached to or projecting from the facade of a building and supported along its free edge by columns or posts.

Window signs are signs, which are permanently painted on, or attached to, the window-glass on a window.

2. APPLICATION FOR APPROVAL FOR ADVERTISING SIGNS AND HOARDINGS

- (1) Save for the provisions of the National Road Traffic Act, 1996 (Act 93 of 1996), the Advertising on Roads and Ribbon Development Act, 1940 (Act 21 of 1940) and the South African Manual for Outdoor Advertising Control (SAMOAC), in which case an application for approval must be submitted to the relevant controlling authority, no person must display or erect any advertising sign or hoarding or use any advertising sign or hoarding or use any structure or device as an advertising sign or hoarding without first having obtained the written approval of the Council; provided that the provisions of this Section do not apply to signs contemplated in Section 4,

- (2) No sign erected and displayed with the approval of the Council must in any way be altered, moved, re-erected nor must any alteration be made to the electrical wiring system of such sign except for the purposes of renovating or maintenance, without the further approval of the Council in terms of sub section (1).
- (3) (a) An application in terms of sub-section 1, accompanied by the required application fee, as determined by Council and subject to Section 33, must be signed by the owner of the proposed advertising sign or hoarding and by the registered owner of the land or building on which the sign or advertising hoarding is to be erected or displayed, or on behalf of the owner of the land or building by his agent authorised in writing by such owner and must be accompanied by:
- (i) a locality plan indicating the anticipated position of the sign within the area of the Local Municipality of.....The Council may require the locality for signs in excess of 10 square metres to be indicated and described by an accurate G.P.S. reading or an acceptable alternative
 - (ii) a block plan of the site on which the advertising sign or hoarding is to be erected or displayed, drawn to a scale of not less than 1:500 showing every building on the site and the position with dimensions of the sign or advertising hoarding in relation to the boundaries of the site and the location of the streets and buildings on properties abutting the site;
 - (iii) a drawing sufficient to enable the Council to consider the appearance of the advertising sign or hoarding and all relevant construction detail;
 - (iv) a drawing showing the advertising sign or hoarding in relation to other similar type signage in the area in which it will be erected.
- (b) Every such plan and drawing must be clearly reproduced on an approved material in sheet form not less than A4 size (210mm x 297mm); and
- (c) A drawing required in terms of paragraph (a)(iii) must show all details of the sign and must be drawn to a scale of not less than 1:20 or other scale acceptable by Council.
- (d) The Council may require additional information in relation to the land on which the sign is to be erected, its use and impact.
- (4) If a sign is to be attached to or displayed on the facade of a building, the Council may require the submission of an additional drawing showing an elevation of the building in colour, the details and position of the proposed sign and the details and the position of every existing sign on the building drawn to a scale of not less than 1 : 100, or the Council may require a coloured print of or an artist's photographic or computer generated impression of the building with the details of the proposed sign superimposed on such graphic and draw as nearly as is practicable to the same scale as that of the graphic.
- (5) The Council may require the submission of additional drawings, calculations and other information and a certificate by a person defined in Section 1 of the Engineering Profession of South Africa Act, 1990 (Act No. 114 of, 1990) as a certified engineer, engineering technician, professional engineer or professional technologist (engineering), in each case giving details to the Council's satisfaction, to enable it to establish the adequacy of the proposed means of securing, fixing or supporting any advertising sign, hoarding or screen referred to in Section 13, to resist all loads and forces to which the advertising sign, hoarding or screen may be exposed and the sufficiency of the margin of safety against failure, in compliance with the provisions of Regulation BI of the National Building Regulations published under Government Gazette No. 9613, dated 1 March 1985.
- (6) In considering an application submitted in terms of sub-section (1), the Council may, in addition to any other relevant factors, have due regard to the following:
- (a) No advertising sign or hoarding or copy should be so designed or displayed that:
 - (i) it will be detrimental to the environment or to the amenity of the neighbourhood by reason of size, intensity of illumination, quality of design or materials or for any other reason;
 - (ii) it will constitute a danger to any person or property;
 - (iii) it will display any material which in the opinion of the Council is indecent, suggestive of indecency, prejudicial to public morals or objectionable;
 - (iv) it will obliterate any other signs;
 - (v) it will in the opinion of the Council be unsightly or detrimentally impact upon a sound architectural design;
 - (vi) it will in any way impair the visibility of any road traffic sign or affect the safety of motorists or pedestrians,
 - (b) The size and location of a proposed advertising sign or hoarding and its alignment in relation to any existing advertising sign or hoarding or the same building or erf and its compatibility with the visual character of the area surrounding it.
 - (c) The number of signs displayed or to be displayed on the erf concerned and its legibility in the circumstances in which it is seen;
- (7) The Council may refuse any application submitted in terms of sub-section (1) or grant its approval subject to any amendment and/or condition which it may deem expedient, including a condition that the owner of any advertising sign or hoarding or the owner of the land or building on which such advertising sign or hoarding is to be erected and displayed, or both such owners, indemnify the Council to its satisfaction against any consequences flowing from the erection, display or mere presence of such advertising sign or hoarding.

- (8) The Council must without delay and in writing notify the applicant of its decision taken by virtue of sub-section (7).
- (9) Every application, plan, drawing and other document submitted in terms of this Section must on approval be retained by the Council for its records.
- (10) Any sign or advertising hoarding for which approval has been granted in terms of sub-section (7), must be erected and displayed in accordance with any plan, drawing or other document approved by the Council and any condition imposed in terms of that sub-section; the Council must be notified once any approved advertising sign or hoarding has been erected.
- (11) Notwithstanding anything contained in these By-laws, any advertising sign or hoarding which complies to the Council's satisfaction, with the considerations referred to in sub-section (6)(a), may be approved by the Council.
- (12) Notwithstanding anything contained in these By-laws, these By-laws are to be applied to the Land Use Zones as set out in the enforceable Town Planning Scheme/Land Use Scheme for the area of jurisdiction of the Municipality.
- (13) Advertising signs and hoardings approved in terms of Section 2(7) will conform to the design requirements set out in Section 28,

3. WITHDRAWALS OR AMENDMENT OF COUNCIL'S APPROVAL

- (1) The Council may, at any time, withdraw an approval granted in terms of Section 2(7) or amend any condition or impose a further condition in respect of such approval, if in the opinion of the Council an advertising sign or hoarding:
 - (a) Will be or become detrimental to the environment or the amenity of the neighbourhood by reason of size, intensity of illumination, quality of design or materials or for any other reason;
 - (b) Will constitute or become a danger to any persons or property;
 - (c) Will obliterate other signs, natural features, architectural features or visual lines of civic or historical interest.
- (2) Should an approved advertising sign or hoarding not be erected within six (6) months from approval or within a time specified in the approval granted, the approval will lapse.
- (3) Should the information requested by the Council to process a signage application not be provided within a three-month period from the date of the request, the application is regarded as withdrawn.

4. EXEMPT SIGNS

- (1) The following signs are exempted from the provisions of Section 2 but must comply with all other provisions of these By-laws save for signs contemplated in (a) and (b) which need not so comply:
 - (a) any sign displayed in an arcade;
 - (b) any sign displayed inside a building;
 - (c) any sign displayed on an approved advertising hoarding;
 - (d) any sign advertising a current event in a cinema, theatre or other place of public entertainment, displayed in a fixture or building especially made for such display;
 - (e) any sign not exceeding the sizes specified hereunder, which is displayed on a site where a building, swimming pool, tennis court, paving, fencing or garden landscaping or any other structure is in the course of being constructed, erected, carried out or altered and which describes the building or structure being erected or other work or activity being carried out, and which displays the names of the contractors or consultants concerned in such work or activity and identifies the branches of the industry or the professions represented by them, during the course of such construction, erection, carrying out of alterations as the case may be: Provided that only one such sign, or set of signs may be permitted per street frontage of a site; and which is placed on or affixed to the building concerned or attached parallel on the boundary fence of the erf on which the building is situated. Such signs are to be removed within 21 days of the completion of the contract. Signage for ongoing maintenance contracts is not permitted;
 - (f) any sign, other than a sign provided for in paragraph (e), not exceeding 12m², and not exceeding a maximum erected height of 6m, which portrays or describes the type of development being carried out on a site and which gives details of the type of accommodation being provided, floor space available, the name, address and telephone number of the developer or his agent, erected during construction work or the carrying out of alterations or additions as the case may be and remaining for a period not exceeding 2 months after the completion of such work;
 - (g) a sign on a street frontage of a building occupied by shops, showrooms or other business uses as defined in the relevant Town Planning Scheme, other than a sign in an office park area, which is below the level of the ground floor ceiling and which is displayed on or fixed to the face of a building or suspended from the soffit of a canopy or veranda roof;
 - (h) a sign consisting of a 600mm x 450mm metal plate or board permitted in terms of Section 14;
 - (i) any flag hoisted on a suitable flag pole which displays only a company name and motif. A maximum of 5 flagpoles of 7m in height is permitted unless specific permission has been applied for as contemplated in terms of Section 2 for more than 5 flagpoles;
 - (j) any sign in a locality wholly or mainly used for residential purposes, other than a brass plate or board not exceeding 600mm x 450mm in size, affixed indicating the name, address and telephone number of a security company contracted to protect the property, provided that only one sign per stand or subdivision may be permitted and such sign must be firmly affixed to the boundary wall, fence or gates on the street frontage;

(k) one sign not exceeding 600mm x 450mm in size on each street boundary of an erf or portion of an erf which sign indicates the existence of a commercial security service, burglar alarm system etc.

(l) a sign not exceeding 2m², indicating the existence of a Block or Neighbourhood Watch System, displayed on a boundary wall or fence or in a position approved by the Council. If erected on its own pole(s), the minimum underside clearance of the sign above the pavement must be 2.1m.

- (2) The owner of the building or property on which a sign contemplated in sub-section (1)(g) is displayed, must indemnify the Council against any consequences flowing from the erection, display or mere presence of the sign.
- (3) Any sign which does not comply with the provisions of these By-laws and which was lawfully displayed on the day immediately preceding the date of commencement of these By-laws is exempted from the requirements of these By-laws if the sign in the opinion of the Council is properly maintained and is not altered, moved or re-erected as contemplated in Section 2(2).
- (4) Road traffic signs erected in terms of any Act of Parliament, Provincial Ordinance or By-law are exempt from the provisions of these By-laws.
- (5) Any sign erected as a specific requirement in terms of any By-law, Provincial Ordinance or Act of Parliament is exempt from these By-laws.
- (6) Any transit sign, which is mobile at all times and complies with all requirements of the Road Traffic Act is exempt from these By-laws.

5. PROHIBITED SIGNS

No person may erect or cause or permit to be erected or maintained any of the following signs:

- (1) Any sign painted on the roof of a building or painted on, attached to, or fixed between the columns or posts of a veranda.
- (2) (a) any sign which projects above or below any fascia, bearer, beam or balustrade of a street veranda or balcony;
(b) any luminous or illuminated sign which is fixed to any fascia, bearer, beam or balustrade of any splayed or rounded corner of a street veranda or balcony.
- (3) Any sign suspended across a street unless otherwise approved by Council.
- (4) Any sign on calico, paper mache, plastic, woven or similar material or of any kind whatsoever, except those provided for in terms of Section 20 or unless consisting of flexface within an approved advertising sign.
- (5) Any swinging sign, which is a sign not rigidly and permanently fixed.
- (6) Any sign which may either obscure a road traffic sign, be mistaken for with or interfere with the functioning of a road traffic sign.
- (7) Any sign which may obscure traffic by restricting motorists' vision and lines of sight thus endangering motorists' safety.
- (8) Any sign which is indecent or suggestive of indecency, prejudicial to public morals or is reasonably objectionable.
- (9) Any sign which will obstruct any window or opening provided for the ventilation of a building or which obstructs any stairway or doorway or other means of exit from a building or which will prevent the movement of persons from one part of a roof to another part thereof.
- (10) Any animated or flashing sign the frequency of the animations or flashes or other intermittent alternations of which disturbs the residents or occupants of any building or is a source of nuisance to the public or impairs road traffic safety.
- (11) Any illuminated sign, the level of illumination of which unreasonably disturbs the residents or occupants of any building or is a source of nuisance to the public.
- (12) Any movable temporary or permanent sign other than those specifically provided for in these By-laws.
- (13) Any sign referring to a price or change in price of merchandise except in a shop window, or on the article itself.
- (14) Any advertisement or sign other than an exempted sign, for which neither a permit nor approval has been obtained.
- (15) Any poster otherwise than on a hoarding legally erected for the purpose of accommodating such poster.
- (16) Any sign or signs, the total area of which exceeds 30m², painted or fixed on a wall of a building not being a front wall of such building, unless approved in terms of the policy for the promotion of Outdoor Advertising in the Johannesburg Inner City.
- (17) Any sign painted on any fence or boundary wall, not being an approved sign or hoarding.
- (18) Any sign which does not comply with the requirements of or which do these By-laws not permit.
- (19) Any sign, which may obstruct pedestrian or vehicular traffic.
- (20) Any form of flyposting on private or Council, property or assets.
- (21) Any transit advertising sign that is parked irrespective of whether it is attached to a vehicle or not.
- (22) Any poster or sign attached to a tree.
- (23) Any poster attached or pasted to a bridge.
- (24) Any temporary sign for commercial or third-party advertising erected on Council land or land vested in the Council, unless by prior signed encroachment agreement or contract with the Council.
- (25) Any sign attached to a bridge or any other Council asset, unless by prior signed agreement or contract with the Council.
- (26) Any third party advertising sign on any property zoned "Residential" in terms of the relevant Town Planning Scheme whether secondary rights or not have been granted by Council and which are exercised on the erf.
- (27) Any sign or poster attached to a Road Traffic Sign.

6. SIGNS SUSPENDED UNDER VERANDAHS OR CANOPIES

Every sign, which is suspended from a veranda or a canopy, must comply with the following requirements:

- (1) Unless the Council otherwise permits, having regard to the design of the veranda or canopy and its associated building and to the position of the building in relation to the street boundary of the erf, the sign must be fixed with its faces at right angles to such boundary.
- (2) No part of the sign may project beyond the outer edge of the veranda or canopy from which it is suspended.
- (3) No part of the sign may be less than 2.4m above the surface of the sidewalk or ground level immediately below it, nor should the top of the sign be more than 1m below the canopy or veranda from which it is suspended nor may any sign exceed 1m in depth.
- (4) Unless the Council in writing otherwise permits, the bottom edge of the sign when suspended must be horizontal and the supports by means of which the sign is suspended, must be an integral part of the design of the sign.

7. SIGNS ON VERANDAHS AND CANOPIES OVER STREET

- (1) Save as herein before provided with regard to hanging signs, every sign affixed to or onto a veranda over a street must be set parallel to the building line.
- (2) Such signs may not exceed 600mm in depth and must be fixed immediately above the eaves of the veranda roof in such manner as not to project beyond the rear of the roof gutter or must be fixed against but not above or below the veranda parapet or balustrade in such manner as not, to project more than 230mm from the outside face of such parapet or balustrade: Provided that-
 - (a) a sign on a public building fixed to or on a veranda over a street and which displays only the features or programme of an entertainment to be given in such public building must have a maximum area of 1m in the aggregate for every 1.5m or part thereof of the frontage of such building to the street over which the sign is erected; (ii) not exceed 1.2m in height.
 - (b) nothing in this Section contained may be taken to prohibit the painting of signs not exceed 600mm in depth on beams over veranda columns, or on parapets of verandas;
 - (c) no illuminated sign or sign designed to reflect light, may be attached to or displayed on any splayed or rounded corner of a veranda or canopy at a street intersection.

8. PROJECTING SIGNS

- (1) All projecting signs must be set at right angles to the building line and must be fixed at a height of not less than 2,75m above the pavement.
- (2) Save as is provided in sub-section (3), no projecting signs may exceed 600mm in height, nor project more than 900mm from the building to which they are attached.
- (3) Notwithstanding the provisions of sub-section (2), larger projecting signs may be erected: Provided:
 - (a) the owner of the building or the person for whom the sign is being erected must make application for and assume at responsibility in connection with such sign, including maintenance, an annual inspection to satisfy himself regarding its safety and liability for all loss or damage caused to any person or property by reason of or in any way arising out of the erection, maintenance or existence of such sign;
 - (b) the design thereof must be to the satisfaction of the Council, and it must comply in all respects with these By-laws;
 - (c) such sign must be fixed at right angles to the street and the front of the building upon which it is erected;
 - (d) such sign must be constructed of metal framing and covered with metal sheeting and may not exceed 300mm in depth from face to face;
 - (e) such sign may not exceed a mass of 450kg or 675kg in the case of a sign consisting only of the name of a central public entertainment building;
 - (f) such sign may not exceed 9m in height or 1.5m total projection from the building, or in the case of a sign consisting only of the name of a central public entertainment building, 14m in height and 1.8m in total projection from the building: Provided that this paragraph does not apply to any sign which has been erected prior to the date of the publication of these by-laws;
 - (g) the sign must be supported, by at least four iron brackets properly fixed to the building, any two of which must be capable of carrying the whole mass of the sign, together with wind pressure, against which pressure the sign must be satisfactorily braced and stayed;
 - (h) upon receipt of a notification by the Council under the hand of the Building Control Officer that such sign is unsafe, it must be removed forthwith by the applicant without any compensation by the Council whatsoever;
 - (i) the owner of such sign must sign a form declaring himself to accept, and be bound by the above conditions.

9. PYLON SIGNS

- (1) For the purposes of this Section the word "pylon" includes any pylon, mast, tower or similar structure to which a sign is attached, supported, displayed or which is constructed as a sign.

- (2) Every pylon must be independently supported and for that purpose be properly secured to an adequate foundation in the ground and be entirely self supporting without the aid of guys, stays, brackets or other restraining devices.
- (3) The dimensions of a pylon and its associated pylon sign must be such that the entire assembly, whether stationary or actuated, can be contained wholly within a notional vertical cylindrical figure having a diameter of 9m and a height of 12m. or such dimensions as the Council may require.
- (4) No activated or protruding part of a pylon or of a pylon sign may be less than 2.4m above the highest point of the existing ground level immediately below such pylon or sign or such other height as the Council may require.
- (5) The Council may consider on merit a request by the owner of a property, which adjoins Council road reserve to erect a pylon solely for the display of the name of the business/es, conducted at that particular property. An encroachment agreement must be signed with the Council setting out the period and fee payable. The Council is indemnified against any claims.

10. SIGNS INDICATING THE DEVELOPMENT OF A TOWNSHIP OR PROPERTY

- (1) No sign referring to the laying out or development of any land as a township or to the disposal of any erven in a township or a property development must be erected prior to the land-use rights being promulgated.
- (2) No sign referring to the laying out or development of any land as a township or to the disposal of any erven in a township or a property development may exceed 12m², with a maximum erected height of 6m.
- (3) Any approval granted in respect of such a sign in terms of Section 2, lapses after the expiry of one year after the date of such approval, unless the Council has granted an extension.
- (4) The sign must be located on the site of the proposed township or property development.
- (5) The Council may approve a larger sign or hoarding for a particular development after taking into consideration the size of the development which must be 5ha or larger on condition that approval lapses after the expiry of one year after the date of such approval.
- (6) All signs must be removed within three months of a development being completed or occupied.

11. SIGNS FLAT ON BUILDINGS

- (1) The total area of any sign placed flat on the front wall of a building facing a street may not exceed 20m² for every 15m of building frontage to the street which such sign faces with a maximum area of 200m².
- (2) The maximum projection of a sign referred to in sub-section (1) over the footway or ground level must be 75mm where such sign is less than 2,4m above the sidewalk or ground level immediately below such sign and 230mm where such sign is more than 2,4m above such footway or ground level
- (3) Signs placed flat on a wall of a building not being a wall contemplated in sub-section (1), may not exceed 20m² in total area, unless located in a commercial or industrial zone.
- (4) Notwithstanding the provisions of sub-section (1) and (3), the Council may where it considers it desirable in the interests of the aesthetic appearance of the building/wall on which the sign is placed or of the neighbourhood of such building/wall, permit or require the dimensions of any such sign to be greater than those prescribed.

12. REQUIREMENTS FOR SKY SIGNS

- (1) Two or more sky signs placed one above the other, whether or not in the same vertical plane, for the purposes of, this Section, is deemed to be one sign.
- (2) In areas of maximum or partial control (as defined in the Council's Outdoor Advertising Policy and Code of Practice) every sky sign must be set against a screen complying with the requirement of Section 13.
- (3) No part of a sky sign may protrude beyond, above or below the edge of the screen required in terms of sub-section (2).
- (4) If the number of storeys contained in that part of a building which is directly below a sky sign as set out in column 1 of the following table, the maximum vertical dimension of such is recommended not to exceed the dimension specified opposite such number in column 2 of that table:

Number of Maximum Storeys Below Sign Vertical Dimension

Column 1	Column 2
One or two storeys	1.5m
Three or four storeys	2.0m
Five or six storeys	3.0m
Seven or eight storeys	4.0m
Nine or more storeys	5.0m

(5) A sky sign with dimensions other than the above table will be considered by Council on its merits.

13. SCREENS FOR SKY SIGNS

Every screen for sky sign required in terms of Section 12(2) must comply with the following requirements:

- (a) (i) Subject to the provisions of subparagraph (ii), every screen must be so arranged and constructed as to form a continuous enclosure effectively concealing the frame and the structural components of the sky sign and the screen from view and, if the Council so requires, from adjacent or neighbouring properties;
- (ii) if, in the opinion of the Council, the walls of any contiguous buildings are of such height and construction that they will effectively conceal and do not contain openings overlooking the frame and structural components referred to in subparagraph (i), the Council may, subject to any condition it deems expedient, relax the requirement of that subparagraph requiring the provision of a continuous enclosure;
- (b) unless the Council allows otherwise, no part of the screen may protrude beyond the perimeter of the building on which it is constructed;
- (c) the gap between the bottom of the screen and that part of the building immediately below it may not exceed 100mm;
- (d) the vertical dimension of every such screen may not exceed one-and-one-half times the vertical dimension of the sky sign as contemplated in Section 12(4): Provided that if the screen also encloses a lift motor room, tank or other structure on the roof of the building, the vertical dimension of the screen may be increased to the same height as such room, tank or structure;
- (e) if the material of which the screen is made has an open mesh or grid formation, the openings in such mesh or grid must be uniform, the aggregate area of the openings may not exceed 25% of the area of the screen and no dimension of any such opening may exceed 100mm: Provided that the Council may allow the erection of a screen of louvre design if it will ensure the effective concealment as required in terms of paragraph (a)(i)

14. SIGNS ON BUILDINGS USED FOR RESIDENTIAL PURPOSES

- (1) A single sign containing the name only of any building used for residential purposes other than a dwelling house, and a sign consisting of a 600mm x 450mm brass or other metal plate displaying the name of the company owning or managing such building, its logo and telephone number, may be displayed.
- (2) A sign contemplated in sub-section (1) must:
 - (a) be fixed to or built into one or more walls of the building or a freestanding wall or boundary wall of the property;
 - (b) not be internally illuminated;
 - (c) be limited to one each of the signs referred to in that sub-section per street frontage of the property concerned.
- (3) A sign consisting of a 600mm x 450mm metal plate or board indicating the name and profession or occupation of the occupant may be affixed to the boundary wall or fence, or the entrance door of a dwelling house or dwelling unit, or to a wall in the entrance hall of a building used for residential purposes.
- (4) Where a business or profession is conducted from a property in a predominantly residential area by consent of the Council, or in terms of an Amendment Scheme (rezoning) a sign not exceeding 2m², advising the public as to the nature of the business or profession conducted on the premises, may be erected as an element of a street-facing boundary wall. Any sign so erected must form an aesthetically integral portion of the architecture of either the street-, facing boundary wall or a substantial architecture element designed to the satisfaction of the Council on the boundary of the property in question. The sign so erected may not, in the opinion of the Council, detract from the residential character of the neighbourhood or have a negative impact on the market value of adjacent residential properties

15. SIGNS ON AWNINGS

A sign containing only the name of a hotel, shop or restaurant may be displayed on an awning of approved material.

16. SUN-BLINDS

- (1) All sunblinds must be so made and fixed as to be incapable of being lowered to within 2m of the footway or pavement.
- (2) Except at street intersections, sunblinds may only be placed parallel to the building line.
- (3) At street intersections, sunblinds, both new and existing, must be so placed that they will not cause any interference with vehicular or pedestrian traffic, traffic lights, street nameplates or other notices for the guidance of the public.

17. SIGNS NOT TO BE FIXED TO VERANDAH COLUMNS

No sign of any description may be fixed to street veranda posts or columns.

18. SIGNS REGARDED AS TENANCY AT WILL

- (1) Any person erecting or possessing signs on or over any street, footway or pavement must be regarded a tenant at will of the Council in respect of such signs and, if instructed by the Council to remove any or all of them, may do so either within 14 days if the sign is fixed to a pole or other structure, or immediately if the sign is free standing and portable, without any compensation either for direct, indirect or consequential damages.
- (2) The Council may remove such signs in the event of non-compliance with such instruction or if they are not in accordance with these By-laws, and the expenses of such removal is recoverable in the ordinary process of law from the owner of the building or from the person to whom the signs belong.

19. ADVERTISEMENTS ON BANNERS OR SIMILAR ITEMS

- (1) Subject to the provisions of Section 4(1) and sub-section (2) no advertisement may be displayed on any banner, streamer, flag, paper, paper mache, plastic sheet or other similar pliable material or on calico or other woven material, without the written permission of the Council, subject to such conditions as the Council may deem expedient.
- (2) Permission in terms of sub-section (1) may only be granted for an advertisement relating to a function or event conducted for religious, educational, social welfare, animal welfare, sporting, civic or cultural purposes or to a function or event relating to a Local Government, Provincial or National election or referendum.
- (3) Every application for permission in terms of sub-section (1) must be in terms of the tariff of charges as determined by Council in respect of each advertisement to which the application relates.
- (4) The Council or its authorised agent may, without notice, remove and destroy any advertisement contemplated in sub-section (1), which is displayed in contravention of this Section.
- (5) Every person to whom permission has been granted in terms of sub-section (1) must ensure that the following requirements are complied with:
 - (a) not more than five advertisements may be displayed in respect of one function or event and with no more than one advertisement per street front;
 - (b) every advertisement must be attached to or suspended between poles or other supports on the site on which the function or event is to be held;
 - (c) every advertisement must be so attached so as not to interfere with, or constitute a danger to passing vehicular or pedestrian traffic;
 - (d) no advertisement may be displayed for more than one week before the date of the function or event advertised nor may any such advertisement be permitted to remain in position for more than three days after the conclusion of such function or event.
- (6) No banner approved in terms of this Section may be larger than 6m².

20. ADVERTISEMENTS ON BALLOONS

The Council may, for the purpose of considering an application for approval in terms of Section 2 of a sign to be displayed on a tethered balloon for a period not exceeding four days and being airborne only during daylight hours, have regard to:

- (a) the period for which the balloon will so be used;
- (b) the size of the balloon;
- (c) the strength of the anchorage and of the anchoring cable;
- (d) the provision of a device by means of which the balloon will automatically so deflate as to sink slowly to the ground in the event of the failure or severance of the anchorage or anchoring cable;
- (e) the possibility of interference with traffic, pedestrian or vehicular;
- (f) any requirement or condition prescribe by the Department of Civil Aviation, including the maximum permissible height to which the balloon must be restricted;
- (g) the location of the balloon.

21. PAINTED ADVERTISEMENTS

- (1) Subject to the provisions of sub-section (2), no sign may be painted directly on to any building, canopy, column, boundary wall, post or structure, other than on the external or internal surface of a window.
- (2) Subject to the approval of the Council in terms of Section 2, the name of any person or company carrying on business in a building may be painted directly on any approved wall of such building.
- (3) Subject to the approval of the Council in terms of Section 2 murals with advertising painted directly onto any approved surface may be considered on merit.

22. TEMPORARY SIGNS AND ADVERTISING

- (1) Signs relating to the letting or selling of property, complying with the following requirements, may be displayed without the approval of the Council:
- (a) any sign not exceeding 600mm x 450mm in size containing the words "for sale" in respect of any dwelling house or residential building and which in addition may display only the name, address and telephone number of the selling agent, and which is placed on or fixed to the building concerned, is attached parallel to a boundary fence of the erf on which the building is situated or is otherwise displayed within the boundaries of such erf. Such signs must be limited to one sign per agent with a maximum of, three signs per erf;
 - (b) any one sign per street frontage not exceeding 600mm x 450mm in size, which contains only the word "Sold" in respect of any dwelling house, or residential building, and which:
 - (i) is displayed only after all signs referred to in paragraph (a) have been removed;
 - (ii) is placed on or fixed to the building concerned, or is attached to a boundary fence of the erf on which the building is situated or is otherwise displayed within the boundaries of such erf;
 - (c) any sign not exceeding 6m² fixed flat on the facade of a non-residential building which contains only the words "For Sale" or "To Let" and the name, address and telephone number for the selling or letting agent, or only the lettering for the word "Sold" with a maximum of one sign per building for a period not exceeding three months.
 - (d) any sign not exceeding 600mm x 450mm in size, displayed on a vacant residential erf and which displays only the words "For Sale" and the name, address and telephone number of the owner or his agent, or only the word "Sold". Such signs must be limited to one sign per agency with a maximum of three agencies per erf for a maximum period of two months;
 - (e) Any sign not exceeding 6m² in size on a vacant non-residential erf and which displays only the words "For Sale" or "To Let" and the name, address and telephone number of the owner or his agent or only the word "Sold" and no other wording whatsoever with a only one sign per erf for a maximum period of three months.
 - (f) any directional sign displayed by the Automobile Association of Southern Africa or any other approved body advertising a particular event.
- (2) Any sign, or banner not exceeding 4m² and not more than 3m above the ground, containing letters, figures, advertising emblems or devices, not exceeding 150mm in height, relating solely to an entertainment, meeting, auction or a sale to be held upon or in relation to a certain site, may be displayed upon such site: provided that such sign or banner may not be displayed for more than one week before the function or event, the date of which must be displayed on the sign or banner, nor remain in position for more than three days after the conclusion of the function or event,
- (3) Any selling or letting board(s) requiring the approval of the Council in terms of Section 2(1) must conform to the design regulations currently in force with these By-laws.

23. SIGNS ON AND OVER STREETS

- (1) Every person owning, displaying or causing to be displayed a sign which, or any part of which, overhangs, or is placed on any street must, on being instructed by notice in writing by the Council to do so, remove it within twenty four hours from the date of such instruction or within such longer period specified in such notice without payment of any compensation.
- (2) In the event of non-compliance with an instruction in terms of sub-section (1), the Council may itself remove the sign concerned and may recover the cost thereof from the person or persons, jointly and severally, to whom a notice in terms of sub-section (1) was addressed and such persons must not be entitled to any compensation.

24. BILLBOARDS

- (1) Any billboard displayed may not:
- (a) be in conflict with applicable National Legislation, or local By -laws;
 - (b) be detrimental to the nature or the environment in which it is located by reason of abnormal size, intensity of illumination or design;
 - (c) be in its content objectionable, indecent or insensitive to any section of the public or to any religious or cultural groupings or the like;
 - (d) unreasonably obscure partially or wholly any sign previously erected and legally displayed;
 - (e) constitute a danger to any person or property.
 - (f) encroach the boundary line of the property on which it is erected.
- (2) Road intersections - a maximum of 2 single-sided advertising boards per intersection may be permitted.
- (3) Spacing of billboards must be at the discretion of the Council having regard to safety, aesthetics, environmental, local area frameworks and other considerations.

- (4) Billboards in rural areas must be erected in such a way as not to obstruct one another, be of even height wherever possible and evenly spaced.
- (5) Where, in the opinion of the Council, a sign alley has been created the spacing of billboards must be at the discretion of the Council.
- (6) Safety conditions:
Billboards must be erected and serviced to comply with the following conditions:
 - (a) Signalised intersection -
 - (i) they may not have as main colours, red, amber, green and the advertising sign to be well clear of the signal heads;
 - (ii) they may not obscure or interfere with any road traffic light or sign;
 - (b) Illumination -
Illumination of billboards is permitted provided such illumination does not constitute a road safety hazard or cause undue disturbance.
 - (c) Erection and servicing on public roads -
The traffic flow should not be impeded during erection and servicing of a billboard on a public road unless prior permission has been obtained and the necessary precautions arranged.
 - (d) Prohibited areas on motorways -
Billboards may be permitted within specified distances of on and off-ramps of motorways and overhead traffic directional signs where a curve in the road renders the billboard not to interfere with a clear and undistracted view of the directional traffic sign.
- (7) Site identification -
Sign owner's name or logo must be clearly displayed.
- (8) Maintenance -
The sign owner must conduct regular site inspections to ensure the good condition of boards. Traffic flow should not be impeded during the servicing of a billboard on a public road unless prior permission has been obtained and the necessary safety precautions arranged.
- (9) Size per copy - At the Council's discretion to a maximum of: Areas of partial control - 40m².
Areas of minimum control - 81m² (Areas of control defined in the Councils: Outdoor Advertising Policy and Code of Practice and the SAMOAC guideline document)
- (10) An application fee as determined by Council is payable.
- (11) The height of a billboard must not exceed 12m unless otherwise approved by Council.

25. TRANSIT SIGNS

- (1) Transit advertising signs may only be permitted to be displayed if mobile at all times and comply with all requirements of Road Traffic legislation.
- (2) The parking of a transit advertising sign on Council or private property for the purposes of third- party advertising is prohibited.
- (3) Transit advertising signs parked on private property for the purpose of storage must be positioned in such a manner as not to be visible from a street or public place.
- (4) Notwithstanding the provisions of sub-sections (1), (2) and (3) or otherwise in contravention of these By-laws, the Council or its authorised agent may, without prior notice, carry out the removal and impoundment of such transit advertising sign.
- (5) A transit advertising sign impounded by the Council may be released in terms of Section 33 (5)(a) within a period of 3 months of notification or such sign must be disposed of by Council to defray any fines or removal costs involved.
- (6) A transit advertising sign impounded by the Council may only be released after the removal cost and fine are settled in full and a copy of the current license registration papers have been submitted for verification.

26. POSTERS

- (1)
 - (a) No person may in, or in view of, any street display or cause or allow it to be displayed any poster unless he has first obtained the written permission of the Council;
 - (b) No permission must be given for the display of any poster concerning any commercial undertaking or activity or concerning any activity which, in the opinion of the Council, is primarily or mainly of a commercial character.
- (2) Every application for permission required in terms of sub-section (1) must be accompanied by an application fee or a deposit as determined by Council, and written details of the townships and streets in which the posters are to be displayed and all the posters to which the application relates: Provided that for National, Provincial or Municipal elections or referendums only one poster needs to be submitted and an application fee paid by each candidate as determined by Council Provided that for National, Provincial or Municipal referendums only one poster need be submitted and an application fee paid by each registered political party as determined by Council
 - (a) every poster for which permission is granted in terms of sub-section (1) must be provided with a Council sticker and only posters with Local Municipality of.....stickers affixed or approved Local Municipality ofmarkings may be displayed,
 - (b) the Council is entitled to retain one such poster for identification purposes.

- (3) Any person who displays or causes or allows to be displayed in or in view of a street, a poster, for which permission has been granted in terms of sub-section (1), must ensure that the following requirements are complied with
- (a) no poster may be so displayed that any part of it is lower than 2.1m or higher than 3m above the sidewalk or ground level immediately below it;
 - (b) no poster displayed by any person may be indecent, or suggestive of indecency, prejudicial to public morals or reasonably objectionable;
 - (c) no poster may be displayed on motorways including on and off-ramps;
 - (d) every poster other than a parliamentary, provincial or municipal election or referendum poster must be displayed in a permanent frame or other approved backing, and be of a design and in a predetermined location approved by the Council. The maximum size for frames may not exceed:
Advertising posters 900mm high x 600mm wide; (A1 size) Press posters 600mm high x 450mm wide. (A2 size)
 - (e) every parliamentary, provincial or municipal election or referendum poster must be attached to a board made of wood, hardboard, correx or other approved weatherproof material, in such a manner that it will not become wholly or partially dislodged by wind or rain, and neither the board nor poster may exceed 900mm high x 600mm wide or be less than 600mm high x 450mm wide, and secured only to an electric light standard erected by the Council or the State in a street or public place: Provided that such board is secured to such light standard by means of stout string or plastic ties only (no securing material with a metal content is permitted);
 - (f) the 'frame' referred to in paragraph (d) must not be placed on or against or attached to or otherwise supported by any transformer box, telegraph pole, tree, road traffic sign or other sign or object with the exception of an electric light standard erected by the Council or the State in a street or public place, provided such frame is secured to such light standard in such a manner (to the approval of the Council) that it will not become or wholly or partially dislodged by wind or an other means, and positioned in such a manner that it does not obscure or interfere with the electrical inspection chamber or pole identification number or impair the safety of motorists or pedestrians, and are limited to a maximum of 2 frames per pole. No frame may be erected within 10m of a traffic signal unless the prior approval of the Council has been obtained;
 - (g) no poster relating to a meeting, function or event, other than a National, Provincial or Municipal election or referendum may be displayed for longer than ten days before the date on which such meeting, function or event begins or longer than four days after the date on which it ends;
 - (h) no poster relating to a parliamentary, provincial or municipal election or to a specific candidate in such election or a poster relating to a referendum may be displayed for longer than the period extending from the beginning of either the date, of nomination or the date of proclamation in the Government Gazette declaring that a referendum is to be held, as the case may be, to the end of the tenth day after the date of such election or referendum: Provided that posters not relating to a specific candidate may also be displayed for a period no longer than that extending from a date fourteen days prior to either nomination day or the date of proclamation in the Government Gazette declaring a referendum or election is to be held, as the case may be, to the end of the fifth day after the date of such election or referendum;
 - (i) subject to the discretion of the Council, not more than 2000 posters may be displayed at any one time in relation to any meeting, function or event, other than a National, Provincial or Municipal election or referendum or a meeting relating to an election or referendum;
 - (j) in respect of each candidate not more than 1000 posters or other advertisements may be exhibited at any one time in any municipal ward or as otherwise directed by Council; in respect of a referendum not more than 5000 posters or other advertisements per registered political party may be so exhibited in the municipal area of the Municipality or as otherwise directed by Council.
 - (k) the details of the event, the commencement and final date of the event and the venue with address where it is to be held must appear on the posters in letters not less than 50mm in height and 10mm in thickness, with all other information pertinent to the event in letters not less than 30mm in height and 5mm in thickness;
the commercial content of the poster may not exceed 20% of the area of the poster nor may such commercial lettering be larger than the main lettering in the remainder of the poster;
 - (m) the posters may not have a display period of more than 28 consecutive days for any event advertised.
 - (n) the display of posters on any bridge or in sensitive areas identified by the Council, is prohibited.
 - (o) the display of auction posters must only be within the area of jurisdiction of the Municipality duly authorised by the Sheriff of the Court, to a maximum of 40. The Case Number or Masters Reference Number must be displayed on the poster. A writ is to be produced on submission.
 - (p) the display of political posters not directly for the purposes of a National, Provincial or Municipal election or referendum, must be regarded as advertising.
 - (4) The provisions of sub-section (2) do not apply in respect of a poster relating to an election, or a referendum, which:-

- (a) is placed entirely inside private premises;
 - (b) is displayed in or on a motor vehicle;
 - (c) is displayed at the committee room clearly marked as such, of a candidate in an election; or
 - (d) fixed to an advertising hoarding for which approval has been granted in terms of Section 2.
- (5) Any poster, which is displayed without permission or in contravention of this Section, may without notice be removed and destroyed by the Council or persons appointed by the Council. Any costs incurred by the Council in the removal will be borne by the person who displayed the poster or caused, or allowed it to be displayed.

27. FIXING OF SIGNS AND HOARDINGS

- (1) All signs and hoardings must be properly constructed of the requisite strength and must, be securely fixed to the satisfaction of the Council.
- (2) The person by whom such signs and hoardings are erected and the owner of the fixture on which or to which they are attached assumes all liability and responsibility in connection therewith, including maintenance, and must undertake at least one annual inspection thereof with a view to satisfying themselves as to the safety thereof.
- (3) Every sign or hoarding must be repainted and cleaned regularly in order to prevent them from becoming unsightly.
- (4) The Council may require certification by a person as defined in Section 2(5) that the installation is structurally safe.

(5)

28. DESIGN REQUIREMENTS FOR SIGNS

Regulations for Section 2(13)

- (1) Definitions
"An item of information" on a sign means a syllable, an initial, a symbol or logo, an abbreviation, a group of numbers (e.g. a telephone number), a broken plane (i.e. more than one geometric shape or background area) and a graphic feature.
- (2) Design requirements
 - (a) No information sign may contain more than 10 items of information: Provided that in the case of establishments with long names, such names should not be counted as more than 4 items of information provided that they appear only once per street frontage and the lettering is of the same size, style, colour and typeface.
 - (b) Lettering 70mm in height or less will not be counted as an item of information.
 - (c) Architectural letters less than 500mm in height and carved into the material of a building or attached securely to it are not counted as items of information: Provided that:
 - (i) the letters are not specially illuminated;
 - (ii) the letters are not constructed of a shiny material;
 - (iii) the colour of the letters does not contrast sharply with that of the building's surface;
 - (iv) the letters do not exceed 50mm in thickness.
- (3) Sign formats
Any sign requiring approval in terms of Section 22 and which is required to conform to Section 22(3) may be exempt from submitting further individual applications in instances where a prototype sign format was approved by the Council.

29. MATERIALS FOR ADVERTISING SIGNS, HOARDINGS, SCREENS AND SUPPORTING STRUCTURES

- (1) All iron or steel used in any advertising sign, hoarding or screen referred to in Section 13 or as means of support for such sign, hoarding or screen must be painted or otherwise effectively protected against corrosion.
- (2) No water soluble adhesive tape or other similar material may be used to display or secure any advertising sign elsewhere than on a hoarding or within a fixture referred to in Section 4 (1) (d).

30. POWER CABLES AND CONDUITS TO SIGNS

- (1) Every power cable and conduit containing electrical conductors for the operation of a sign must be so positioned and fixed that it is not unsightly.
- (2) No advertising sign or hoarding may be connected to any electricity supply without the prior written permission of the relevant electricity supply authority. Such proof of permission must be submitted if requested.

31. ERECTION AND MAINTENANCE OF ADVERTISING SIGNS AND HOARDINGS

- (1) If, in the opinion of the Council, any advertising sign or hoarding is in a dangerous or unsafe condition or has been allowed to fall into a state of disrepair or interferes with the functioning of any road traffic sign, the Council may serve a notice on an owner requiring him at his own cost, to remove the sign or hoarding or do other work specified in the notice within a period so specified.
- (2) The Council may, if in its opinion an emergency exists, instead of serving notice in terms of sub-section (1) or if such notice has not been complied with within the period specified therein, itself carry out the removal of a sign or advertising hoarding or do other work which it may deem necessary and may recover the cost thereof from the owner referred to in sub-section (1).

- (3) The Council must, should an approved advertising hoarding not display an advertisement or message for a period more than 12 months or as otherwise agreed to by Council, serve a notice on the owner requiring him, at his own cost, to remove the hoarding or to display an advertisement or message within a period so specified.

32. NATIONAL BUILDINGS REGULATIONS

Should any conflict exist between these By-laws and the National Building Regulations and Building Standards Act 103 of 1977, the Act prevails.

33. CHARGES

- (1) Every person who applies to the Council for its approval or permission must on making application pay to the Council the charge determined therefore and no application must be considered until such charge has been paid.
- (2) The fines and penalties for offences in terms of Section 36 are as follows:
- (a) upon conviction of an offence, the guilty party is liable to a fine not exceeding R15,000.00 or, in default of payments, to imprisonment for a period not exceeding 12 months;
 - (b) in the case of a continuing offence, the guilty party is liable to a further fine not exceeding R1000.00 for every day during the continuance of such offence;
- (3) The cost involved for the removal of unauthorised posters by Council, which cost must be recovered from the owner of such unauthorised poster(s), will be:
- (i) per poster (unpasted) R 100,00
 - (ii) per poster (pasted) R 500,00
 - (iii) per poster (fly poster) R1 000,00 (iv) Saturdays relevant charge plus 50%
 - (v) Sundays relevant charge plus 100%
- (4) Spot fines to a maximum of R5000.00 may be served by duly authorised officials of the Council on offenders for any contravention or failure to comply with the terms of these By-laws.
- (5) Any signs or advertising boards which have been removed and impounded but not destroyed by the Council as a result of them not complying with these By-laws may be released to the original owner at the following rates:
- (a) transit advertising signs may be released at the cost of removal with a minimum fee of R500.00 plus R100.00 per square metre of advertising display or part thereof;
 - (b) for all other signs the charge will be the cost of removal with a minimum of R500.00 plus R50.00 per square metre of advertising display or part thereof;
 - (c) signs removed and not released within 3 months must be disposed of by the Council;

34. DAMAGE TO COUNCIL PROPERTY

- (1) No person may intentionally or negligently, in the course of erecting or removing any sign, advertising hoarding, poster or banner cause damage to any tree, electric standard or service or other Council installation or property.
- (2) The costs for any repairs necessary will be for the account of persons in terms of Section 38.

35. ENTRY AND INSPECTION

The Council is entitled, through its duly authorised officers, to enter into and upon any premises, at a reasonable time for the purpose of carrying out any inspection necessary for the proper administration and enforcement of the provisions of these By-laws.

36. OFFENCES

Any person who -

- (a) contravenes or fails to comply with any provision of these By-laws;
- (b) contravenes or fails to comply with any requirement set out in a notice issued and served to him in terms of these By-laws;
- (c) contravenes or fails to comply with any condition imposed in terms of these By-laws;
- (d) knowingly makes a false statement in respect of any application in terms of these By-laws;

is guilty of an offence and may on conviction be liable to a fine or imprisonment as set out in Section 33(2)(a), and in the case of a continuing offence to a fine, as set out in Section 33(2)(b), for every day during the continuation of such offence after a written notice has been issued by the Council requiring discontinuance of such offence, and for a second or subsequent offence he is liable on conviction to a fine or imprisonment as set out in section 33(2)(c).

37. PRESUMPTIONS

If any person is charged with an offence referred to in Section 36 relating to any design, advertising hoarding or poster:

- (a) the owner of any land or building on which any advertising sign, hoarding or poster was displayed, is deemed to having displayed such advertising sign, hoarding or poster or caused or allowed it to be displayed;
- (b) any person who was either alone or jointly, with any other person responsible for organizing, or was in control of, any meeting, function or event to which a sign or poster relates, is deemed to have displayed every sign or poster displayed in connection with such meeting, function or event or to have caused or allowed it to be displayed;
- (c) any person whose name appears on an advertising sign, hoarding or poster is deemed to, have displayed such advertising sign, hoarding or poster or to have caused or allowed it to be displayed unless the contrary is proved.

38. REMOVAL OF ADVERTISING SIGNS OR HOARDINGS

- (1) If any advertising sign or hoarding is displayed so that in the opinion of the Council it is detrimental to the environment or to the amenities of the neighbourhood, or otherwise in contravention of these Bylaws, the Council may request or serve a notice on the owner of the advertising sign or hoarding to remove such advertising sign or hoarding or carry out such alteration thereto or do such work as may be specified in such request or notice within a time specified,
- (2) If a person fails to comply with a confirmed request or a notice referred to in sub-section (1), the Council or its authorised agent may remove such an advertising sign or hoarding.
- (3) The Council is in removing a transit sign, advertising sign or hoarding contemplated in sub- section (1) not required to compensate any person in respect of such advertising sign or hoarding, in any way for loss or damage resulting from its removal.
- (4) Any costs incurred by the Council in removing a transit sign, advertising sign or hoarding, in terms of sub-section (2) or in doing alterations or other works in terms of this Section may be recovered from the person on whom the notice contemplated in sub-section (1) was served, or if a deposit has been paid in respect of such advertising sign or the costs may be deducted from the deposit
- (5) Notwithstanding the provisions of sub-sections (1), (2), (3) and (4) if an advertising sign or hoarding:
 - (a) constitutes a danger to life or property;
 - (b) is obscene;
 - (c) is in contravention of these By-laws and is erected on, attached to or displayed on any property of, or under the control of the Council;
 the Council may, without serving any notice, remove any such advertising sign or hoarding or cause it to be removed.

39. SERVING OF NOTICES

Where any notice or other document is required by these By laws to be served on any person, it is deemed to have been properly served if served personally on him or any member of his household apparently over the age of sixteen years at his place of residence or on any person employed by him at his place of business, or if sent by registered post to such person's residential or business address as it appears in the records of the Council, or if such person is a company or closed corporation or a trust, if served on any person employed by that company, closed corporation or a trust, if served on any person employed by that company, closed corporation or trust at its registered office or sent by registered post to such office. Any verbal request for action to be taken in terms of these By-laws must be confirmed in writing.

40. REPEAL OF BY-LAWS

Any by-laws relating to advertising 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.

41. SHORT TITLE

These by-law are called the Advertising By-laws, 201..

ANNEXURE 1

NOTICE OF APPLICATION FOR THE ERECTION OF ADVERTISING SIGNS/ HOARDINGS IN TERMS OF SECTION 40(1) OF THE ADVERTISING SIGNS AND HOARDINGS BY-LAWS OF THE LOCAL MUNICIPALITY OF.....

NAME OF APPLICANT:.....

ADDRESS OF APPLICANT:

Physical:

Postal:

NAME OF OWNER UPON WHICH SIGN IS TO BE SITED:

ADDRESS OF OWNER UPON WHICH SIGN IS TO BE SITED:

Postal:

DESCRIPTION OF PROPERTY ON WHICH SIGN IS TO BE SITED:

PHYSICAL ADDRESS OF THE PROPOSED SIGN:

DIMENSIONS OF ADVERTISING SIGN:

Particulars of the application will lie for inspection from 8:00 till 13:00 and 13:30 till 15:30 with the Council at the office of.....(address & room number) for a period of 14 days from(the date of the first publication of the notice contemplated in Section 40(1) of the by-laws).

Objections in respect of the application must be lodged in writing to the Council and the applicant at the above respective addresses or at the postal address as indicated by the applicant and the following postal address of the Council within a period of 14 days from Such objection MUST INCLUDE THE POSTAL ADDRESS OF THE PERSON MAKING THE OBJECTION however must not determine the validity of such objection.

I..... being the applicant in this matter hereby certify that the application must be submitted to the Council and open for inspection from the prescribed period.

DATE: SIGNED:

**Note: Size of advertisement must be the standard size for legal notices contained in the majority of newspapers.*

ANNEXURE 2

NOTICE OF APPLICATION FOR THE ERECTION OF ADVERTISING SIGNS/ HOARDINGS IN TERMS OF SECTION 40(2) OF THE ADVERTISING SIGNS AND HOARDINGS BY-LAWS OF THE LOCAL MUNICIPALITY OF.....

NAME OF APPLICANT:.....

ADDRESS OF APPLICANT:

Physical:

Postal:

NAME OF OWNER UPON WHICH SIGN IS TO BE SITED:

ADDRESS OF OWNER UPON WHICH SIGN IS TO BE SITED:

Postal:

DESCRIPTION OF PROPERTY ON WHICH SIGN IS TO BE SITED:

PHYSICAL ADDRESS OF THE PROPOSED SIGN:

DIMENSIONS OF ADVERTISING SIGN:

Particulars of the application will lie for inspection from 8:00 till 13:00 and 13:30 till 15:30 with the Council at the office of.....(address & room number) for a period of 14 days from(the date of the first publication of the notice contemplated in Section 40(1) of the by-laws).

Objections in respect of the application must be lodged in writing to the Council and the applicant at the above respective addresses or at the postal address as indicated by the applicant and the following postal address of the Council within a period of 14 days from Such objection MUST INCLUDE THE POSTAL ADDRESS OF THE PERSON MAKING THE OBJECTION however must not determine the validity of such objection.

I being the applicant in this matter hereby certify that the application must be submitted to the Council and open for inspection from the prescribed period.

DATE: SIGNED:

**Note: Size of advertisement must be A1 for each language as prescribed.*

LOCAL MUNICIPALITY OF

DETERMINATION OF CHARGES FOR ADVERTISING SIGNS AND HOARDINGS

In terms of Section 11(3) of the Municipal Systems Act, 32 of 2000 read with Section 10(7)(7) of the Local Government Transition Act, 209 of 1993, it is hereby notified that the Local Municipality of has amended its Determination of Charges for Advertising Signs and Hoardings with effect from 1 July 20..... as set forth hereunder.

TARIFF OF CHARGES: ADVERTISING SIGNS AND HOARDINGS

- (a) In terms of Section 2(1) (i.e. applications or signs set out in Sections 6 to 16 and 20 to 23 inclusive) the approval fee is R50.00 per square meter of advertising display or part thereof, with a minimum fee of R500.00 per application.

- (b) In terms of Section 19(3) (i.e. advertisements on banners or similar items) an application fee of R200.00 is required.
- (c) In terms of Section 26(2) (i.e. posters) -
- (i) No commercial advertising and logos of sponsors will appear on posters; an application fee of R1.00 per poster be paid to permit the display of posters of non-profit bodies only. These posters have to display the fundraising numbers of the bodies or a formal constitution has to be submitted to Council.
 - (ii) an application fee of R5.00 per poster with a minimum fee of R200.00 be paid to permit the display of posters for religious, sporting, social and cultural events, with commercial advertising and logos of sponsors. The commercial advertising must not exceed 20% of the area of the poster, not is any lettering to be larger than any other lettering;
 - (iii) an application fee of R500.00 per candidate (fully refundable on removal) for a National, Provincial or Municipal election;
 - (iv) an application fee of R5 000.00 per registered political party. (fully refundable on removal) for a Parliamentary, Provincial or Municipal referendum; and
- (d) In terms of Section 24 (Billboards, Spectaculars or any sign in excess of 24sq.m as defined in Section 1) an application fee of R500.00 is required for consideration of approval with a further amount of R100.00 per square meter of advertising display payable for a five year approval by council irrespective of whether the sign is erected on private or Council land.

[NO. 147 OF 2010]

NOTICE IN TERMS OF SECTION 14(2)(b)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: STANDARD AIR POLLUTION CONTROL 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

AIR POLLUTION CONTROL BY-LAW

PART I

INTERPRETATION

Definitions

1. (1) In this By-laws, unless the context indicates otherwise—
- “**adverse effect**” means any actual or potential impact on the environment that impairs, or would impair the environment or any aspect of it to an extent that is more than trivial or insignificant, “**air pollutant**” means any substance (including but not limited to dust, smoke, fumes and gas) that causes or may cause air pollution;
- “**air pollution**” means any change in the environment caused by any substance emitted into the atmosphere from any activity, where that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of natural or managed ecosystems, or on materials useful to people, or will have such an effect in the future;
- “**air pollution control zone**” means the geographical area to which Part III of the by-law is declared to apply;

“**atmosphere**” means air that is not enclosed by a building, machine, chimney or other such structure;

“**authorized person**” means any person authorized by the Council to implement any provision of this by-law;

“**best practicable means**” means the most effective measures that can reasonably be taken to prevent, reduce or minimise air pollution, having regard to all relevant factors including, among others, local conditions and circumstances, the likelihood of adverse effects, the current state of technical knowledge and the financial implications relative to the degree of environmental protection expected to be achieved by application or adoption of the measures;

“**chimney**” means any structure or opening of any kind from or through which air pollutants may be emitted;

“**compressed ignition powered vehicle**” means a vehicle powered by an internal combustion, compression ignition, diesel or similar fuel engine;

“**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;

“**dark smoke**” means:

- (a) in respect of Parts IV and V of this by-law, smoke which when measured using a light absorption meter or obscuration measuring equipment has an obscuration of 20% or greater;
- (b) in respect of Part VII of his by-law:
 - (i) smoke which has a density of 60 Hartridge smoke units or more, provided that in relation to emissions from turbo-charged compressed ignition powered engines, it means a density of 66 Hartridge smoke units or more; or
 - (ii) smoke which has a light absorption co-efficient of more than 2.125 m⁻¹, provided that in relation to emissions from turbo-charged compressed ignition powered engines, it means a light absorption coefficient of more than 2.51 m⁻¹;

“**dust**” means any solid matter in a fine or disintegrated form which is capable of being dispersed or suspended in the atmosphere;

“**dwelling**” means any building or other structure, or part of a building or structure, used as a dwelling, and any outbuildings ancillary to it, but excludes shacks and informal settlements;

“**environment**” means the surroundings within which humans exist and that are made up of—

- (a) the land, water and atmosphere of the earth;
- (b) micro-organisms, plant and animal life;
- (c) any part or combination of (a) and (b) and the interrelationships among and between them; and
- (d) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

“**free acceleration test**” means the method described in section 17(2) employed to determine whether vehicles are being driven or used in contravention of section 15(1);

“**fuel-burning equipment**” means any furnace, boiler, incinerator, or other equipment, including a chimney:

- (a) designed to burn or capable of burning liquid, gas or solid fuel;
- (b) used to dispose of any material or waste by burning; or
- (c) used to subject liquid, gas or solid fuel to any process involving the application of heat;

“**light absorption meter**” means a measuring device that uses a light-sensitive cell or detector to determine the amount of light absorbed by an air pollutant;

“**living organism**” means any biological entity capable of transferring or replicating genetic material, including sterile organisms and viruses;

“**municipal manager**” means a person appointed as such by the Council in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

“**nuisance**” means an unreasonable interference or likely interference caused by air pollution with:

- (a) the health or well-being of any person or living organism; or
- (b) the use and/or enjoyment by an owner or occupier of his or her property and or environment;

“**obscuration**” means the ratio of visible light attenuated by air pollutants suspended in the effluent streams to incident visible light, expressed as a percentage;

“**open burning**” means the combustion of material by burning without a chimney to vent the emitted products of combustion to the atmosphere, and “burning in the open” has a corresponding meaning;

“**operator**” means a person who owns or manages an undertaking, or who controls an operation or process, which emits air pollutants;

“**proclaimed township**” means any land unit zoned and utilized for residential purposes;

“**person**” means a natural person or a juristic person;

“**premises**” means any building or other structure together with the land on which it is situated and any adjoining land occupied or used in connection with any activities carried on in that building or structure, and includes any land without any buildings or other structures and any locomotive, ship, boat or other vessel which operates or is present within the area under the jurisdiction of the Council;

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

“**smoke**” means the gases, particulate matter and products of combustion emitted into the atmosphere when material is burned or subjected to heat and includes the soot, grit and gritty particles emitted in smoke;

“**vehicle**” means any motor car, motor carriage, motor cycle, bus, motor lorry or other conveyance propelled wholly or partly by any volatile spirit, steam, gas or oil, or by any means other than human or animal power.

Purpose

2. (1) The purpose of this by-law is:
- (a) to give effect to the right contained in section 24 of the Constitution of the Republic of South Africa 1996 by controlling air pollution within the area of the Council's jurisdiction; and
 - (b) to ensure that air pollution is avoided, or where it cannot be altogether avoided, is minimized and remedied.
- (2) Any person that exercises a power under this by-law must exercise the power in order to give effect to the purpose set out in subsection (1).

PART II**DUTY OF CARE**

3. (1) Any person who is wholly or partially responsible for causing significant air pollution or creating a risk of significant air pollution occurring must take all reasonable measures:
- (a) to prevent any potential significant air pollution from occurring; and
 - (b) to mitigate and, as far as reasonably possible, to remedy any significant air pollution that has occurred.
- (2) The Council may, by resolution direct any person who fails to take the measures required under subsection (1)—
- (a) to investigate, evaluate and assess the impact of specific activities and report thereon;
 - (b) to commence taking specific reasonable measures before a given date;
 - (c) to diligently continue with those measures ; and
 - (d) to complete them before a specified reasonable date.
- Prior to making such resolution Council must give affected persons adequate opportunity to inform them of their relevant interests and may consult with any other organ of state.
- (3) Should a person fail to comply, or inadequately comply, with a directive under subsection (2), the Council may take reasonable measures to remedy the situation.
- (4) If such person referred to in subsection (3) fails to take the measures required of him or her under subsection (1), the Council may recover all reasonable costs incurred as a result of it acting under subsection (3) from any or all of the following persons—
- (a) any person who is or was responsible for, or who directly or indirectly contributed to, the air pollution or the potential air pollution;
 - (b) the owner of the land at the time when the air pollution or the potential for air pollution occurred, or that owner's successor in title;
 - (c) the person in control of the land or any person who has or had a right to use the land at the time when—
 - (i) the activity or the process in question is or was performed or undertaken; or
 - (ii) the situation came about; or
 - (d) any person who negligently failed to prevent—
 - (i) the activity or the process being performed or undertaken; or
 - (ii) the situation from occurring.
- (5) If more than one person is liable under subsection (4), the liability may be apportioned among the persons concerned according to the degree to which each was responsible for the harm to the environment resulting from their respective failures to take the measures required under subsections (1) and (2).

PART III**AIR POLLUTION CONTROL ZONE****Declaration of air pollution control zone**

4. (1) The whole area within the jurisdiction of the Council is hereby declared an air pollution control zone.
- (2) Within an air pollution control zone the Council may from time to time by notice in the Provincial Gazette:
- (a) prohibit or restrict the emission of one or more air pollutants from all premises or certain premises;
 - (b) prohibit or restrict the combustion of certain types of fuel;
 - (c) declare smokeless zones, in which smoke with an obscuration of more than 10% may not be emitted;
 - (d) prescribe different requirements in an air pollution control zone relating to air quality in respect of:
 - (i) different geographical portions;
 - (ii) specified premises;
 - (iii) classes of premises; or
 - (iv) premises used for specified purposes.

- (3) The Council may develop and publish policies and guidelines, including technical guidelines, relating to the regulation of activities which directly and indirectly cause air pollution within an air pollution control zone.
- (4) Subject to section 26, the Council may in writing exempt certain premises, classes of premises or premises used for specified purposes from the operation of measures adopted by the Council under this section.

PART IV

SMOKE EMISSIONS FROM PREMISES OTHER THAN DWELLINGS

Application

5. For the purposes of this Part, "premises" does not include dwellings.

Prohibition

6. (1) Subject to subsection (2), dark smoke must not be emitted from any premises for an aggregate period exceeding three minutes during any continuous period of thirty minutes.
- (2) This section does not apply to dark smoke which is emitted from fuel-burning equipment which occurs while the equipment is being started or while the equipment is being overhauled or repaired, or awaiting overhaul or repair, unless such emission could have been prevented using the best practicable means available.
- (3) If dark smoke is emitted in contravention of subsection (1) the owner, operator and/or the occupier of the premises shall be guilty of an offence.

Installation of fuel-burning equipment

7. (1) No person shall install, alter, extend or replace any fuel-burning equipment on any premises without the prior written authorisation of the Council, which may only be given after consideration of the relevant plans and specifications.
- (2) Any fuel-burning equipment installed, altered, extended or replaced on premises in accordance with plans and specifications submitted to and approved, for the purposes of this section, by the Council shall be presumed until the contrary is proved, to comply with the provisions of subsection (1).
- (3) Where fuel-burning equipment has been installed, altered, extended or replaced on premises in contravention of subsection (1):
 - (a) the owner and occupier of the premises and the installer of the fuel-burning equipment shall be guilty of an offence;
 - (b) the Council may, on written notice to the owner and occupier of the premises, order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in the notice.

Operation of fuel-burning equipment

8. (1) No person shall use or operate any fuel-burning equipment on any premises contrary to the authorization referred to in section 7
- (2) Where fuel-burning equipment has been used or operated on the premises in contravention of subsection (1):
 - (a) the owner and occupier of the premises and the operator of the fuel-burning equipment shall each be guilty of an offence;
 - (b) The Council may on written notice to the owner and occupier of the premises:
 - (i) revoke its authorization under section 7; and
 - (ii) order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in the notice.

Presumption

9. In any prosecution for an offence under section 6 dark smoke shall be presumed to have been emitted from premises if it is shown that any fuel or material was burned on the premises and the circumstances were such that the burning would be reasonably likely to give rise to the emission of dark smoke, unless the owner, occupier or operator, as the case may be, shows that no dark smoke was emitted.

Installation and operation of obscuration measuring equipment

10. (1) An authorized person may give notice to any operator of fuel-burning equipment or any owner or occupier of premises on which fuel-burning equipment is used or operated, or intended to be used or operated, to install, maintain and operate obscuration measuring equipment at his or her own cost, if:
 - (a) unauthorized and unlawful emissions of dark smoke from the relevant premises have occurred consistently and regularly over a period of at least two days;
 - (b) unauthorized and unlawful emissions of dark smoke from the relevant premises have occurred intermittently over a period of at least fourteen days;

- (c) fuel-burning equipment has been or is intended to be installed on the relevant premises which is reasonably likely in the opinion of an authorized person to emit dark smoke;
 - (d) the person on whom the notice is served has been convicted more than once under this Part IV and has not taken adequate measures to prevent further contravention of the provisions of this Part; or
 - (e) the authorized person considers that the nature of the air pollutants emitted from the relevant premises is reasonably likely to create a hazard to human health or the environment.
- (2) A notice referred to in subsection (1) must inform the person to whom it is addressed of:
- (a) that person's right to make written representations and to appear in person to present and dispute information and arguments regarding the notice, and must stipulate a reasonable period within which this must be done;
 - (b) that person's right of appeal under section 22;
 - (c) that person's right to request written reasons for the issuing of the notice; and
 - (d) the measures that must be taken and the potential consequences if the notice is not complied with.

Monitoring and sampling

11. (1) An occupier or owner of premises, and the operator of any fuel-burning equipment, who is required to install obscuration measuring equipment in terms of section 10(1) must:
- (a) record all monitoring and sampling results and maintain a copy of this record for at least four years after obtaining the results;
 - (b) if requested to do so by an authorized person, produce the record of the monitoring and sampling results for inspection; and
 - (c) if requested to do so by an authorized person, provide a written report in a form and by a date specified by the authorized person, of part or all of the information in the record of the monitoring and sampling results.

Exemption

12. (1) Subject to section 26 and on application in writing by the owner or occupier of premises or the operator of fuel-burning equipment, the Council may grant a temporary exemption in writing from one or all the provisions of this Part.
- (2) Any exemption granted under subsection (1) must state at least the following:
- (a) a description of the fuel-burning equipment and the premises on which it is used or operated;
 - (b) the reasons for granting the exemption;
 - (c) the conditions attached to the exemption, if any;
 - (d) the period for which the exemption has been granted; and
 - (e) any other relevant information.

PART V

SMOKE EMISSIONS FROM DWELLINGS

13. (1) Subject to section 4(2), no person shall emit or permit the emission of dark smoke from any dwelling for an aggregate period exceeding three minutes during any continuous period of thirty minutes.
- (2) Any person who emits or permits the emission of dark smoke in contravention of subsection (1) commits an offence.
- (3) Subject to section 26 and on application in writing by the owner or occupier of any dwelling, the Council may grant a temporary exemption in writing from one or all of the provisions of this Part.

PART VI

EMISSIONS CAUSED BY OPEN BURNING

14. (1) Subject to subsection (4), any person who carries out open burning of any material on any land or premises is guilty of an offence, unless the prior written authorization of the Council, which may include the imposition of further conditions which the person requesting authorization must comply with, has been obtained.
- (2) The Council may not authorize open burning under subsection (1) unless it is satisfied that the following requirements have been adequately addressed or fulfilled:
- (a) the material will be open burned on the land from which it originated;
 - (b) that person has investigated and assessed every reasonable alternative for reducing, reusing or recycling the material in order to minimize the amount of material to be open burned, to the satisfaction of the Council;

- (c) that person has investigated and assessed every reasonable alternative for removing the material from the land or premises, to the satisfaction of the Council;
 - (d) that person has investigated and assessed the impact that the open burning will have on the environment, to the satisfaction of the Council;
 - (e) a warning under section 10(1)(b) of the National Veld and Forest Fire Act, 1998 (Act No. 101 of 1998) has not been published for the region;
 - (f) the land on which that person intends to open burn the material is State land, a farm or small-holding, or land within a proclaimed township that is not utilized for residential purposes;
 - (g) the open burning is conducted at least 100 metres from any buildings or structures;
 - (h) the open burning will not pose a potential hazard to human health or safety, private property or the environment;
 - (i) That person has notified in writing the owners and occupiers of all adjacent properties of:
 - (i) all known details of the proposed open burning; and
 - (ii) the right of owners and occupiers of adjacent properties to lodge written objections to the proposed open burning with the Council within 7 days of being notified; and
 - (j) the prescribed fee has been paid to the Council.
- (3) Any person who undertakes or permits to undertake open burning in contravention of subsection (1) commits an offence.
- (4) The provisions of this section shall not apply to:
- (a) recreational outdoor barbecue or braai activities on private premises;
 - (b) small controlled fires in informal settlements for the purposes of cooking, heating water and other domestic purposes; or
 - (c) any other defined area or defined activity to which the Council has declared this section not to apply.

PART VII

EMISSIONS FROM COMPRESSED IGNITION POWERED VEHICLES

Prohibition

15. (1) No person may on a public road drive or use, or cause to be driven or used, a compressed ignition powered vehicle that emits dark smoke.
- (2) If dark smoke is emitted in contravention of subsection (1) the owner and the driver of the vehicle shall each be guilty of an offence.
- (3) For purposes of this section the registered owner of the vehicle shall be presumed to be the driver unless the contrary is proven.

Stopping of vehicles for inspection and testing

16. (1) In order to enable an authorized person to enforce the provisions of this Part, the driver of a vehicle must comply with any reasonable direction given by an authorized person:
- (a) to stop the vehicle; and
 - (b) to facilitate the inspection or testing of the vehicle.
- (2) Failure to comply with a direction given under subsection (1) is an offence.
- (3) When a vehicle has stopped in compliance with a direction given under subsection (1), the authorized person may:
- (a) inspect and test the vehicle at the roadside, in which case inspection and testing must be carried out:
 - (i) at or as near as practicable to the place where the direction to stop the vehicle is given; and
 - (ii) as soon as practicable, and in any case within one hour, after the vehicle is stopped in accordance with the direction; or
 - (b) conduct a visual inspection of the vehicle and, if the authorized person reasonably believes that an offence has been committed under section 15(2), instruct the driver of the vehicle, in writing to take the vehicle to a testing station, within a specified period of time, for inspection and testing in accordance with section 17.

Testing procedure

17. (1) An authorized person must use the free acceleration test method in order to determine whether a compressed ignition powered vehicle is being driven or used in contravention of section 15(1).
- (2) The following procedure must be adhered to in order to conduct a free acceleration test:
- (a) when instructed to do so by the authorized person, the driver must start the vehicle, place it in neutral gear and engage the clutch;
 - (b) while the vehicle is idling; the authorized person must conduct a visual inspection of the emission system of the vehicle;
 - (c) when instructed to do so by the authorized person, the driver of the vehicle must in less than one second smoothly and completely depress the accelerator throttle pedal of the vehicle; provided that the authorized person may do so himself or herself if the driver fails or refuses to comply with the authorized person's reasonable instructions;

- (d) while the throttle pedal is depressed, the authorized person must measure the smoke emitted from the vehicle's emission system in order to determine whether or not it is dark smoke;
 - (e) the driver of the vehicle may only release the throttle pedal of the vehicle when the engine reaches cut -off speed, or when directed to do so by the authorized person.
- (3) If, having conducted the free acceleration test, the authorized person is satisfied that the vehicle:
- (a) is not emitting dark smoke, then the authorized person must furnish the driver of the vehicle with a certificate indicating that the vehicle is not being driven or used in contravention of section 15(1); or
 - (b) is emitting dark smoke, the authorized person must issue the driver of the vehicle with a repair notice in accordance with section 18.

Repair notice

18. (1) A repair notice must direct the owner of the vehicle to repair the vehicle within a specified period of time, and to take the vehicle to a place identified in the notice for re-testing before the expiry of that period.
- (2) The repair notice must contain inter alia the following information:
- (a) the make, model and registration number of the vehicle;
 - (b) the name, address and identity number of the driver of the vehicle; and
 - (c) if the driver is not the owner, the name and address of the vehicle owner.
- (3) A person commits an offence under this Section if that person fails:
- (a) to comply with the notice referred to in subsection (1);
 - (b) the re-test referred to in subsection (1).
- (4) It shall not be a defence in proceedings under subsection (3) to aver that the driver of the vehicle failed to bring the repair notice to the attention of the owner of that vehicle.

PART VIII

EMISSIONS THAT CAUSE A NUISANCE

Prohibition

19. Any occupier or owner of premises from which a nuisance emanates, or where a nuisance exists, is guilty of an offence.

Abatement notice

20. (1) An authorized person may serve an abatement notice on any person whom the authorized person reasonably believes is likely to commit or has committed an offence under section 19, calling upon that person:
- (a) to abate the nuisance within a period specified in the notice;
 - (b) to take all necessary steps to prevent a recurrence of the nuisance; and
 - (c) to comply with any other conditions contained in the notice.
- (2) For the purposes of subsection (1), an authorized person may form a reasonable belief based on his or her own experience that an air pollutant was emitted from premises occupied or owned by the person on whom the abatement notice is to be served.
- (3) An abatement notice under subsection (1) may be served:
- (a) upon the owner of any premises, by:
 - (i) delivering it to the owner, or if the owner cannot be traced or is living abroad that person's agent;
 - (ii) transmitting it by registered post to the owner's last known address, or the last known address of the agent; or
 - (iii) delivering it to the address where the premises are situated, if the owner's address and the address of the agent are unknown;
 - (b) upon the occupier of the premises, by:
 - (i) delivering it to the occupier;
 - (ii) transmitting it by registered post to the occupier at the address at which the premises are situated.
- (4) Any person who fails to comply with an abatement notice served on that person in terms of subsection (1) is guilty of an offence.
- (5) In addition to any other penalty that may be imposed, a court may order a person convicted of an offence under subsection (4) to take steps the court considers necessary within a period determined by the court in order to prevent a recurrence of the nuisance.

Steps to abate nuisance

21. At any time, the Council may at its own cost take whatever steps it considers necessary in order to remedy the harm caused by the nuisance and prevent a recurrence of it, and may recover the reasonable costs so incurred from the person responsible for causing the nuisance.

PART IX

APPEALS

22. (1) Any person may appeal against a decision taken by an authorized person under this by-law by giving written notice of the appeal, in which the reasons for the appeal are stated, to the municipal manager within 30 days of the date on which that person receives notification of the decision.
- (2) Pending confirmation, variation or revocation of the decision in terms of subsection (4), any person appealing a decision in terms of subsection (1), unless the Council provides otherwise:
- (a) must nonetheless substantively comply with any obligations that may have been imposed as a result of the decision that is the subject of the appeal;
- (b) may not exercise any rights that may have accrued as a result of the decision that is the subject of the appeal application, provided that no other person may exercise any right that may accrue either.
- (3) Within 14 days of receipt of the notice of appeal, the municipal manager must:
- (a) submit the appeal to the appropriate appeal authority mentioned in subsection (5);
- (b) take all reasonable measures to ensure that all persons whose rights may be significantly detrimentally affected by the granting of the appeal application, including any persons registered as interested and affected parties, are notified in writing of the appeal application and advised of their right to:
- (i) obtain a copy of the appeal application;
- (ii) submit written objections to the application to the municipal manager within 14 days of date of notification.
- (4) After the expiry of the 14 day period referred to in subsection (3)(b)(ii), the appeal authority must consider the appeal and any objections raised to it, and confirm, vary or revoke the decision.
- (5) When the appeal is against a decision taken by—
- (a) an authorized person other than the municipal manager, then the municipal manager is the appeal authority; or
- (b) the municipal manager, then the Council or such committee as it may delegate is the appeal authority.
- (6) An appeal authority must commence with an appeal within 14 days of receiving notification and must decide the appeal within a reasonable period.

PART X

GENERAL PROVISIONS

Council and State bound

23. This by-law is binding on the State and the Council.

Conflict

24. (1) In the event of a conflict within any other by-law which directly or indirectly regulates air pollution, the provisions of this by-law shall prevail.
- (2) In the event of a conflict with the Atmospheric Pollution Prevention Act, 1965 (Act 45 of 1965), the provisions of that Act will prevail within the area of jurisdiction of the Council.
- (3) In the event of a conflict between the English version of the By-law and the translated version in any other language the English version must prevail.

Offences and penalties

25. (1) Any person who contravenes section 13(2), 15(2) or 19 of this by-law shall be liable on conviction to imprisonment not exceeding 30 days or to a fine or to both a fine and imprisonment.
- (2) Any person who contravenes section 7(3), 8(2), 18(3)(a), 18(3)(b) or 20(4) of this by-law shall be liable of conviction to imprisonment not exceeding two (2) years or a fine or both a fine and imprisonment.
- (3) Any person who contravenes section 14 of this by-law shall be liable on conviction to imprisonment not exceeding one (1) year or a fine or both a fine and imprisonment.
- (4) It is an offence to:
- (a) supply false information to an authorized person in respect of any issue pertaining to this by-law, or;
- (b) refuse to co-operate with the request of an authorized person made in terms of this by-law and any person convicted of such offence shall be liable to imprisonment not exceeding 30 days or a fine or both a fine and imprisonment.

- (5) Where no specific penalty is provided, any person committing an offence in terms of this by-law is liable on conviction to imprisonment for a period not exceeding one (1) year or to a fine or to both imprisonment and a fine.
- (6) Failure to comply with a notice, direction or instruction referred to in this by-law constitutes a continuing offence.
- (7) Any person who commits a continuing offences shall be guilty of a separate offence for each day during which that person fails to comply with a notice, direction or instruction referred to in this by-law.
- (8) In addition to imposing a fine and/or imprisonment, a court may order any person convicted of an offence under this by-law:
 - (a) to remedy the harm caused;
 - (b) to pay damages for harm caused to another person or to property, which order shall have the force and effect of a civil judgment; and
 - (c) to install and operate at the person's own expense obscuration reading equipment in accordance with the provisions of section 11.

Exemptions

- 26. (1) The Council may grant a temporary exemption in writing from one or all of the provisions of Parts III, IV and V, provided that the Council:
 - (a) is satisfied that granting the exemption will not significantly prejudice the purpose referred to in section 2(1); and
 - (b) grants any exemption subject to conditions that promote the attainment of the purpose referred to in section 2(1).
- (2) The Council may not grant an exemption under subsection (1) until the Council has:
 - (a) taken reasonable measures to ensure that all persons whose rights may be significantly detrimentally effected by the granting of the exemption, including but not limited to adjacent land owners or occupiers, are aware of the application for exemption and how to obtain a copy of it;
 - (b) provided such person with a reasonable opportunity to object to the application; and
 - (c) duly considered and taken into account any objections raised.

Savings

- 27. Anything done or deemed to have been done under any other law remains valid to the extent that it is consistent with this by-law; or until anything done under this by-law overrides it.

Short Title

- 28. This by-law is called the Air Pollution Control By-laws, 201...

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

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- 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
MRS M.E. MATILE

(051) 403 3139
(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.
