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Free State Province



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<p><b>PLEASE TAKE NOTE: THE LAST PUBLICATION OF THE PROVINCIAL GAZETTE FOR THE YEAR 2011 WILL BE ON <u>09 DECEMBER 2011</u>.</b></p> <p><b>THE NEXT PUBLICATION WILL BE ON <u>13 JANUARY 2012</u></b></p>			

## PROVINCIAL NOTICES

[NO. 170 OF 2011]

## NOTICE IN TERMS OF SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: STANDARD ADVERTISING BY-LAW

I, M.G Qabathe, Member of the Executive Council responsible for Cooperative Governance, Traditional Affairs and Human Settlement in the Free State Province, after consulting the Minister of Cooperative Governance and Traditional Affairs and the South African Local Government Association: Free State, do hereby in terms of section 14(2)(a)(i) of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), make standard by-laws as set out in the Schedule.

## 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 4.6m<sup>2</sup> 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, 1998 (Act No. 117 of 1998), and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

**"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 or her 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. The Council may require the locality for signs in excess of 10 square metres to be indicated and described by an accurate Global Positioning System (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 professional as defined in section 1 of the Engineering Profession Act, 2000 (Act No. 46 of 2000), 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 GN R 2378 published under Government Gazette No. 12780 of 12 October 1990.
- (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.

- (7) The Council must without delay and in writing notify the applicant of its decision taken by virtue of sub-section (7).
- (8) 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 or 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 12m<sup>2</sup>, 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 2m<sup>2</sup>, 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 30m<sup>2</sup>, painted or fixed on a wall of a building not being a front wall of such building, unless approved by Council.
- (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 and must 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 the responsibility in connection with such sign, including maintenance, an annual inspection to satisfy himself or herself 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 or herself 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 12m squared, 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 20m<sup>2</sup> for every 15m of building frontage to the street which such sign faces with a maximum area of 200m<sup>2</sup>.
- (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 20m<sup>2</sup> 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 or wall on which the sign is placed or of the neighbourhood of such building or 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, 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;

- 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 through rezoning a sign not exceeding 2 square meter, 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 6 square meter.

#### 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 of deflate as to sink slowly to the ground in the event of the failure or severance the anchorage or anchoring cable;
- (e) the possibility of interference with traffic, pedestrian or vehicles;
- (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 6m<sup>2</sup> 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 6m<sup>2</sup> 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 4m<sup>2</sup> 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 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) At 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) 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.

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) Sign owner's name or logo must be clearly displayed.
- (8) 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) At the Council's discretion size per copy must be a maximum of:
  - (a) Areas of partial control - 40m<sup>2</sup>
  - (b) Areas of minimum control - 81m<sup>2</sup>
- (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 or she 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 Council.

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 affixed or approved Local Municipality markings 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:
    - (i) Advertising posters 900mm high x 600mm wide;
    - (ii) (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 and 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 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;
- (l) 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 posters. 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.

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.

**28. DESIGN REQUIREMENTS FOR SIGNS****(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 or her at his or her 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 1997 (Act No. 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 or she 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 have 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 By-laws, 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 her or any member of his or her household apparently over the age of sixteen years at his place of residence or on any person employed by him or her at his or her 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**

This by-law is called the By-law relating to Advertising, 2011.

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.*

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LOCAL MUNICIPALITY OF .....

#### DETERMINATION OF CHARGES FOR ADVERTISING SIGNS AND HOARDINGS

In terms of section 11(3) of the Municipal Systems Act, 2000 (Act No. 32 of 2000), 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. 171 OF 2011

**NOTICE IN TERMS OF SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: STANDARD AIR QUALITY MANAGEMENT BY-LAW**

I, M.G Qabathe, Member of the Executive Council responsible for Cooperative Governance, Traditional Affairs and Human Settlement in the Free State, after consulting the Minister of Cooperative Governance and Traditional Affairs and the South African Local Government Association - Free State, do hereby in terms of section 14(2)(a)(i) of the Local Government - Municipal Systems Act, 2000 (Act No. 32 of 2000), make standard by-laws as set out in the Schedule.

**SCHEDULE**

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## CHAPTER 1

## INTERPRETATION AND AIR POLLUTION DUTY OF CARE

## 1. Definitions

In this by-law any word or expression to which a meaning has been assigned in the by-law and the relevant SANS Standards, shall have the meaning so assigned to it and, unless the context otherwise indicates -

**"air pollution"** means any change in the composition of the air caused by smoke, soot, dust (including fly ash), cinders, solid particles of any kind, gases, fumes, aerosols and odorous substances;

**"air quality officer"** means an officer appointed in terms of section 14 of the AQA;

**"ambient sound level"** means the reading of an integrating sound level meter measured at the measuring point at the end of total period of at least 10 minutes after such integrating sound level meter has been put into operation, during which period a noise alleged to be a noise nuisance is absent;

**"authorised person"** means any employee authorised by the municipality to implement any of the provision of this by-law and in possession of an appointment card issued by the municipality attesting thereto, including any member of the municipal police service or any peace officer;

**"AQA"** means the National Environmental Management - Air Quality Act, 2004 (Act No. 39 of 2004);

**"change"** means any modification which is made to an existing structure, plant, road, land use, procedure, action which may have an effect on the noise increases originating from an activity related to or connected with the use of such structure, the operation of such plant, the use of such road or railway, such land use, such procedure or such action;

**"combustible liquid"** means a liquid which has a close-cap flash point of 38 degrees Celsius or above;

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

**"Constitution"** means the Constitution of the Republic of South Africa, 1996;

**"control measure"** means a technique, practice or procedure used to prevent or minimise the generation, emission, suspension or airborne transport of fugitive dust, pesticide or sandblasting activities;

**"Council"** means the municipal council of the..... Local Municipality in which the executive and legislative authority of the municipality is vested, and which is the decision making body of the municipality, and its delegates;

**"dark smoke"** means smoke -

- (a) which has a density of 60 Hartridge smoke units or more (coastal areas), or in relation to emissions from a turbo-charged compressed ignition powered engine, means a density of 66 Hartridge smoke units or more (inland areas); or
- (b) which has a light absorption co-efficient of more than  $2.125 \text{ m}^{-1}$  or more, or in relation to emissions from a turbo-charged compressed ignition powered engines, means a light absorption co-efficient of more than  $2.51 \text{ m}^{-1}$ ;

"**dust**" means any solid matter in a fine or disintegrated form which is capable of being dispersed or suspended in the atmosphere; and includes dust from mine dumps;

"**erect**" means alter, convert, extend or re-erect;

"**exempted vehicle**" means a vehicle listed in Annexure-A to SANS 10281;

"**flammable gas**" means a gas which at 20 degrees Celsius and a standard pressure of 101, 3 kilopascals -

1. (a) is ignitable when in a mixture of 13% or less by volume with air; or
- (b) has a flammable range with air of at least 12%, regardless of the lower flammable limit;

"**flammable liquid**" means a liquid or combustible liquid which has a closed cup flash point of 60 degrees Celsius or below or an open cup flash point of 65.6 degrees Celsius;

"**flammable substance**" means any flammable liquid, combustible liquid or flammable gas;

"**measuring point**" relating to -

- (a) a piece of land from which an alleged disturbing noise emanates, or may emanate, means a point outside the property projection plane where noise must be measured, or calculated in accordance with the provisions of SANS 10103 and/or SANS 10328;
- (b) a building with more than one occupant, means a point in or outside the building where noise must be measured, or calculated in accordance with the provisions of SANS 10103 and/or SANS 10328; and
- (c) a stationary vehicle, means a point as described in SANS 10181 where a measuring microphone shall be placed;

"**Municipal Systems Act**" means the Local Government - Municipal Systems Act, 2000 (Act No. 32 of 2000);

"**Municipality**" means a municipality established in terms of the Local Government - Municipal Structures Act, 1998 (Act No. 117 of 1998);

"**National Framework**" means the National Framework for Air Quality Management in the Republic of South Africa, as established in terms of section 7(1) of the AQA;

"**NEMA**" means the National Environmental Management Act, 1998 (Act No. 107 of 1998);

"**noise nuisance**" means any sound in terms of section 18 of the by-law, which impairs or may impair the convenience or peace of any reasonable person;

"**non-exempted vehicle**" means a vehicle not listed in Annexure-A to SANS 10281;

"**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;
- (b) the use or enjoyment by an owner or occupier of his or her property or environment; and
- (c) the ordinary comfort, convenience and peace.

"**open burning**" means the combustion of material by burning without a closed system that has a chimney to vent the emitted products of combustion to the atmosphere, excluding the burning of sugarcane;

"**pave**" means to apply and maintain concrete or any other similar material to a road surface or any other surface;

"**pest**" means an injurious, noxious or troublesome living organism;

"**pesticide**" means a micro-organism or material that is used or intended to be used to prevent, destroy, repel or mitigate a pest and includes herbicides, insecticides, fungicides, avicides and rodenticides;

"**property projection plane**" means a vertical plane on, and including the boundary line of a piece of land defining the boundaries of such piece of land in space or with reference to a dimension of space;

"**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 locomotives, ship, boat or other vessel which operates or is present within the area under the jurisdiction of the Council;

"**public road**" means a public road as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

"**recreational vehicle**" means -

- (a) an off-road vehicle, scrambler, dune buggy or ultra-light aircraft;
- (b) a model aircraft, vessel or vehicle;
- (c) any aircraft or helicopter used for sport or recreational purposes but not for gain, including but not limited to a micro-light aircraft and a hot air balloon;
- (d) a vessel used for sport on water or recreational purposes but not for gain, including but not limited to ajet ski and a ski-boat; or
- (e) any other conveyance vessel or model which is used for sport or recreational purposes, but not for gain;

"**repair notice**" means a notice as referred to in section 8(4), regarding the re-testing of vehicle;

"**rubber product**" means anything composed of rubber including anything containing or coated with rubber;

"**SANS 10103**" means the latest edition of South African National Standard Codes publication No. 10103 titled - "The measurement and ratings of environmental noise with respect to annoyance and to speech communication", from time to time or its corresponding replacement;

"**SANS 10181**" means the latest edition of South African National Standard Codes publication No. 10181 titled - "The measurement of noise emitted by road vehicles when stationary", from time to time or its corresponding replacement;

"**SANS 10281**" means the latest edition of South African National Standard Codes publication No. 10281 titled - "Engine speed (S values), reference sound levels and permissible sound levels of stationary road vehicles" from time to time or its corresponding replacement;

"**SANS 10328**" means the latest edition of South African National Standard Codes publication No. 10328 titled - "Methods for environmental noise impact assessments", from time to time or its corresponding replacement;

"**small boiler**" means a small combustion installation, with a design capacity of less than 50MW heat input, capable of burning solid, liquid and gas fuels used primarily for steam raising or electricity generation;

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

"**use**" in relation to all terrain vehicles includes driving, operating or being conveyed by, that vehicle;

"**vehicle**" means a vehicle as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

"**zone**" means land set apart by a zoning scheme for a particular zoning irrespective of whether it comprises one or more land units or part of a land unit.

## 2. Objectives

- (1) The objectives of this by-law are to -
  - (a) give effect to the right contained in section 24 of the Constitution by regulating air pollution within the area of the municipality's jurisdiction;
  - (b) provide, in conjunction with any other applicable law, an effective legal and administrative framework, within which the Council can manage and regulate activities that have the potential to adversely impact the environment, public health and well-being; and
  - (c) ensure that air pollution is avoided, or where it cannot be altogether avoided, mitigated or minimised.
- (2) Any person exercising a power under this by-law must exercise such power in order to give effect to the objectives as set out in subsection (1) above.

## 3. Application

- (1) This by-law must be read with any applicable provisions of the AQA and the National Framework.
- (2) In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the municipality, regulates air pollution, the provisions of this by-law prevails to the extent of the inconsistency.
- (3) Overreach principle -



#### 4. Air Pollution Duty of Care

- (1) Every person who is wholly or partially responsible for causing air pollution or creating a risk of air pollution occurring must take all reasonable measures -
- (a) to prevent any potential of air pollution from occurring; and
  - (b) where it cannot be prevented, to mitigate any air pollution that may occur.
- (2) The Council may direct any person in writing who fails to take the measures required under subsection (1) -
- (a) to commence taking specific reasonable measures before a given date;
  - (b) to diligently continue with those measures; and
  - (c) to complete them before a specified reasonable date.
- (3) Prior to making such a decision as contemplated in subsection (2), the Council must give the affected person adequate opportunity to make representation as to why a directive should not be issued.
- (4) The Council must give due consideration to all representations submitted before taking a decision as contemplated in subsection (2).
- (5) The Council must issue the directive under subsection (2) should a person fail to submit representations within the specified period in terms of subsection (3).
- (6) The Council may take reasonable measures to remedy the situation or apply to a competent court for appropriate relief should a person fail to comply, or inadequately comply, with a directive under subsection (2).
- (7) The Council may recover costs for reasonable remedial measures to be undertaken under subsection (6), before such measures are taken and all costs incurred as a result of it acting under subsection (6) from any person who is or was responsible for, or who contributed to, the air pollution, provided such person failed to take the measures required of him under subsection (2).
- (8) No person may -
- (a) unlawfully and intentionally or negligently commit any act or omission which causes or is likely to cause air pollution; or
  - (b) refuse to comply with a directive issued under this section.
- (9) Any person who fails to comply with subsection (8) commits an offence.

## CHAPTER 2

### LOCAL EMISSION STANDARDS, MOTOR VEHICLE EMISSIONS, SMALL BOILERS AND CONTROLLED ACTIVITIES

#### Part 1 - Local Emission Standards

#### 5. Identification of Substances and Development of Local Emission Standards

- (1) The Council has identified the substances in ambient air, as set out in Schedule 1 to the by-law, and for each substance developed local emission standards.
- (2) The Council may apply the following criteria when identifying and prioritising the substances in ambient air that present a threat to public health, well-being or the environment -
- (a) the possibility, severity and frequency of effects, with regard to human health and the environment as a whole, with irreversible effects being of special concern;
  - (b) widespread and high concentrations of the substance in the atmosphere;
  - (c) potential environmental transformations and metabolic alterations of the substance, as these changes may lead to the production of chemicals with greater toxicity or introduce other uncertainties;
  - (d) persistence in the environment, particularly if the Substance is not biodegradable and able to accumulate in humans, the environment or food chains;
  - (e) the impact of the substance taking the following factors into consideration -
    - (i) size of the exposed population, living resources or ecosystems;
    - (ii) the existence of particularly sensitive receptors in the zone concerned.
  - (f) Substances that are regulated by international conventions.

- (3) The Council may, when developing the local emissions standards -
- (a) identify the critical factors for public health impacts;
  - (b) identify sensitive sub-populations;
  - (c) review available databases for public health status;
  - (d) review available databases for ambient air quality information; and
  - (e) review and assess international guidelines and standards.
- (4) The Council may take the following factors into consideration in setting local emission standards -
- (a) Health, safety and environmental protection objectives;
  - (b) Analytical methodology;
  - (c) Technical feasibility;
  - (d) Monitoring capability; and
  - (e) Social-economic consequences.

#### 6. Consequences of Identification

- (1) Any person emitting those substances or mixtures of substances must comply with the emission standards established in terms of section 5.
- (2) Any person who fails to comply with the emission standards established in terms of section 5 commits an offence.

#### 7. Public Participation Process

For the purposes of the publication of the local emission standards, the Council must follow the public participation process as set out in section 13 of the Municipal Systems Act.

### Part 2 - Motor Vehicle Emissions, Small Boilers and Controlled Activities

#### 8. Emissions from Compressed Ignition Powered Vehicles

##### Prohibition of emission of dark smoke

- (1) No person may drive a vehicle on a public road if it emits dark smoke.
- (2) A person commits an offence if he or she contravenes subsection (1).

##### Stopping of Vehicles for Inspection and Testing

- (3) For the purposes of enforcing the provisions of section 8, an authorised person may -
- (a) by means of a signal instruct the driver of a vehicle to stop that vehicle; and
  - (b) instruct that driver to give all assistance required for the purpose of the inspection and testing of that vehicle.
- (4) The authorised person must, prior to any testing being undertaken in terms of subsection (7) inform the driver of the vehicle that -
- (a) the vehicle has been stopped to test it in terms of this by-law for the emission of dark smoke;
  - (b) the vehicle is being detained for the purpose of such testing;
  - (c) if the results of such testing indicate that dark smoke is emitted from the vehicle or if the driver concerned fails or refuses to assist with such test, it will constitute an offence under this by-law.
- (5) Any person who fails to comply with a direction given under subsection (3)(a) commits an offence.
- (6) When a vehicle has stopped in compliance with a direction given under subsection (3)(a), the authorised person may test the vehicle at the roadside, in which case testing must be carried out at or as near as practicable to the place where the direction to stop the vehicle is given; and as soon as practicable, and in any case within 1 hour, after the vehicle is stopped in accordance with the direction.

##### Testing procedure

- (7) An authorised person must use the following testing procedure in order to determine whether a compressed ignition powered vehicle is being driven or used in contravention of subsection (1) -

- (i) when instructed to do so by the authorised person, the driver of the vehicle must apply a handbrake, start the vehicle, place it in neutral gear and engage the clutch;
  - (ii) for a period required by an authorised person smoothly depress the accelerator pedal of the vehicle, until the engine reaches a revolution level of 3000 revolutions per minute or in the absence of a revolution counter to the extent directed by an authorised person;
  - (iii) while the accelerator pedal is depressed, the authorised person must measure the smoke emitted from the vehicle's emission system in order to determine whether or not dark smoke is emitted;
- (8) After having conducted a test, an authorised person must furnish the driver of the vehicle concerned with the test results which indicate that either the vehicle is not emitting dark smoke or is emitting dark smoke in contravention of subsection (1) and if the driver is not the owner of the vehicle concerned, then it is presumed that the driver is the owner of the vehicle unless he or she produces evidence to the contrary.
- (9) An authorised person must furnish the driver of the vehicle with a certificate (valid for a period of 24 months) indicating that the vehicle is not being driven in contravention of subsection (1), if the test results indicate that the vehicle concerned is not emitting dark smoke.
- (10) An authorised person must issue the driver of the vehicle with a repair notice in accordance with subsection (11), if the test results indicate that the vehicle concerned is emitting dark smoke.

#### **Repair notice**

- (11) A repair notice must direct the owner of the vehicle to repair the vehicle within 6 months from the date of issue, and to take the vehicle to a place identified in the notice for retesting before the expiry of the 6 months.
- (12) The repair notice must contain, amongst others, 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 of the vehicle is not the owner of the vehicle, the name and address of the vehicle owner.
- (13) A person commits an offence under this section if the person fails -
- (a) to comply with the repair notice referred to in subsection (11);
  - (b) to take the vehicle for re-testing as referred to in subsection (11).
- (14) It is not a defence in proceedings under subsection (13) to aver that the driver of the vehicle failed to bring the repair notice to the attention of the owner of that vehicle.
- (15) The authorised person must issue a notification in terms of section 341 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), where the owner of the vehicle fails to take the vehicle for re-testing as referred to in subsection (11).

#### **9. Small Boilers**

- (1) No person may install, alter, extend or replace any small boiler on any premises without the prior written authorisation of the Council, which may only be given after consideration of the relevant plans, specifications and any applicable emission standards developed for controlled emitters that have been determined in terms of section 24 of the AQA.
- (2) Application for an authorisation to operate a small boiler must be made on a form prescribed by the Council.
- (3) Where a small boiler has been installed, altered, extended or replaced on premises in contravention of subsection (1) -
- (a) the owner or occupier of the premises commits an offence;
  - (b) the Council may, on written notice to the owner or occupier of the premises, order the removal of the small boiler from the premises at the expense of the owner or occupier and within the period stated in the notice.
- (4) In considering an application submitted in terms of subsection (1), the air quality officer may require the applicant to furnish such information as the air quality officer may require.
- (5) After considering the application submitted in terms of subsection (1), the Council must either -
- (a) grant an application and issue an authorisation, subject to any conditions that may be imposed; or
  - (b) refuse an application with reasons.

- (6) The authorisation issued in terms of subsection (1) must specify -
- (a) the product name and model of the small boiler;
  - (b) the premises in respect of which it is issued;
  - (c) the person to whom it is issued;
  - (d) the period for which the authorisation is issued;
  - (e) the name of the municipality;
  - (f) the periods at which the authorisation may be reviewed;
  - (g) the fuel type and quality;
  - (h) the maximum allowed amount, volume, emission rate or concentration of pollutants that may be discharged in the atmosphere;
  - (i) any other operating requirements relating to atmospheric discharges, including non-point source emission measurement and reporting requirements; and
  - (j) any other matters which are necessary for the protection or enforcement of air quality.
- (7) The Council must review the authorisation issued in terms of this section at intervals specified in the authorisation, or when circumstances demand that a review is necessary.

#### **Transitional arrangements in respect of authorised small boilers**

- (8) (a) Despite the coming into operation of this by-law, any small boiler that was authorised to operate in terms of any by-law of the municipality continues to be authorised to operate subject to subsection (8)(c).
- (b) During the period for which the authorised small boiler continues to operate, the provisions of this by-law, read with the necessary changes as the context may require, apply in respect of -
- (i) the holder of an existing authorisation as if that person is the holder of the authorisation issued in terms of subsection (1); and
  - (ii) the existing authorisation as if the authorisation was issued in terms of subsection (1).
- (c) The holder of an existing authorisation must apply for an authorisation in terms of subsection (1), when required to do so by the Council, in writing, and within the period stipulated by the Council.

#### **Transitional arrangements in respect of other small boilers**

- (9) (a) Despite the small boilers within the municipality not required to be authorised in terms of a by-law, persons operating small boilers, at the commencement date of section 9, must apply for an authorisation as required by section 9.
- (b) A person operating small boiler must apply for an authorisation in terms of subsection (1), when required to do so by the Council, in writing, and within the period stipulated by the Council.
- (c) If any person fails to comply with subsection (9)(b), then continuing to operate the small boiler without a valid authorisation is an offence.

**(Commencement date of section 9 - to be proclaimed) NB - Please note that the commencement date of section 9 is subject to the declaration of small boilers as controlled emitters in terms of section 23 of the AQA.**

#### **10. Dust Emissions**

- (1) Any person conducting activities which customarily produce emissions of dust that may be harmful to public health, well-being and/or cause a nuisance must take control measures to prevent or minimise emissions into the atmosphere.
- (2) Any person who undertakes any activity that causes dust emissions must implement one or more of the following control measures -
- (i) pave;
  - (ii) use dust palliatives or suppressants;
  - (iii) uniformly apply and maintain any surface gravel;
  - (iv) erect physical barriers and signs to prohibit access to the disturbed areas;
  - (v) use ground covers;
  - (vi) re-vegetation which is similar to adjacent undisturbed native conditions; or
  - (vii) any alternative control measure approved in writing by the air quality officer.

(3) The control measures must be consistent with the provisions of any applicable legislation.

(4) The provisions of this section are not applicable to -  
 (a) landscaping activities by a person at his or her place of residence;  
 (b) emergency maintenance activities on publicly maintained roads, road shoulders and rights of way;  
 (c) unpaved roads having vehicular traffic of less than 500 vehicles per day;  
 (d) non-commercial and non-institutional private driveways;  
 (e) horse trails, hiking paths, bicycle paths or other similar paths; and  
 (f) any other path that has been designated as an exclusive use area for purposes other than travel by motor vehicle.

(5) Any person who contravenes subsection (1) commits an offence.

#### 11. Emissions Caused by Open Burning

(1) A person who carries out or permits open burning of any material on any land or premises is committing an offence, unless -  
 (a) the prior written authorisation of the Council has been obtained, which authorisation may be granted by the Council with conditions, and  
 (b) that person has notified in writing the owners and occupiers of all adjacent properties and electricity powerlines traversing such properties of -

- (i) all known details of the proposed open burning;
  - (ii) the right of owners and occupiers of adjacent properties and electricity powerlines traversing such properties to lodge written objections to the proposed open burning with the municipality within 14 days of being notified; and
  - (iii) the administrative fee that has been paid to the municipality.

(2) The Council may not authorise open burning -  
 (a) unless it is satisfied that the requirements set out in subsection (1) above have been adequately addressed or fulfilled; or  
 (b) where a warning under section 10(1)(b) of the National Veld and Forest Act, 1998 (Act No. 101 of 1998) has been published for the region.

(3) The provisions of this section do not apply to -

- (a) recreational outdoor activities on private premises or residential areas; and
- (b) controlled fires in dwellings for the purposes of heating any area within the dwelling, cooking, heating water and other domestic purposes.

#### 12. Emissions Caused by Burning of Industrial Waste, Domestic Waste and Garden Waste in Waste Bins or Skips on Any Land or Premises

A person who carries out or permits the burning of any industrial, domestic or garden waste, on any land or premises, for the purpose of disposing of that waste, is committing an offence unless the industrial, domestic or garden waste is legally disposed of in terms of section 26 of the National Environmental Management - Waste Act, 2008 (Act No. 59 of 2008).

#### 13. Sugar Cane Burning Emissions

(1) Any person who burns sugar cane must comply, in addition to the burning requirements provisions of the National Veld and Forest Act, 1998 (Act No. 101 of 1998), with the following control measures -

- (a) obtain a prior written authorisation from the Council, which authorisation may be granted valid for a period of 12 months from date of issue; and
- (b) notification in writing of all the owners and occupiers of adjacent properties (including surrounding communities) and electricity powerlines traversing such properties of -
  - (i) the details of the proposed area to be burned;

- (ii) the reason for the sugar cane burning;
- (iii) the dates or months of the sugar cane burning;
- (iv) the right of owners and occupiers of all adjacent properties (including surrounding communities) and electricity powerlines traversing such properties to lodge written objections to the proposed sugar cane burning with the municipality within 14 days of being notified; and
- (v) the administrative fee has been paid to the municipality.

(2) The Council must notify in writing, within 30 days, the applicant and all registered affected parties about a decision on an application.

(3) The authorisation issued in terms of subsection (1) must specify

- (a) the person to whom it is issued;
- (b) the areas to be burned;
- (c) the dates or months of the sugarcane burning;
- (d) the period for which the authorisation is issued;
- (e) measures which are necessary for the protection of air quality.

(4) The Council may not authorise sugar cane burning -

- (a) unless it is satisfied that the requirements set out in subsection (1) have been adequately complied with; or
- (b) where a warning notice in terms of section 10(1) of the National Veld and Forest Act, 1998 (Act No. 101 of 1998) has been published for the region.

(5) Any person who contravenes subsection (1) commits an offence.

(6) The provisions of this section are not applicable to any defined area to which the Council may declare.

#### 14. Emissions Caused by Tyre Burning and Burning of Rubber Products and Cables in Open Spaces

(1) No person may carry out or permit the burning of any tyres, rubber products, cables or any other products, on any land or premises for any purpose, for the purposes of recovering the scrap metal or fibre reinforcements, or of disposing of tyres, of the rubber products or cables as waste.

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

#### 15. Pesticide Spraying Emissions

(1) No person may carry out or permit the spraying of pesticides, except as permitted by section 3 of the Fertilisers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947).

(2) A person who carries out the spraying of pesticides, either by tractor or aerial, within the municipal jurisdiction, must comply with the following control measures -

- (a) obtain a prior written authorisation from the Council, which authorisation may be granted valid for a period of 12 months from the date of issue;
- (b) notification in writing of all the owners and occupiers of adjacent properties (including surrounding communities) of the treatment area of -
  - (i) the details of the proposed treatment area;
  - (ii) the reason for the pesticide use;
  - (iii) the active ingredient;
  - (iv) the dates or months of the pesticide use;
  - (v) the time, if any, indicated on the product label specifying when the area can safely be re-entered after application;
  - (vi) the right of owners and occupiers of adjacent properties (including surrounding communities) to lodge written objections to the proposed spraying of pesticides with the Council within 14 days of being notified; and
  - (viii) the administrative fee has been paid to the municipality.

(3) The Council must notify in writing, within 30 days, the applicant and all registered affected parties about a decision on an application.

(4) The authorisation issued in terms of subsection (1) must specify

- (a) the person to whom it is issued;
- (b) the areas on which the pesticide may be applied;
- (c) the dates or months of the pesticide spraying;
- (d) the period for which the authorisation is issued;
- (e) measures which are necessary for the protection of the environment.

- (5) Any person who contravenes subsection (2) commits an offence.
- (6) A person may apply to the Council for an exemption if the spraying of the pesticide is for -
  - (a) the management of pests that transmit human diseases or adversely impact agriculture or forestry;
  - (b) the management of pests that threaten the integrity of sensitive ecosystems;
  - or
  - (c) the need for the use of the pesticide is urgent.
- (7) The provisions of this section are not applicable to -
  - (a) residential areas;
  - (b) buildings or inside buildings and the domestic use of pesticides; or
  - (c) any other defined area or defined activity to which the Council has declared this section not to apply.

### 16. Spray Painting Emissions

- (1) No person must, within the municipality's jurisdiction, spray, coat, plate, or epoxy-coat any vehicle, article, object or allow them to be sprayed, coated, plated, or epoxy-coated with any substance outside approved spray painting room or booth.
- (2) No person may spray, coat, plate, or epoxy-coat any vehicle, article, object, or building or part thereof or allow them to be sprayed, coated, plated or epoxy-coated with any substance unless -
  - (a) that person is in possession of a spraying authorisation contemplated in subsection (1);
  - (b) the spraying, coating, plating or epoxy-coating as the case may be is conducted in a spraying room approved by the designated fire officer, in consultation with the air quality officer, on premises registered for that purpose.
- (3) A person that contravenes subsections (1) and (2) commits an offence.
- (4) Any person who wishes to obtain a spraying authorisation must complete and submit to the designated fire officer an application form for such permit in the form and manner as prescribed.
- (5) The designated fire officer, in consultation with the air quality officer, may grant or refuse a spraying authorisation contemplated in subsection (1) based on the information submitted.
- (6) A spray room or booth or area designated for the application of a substance must be constructed and equipped according to the requirements in Schedule 6 to this by-law.
- (7) The designated fire officer may cancel the spraying authorisation if there is reason to believe that the holder of the spraying authorisation contravenes or fails to comply with any provision of this by-law.
- (8) Subject to subsection (9), before the designated fire officer cancels the spraying authorisation as contemplated in subsection (7), that officer must
  - (a) give the holder of the spraying authorisation written notice of the intention to cancel the spraying authorisation and the reasons for such cancellation;
  - (b) give the holder a period of at least 30 days to make written representations regarding the matter to the municipality.
- (9) If the designated fire officer has reason to believe that the failure to cancel the spraying authorisation may endanger any person, that officer may cancel the spraying authorisation without prior notice to the holder as contemplated in subsection (7).

### 17. Sand Blasting Emissions

- (1) Any person conducting sand blasting activities which customarily produce emissions of dust that may be harmful to public health, well-being and/or cause a nuisance must take control measures to prevent emissions into the atmosphere.
- (2) Any person who undertakes any sand blasting activity that causes dust emissions must implement the following control measure -
  - (a) dust extraction control measure; or
  - (b) any alternative dust control measure approved in writing by the air quality officer.
- (3) A person that contravenes subsections (1) and (2) commits an offence.

## 18. Noise Pollution Management

### Prohibition of disturbing noise

- (1) A person must not cause a disturbing noise, or allow it to be caused by any person, animal, machine, device, vehicle, recreational vehicle, apparatus or any combination thereof.
- (2) Where it could cause a noise nuisance, a person must not -
- (a) operate or play, allow to be operated or played, a radio, television set, drum, musical instrument, sound amplifier, loudspeaker system or similar device producing, reproducing or amplifying sound;
  - (b) allow an animal owned or controlled by him or her to make noise;
  - (c) build, make, construct, repair, rebuild, modify, operate or test a vehicle, vessel, aircraft, or object, or allow it to be built, made, constructed, repaired, rebuilt, modified, operated or tested, in or near a residential zone or premises;
  - (d) erect, demolish or alter a building or structure, or allow it to be erected, demolished or altered if it affects a residential zone or premises unless permission is granted by the municipality to conduct building operations within the hours specified in SANS 10400 for the control of noise, if building operations are to be carried out outside of these hours then an exemption is required;
  - (e) use or discharge any explosive, firearm or similar device that emits impulsive sound or allow it to be used or discharged, except with the prior consent in writing of the municipality and subject to such conditions as the municipality may deem necessary, save as such person may otherwise be authorised in law to use or discharge;
  - (f) on a piece of land or in water or in airspace above water or in airspace above a piece of land used for recreational purposes -
    - (i) operate a recreational vehicle; or
    - (ii) as the owner or person in control of the piece of land, water or airspace, allow any person to operate a recreational vehicle on such land or in such water or such airspace;
  - (g) except in emergency situations, emit a sound, or cause or allow a sound to be emitted, by means of a bell, carillon, siren, hooter, static alarm, whistle, loudspeaker or similar device;
  - (h) drive a vehicle on a public road;
  - (i) use any power tool or power equipment used for construction purposes, drilling or demolition work, or allows it to be used, in or near a residential area, unless permission was granted by the municipality to conduct normal construction or repair work to public and private property.

### Land Use

- (3) A person must not -
- (a) establish any zone unless a Noise Impact Assessment has been undertaken in accordance with SANS 10328. The assessment must indicate that either the outdoor equivalent continuous day/night rating level (LR,dn), the outdoor equivalent continuous day-time rating level (LR,d) or the outdoor continuous equivalent night-time rating level (LR,n) appropriate for the particular district will not be exceeded at any position within the boundaries of the proposed zone;
  - (b) construct or erect any building or make changes to existing facilities on a premises which will house an activity which does not conform with the dominant land use specified in the applicable zoning scheme;
  - (c) construct or erect any building or make changes to existing facilities on premises which will house an activity which produces more noise with respect to that of the dominant land use specified in the applicable zoning scheme or will create a disturbing noise unless it has been proven that precautionary measures will be implemented. Such measures must be to the satisfaction of the municipality in that the premises, after being erected or developed or changes made, will be adequately insulated against the transmission of sound to the outside, so that either the outdoor equivalent day/night rating level (LR,dn), the outdoor equivalent continuous day-time rating level (LR,d) and/or the outdoor equivalent continuous night-time rating level (LR,n), will not exceed the appropriate rating level for outdoor noise specified in SANS 10103 at any position on the property projection plane of the premises; or



(d) undertake any activity which constitutes a noise source referred to in SANS 10328 and any of the listed activities requiring an EIA in terms of the NEMA Regulations, which are considered to have a potential noise impact unless a Noise Impact Assessment has been undertaken in accordance with SANS 10328.

(4) The municipality may -

- (a) before changes are made to existing facilities or existing uses of land or buildings or before new buildings are erected, in writing require that Noise Impact Assessments or tests be conducted to the satisfaction of the municipality by the owner, developer, tenant or occupant of the facilities, land or buildings concerned. Such reports or certificates must be submitted by such owner, developer, tenant or occupier to the municipality. The report should prove that either the outdoor equivalent continuous day/night rating level (LR,dn), the outdoor equivalent continuous day-time rating level (LR,d) and the outdoor equivalent continuous night-time rating level (LR,n) at any position on or outside the property projection plane of the existing facility, use of land or building will not exceed values for the appropriate level given in SANS 10103. The Noise Impact Assessment, if required shall be conducted in accordance with SANS 10328 or other applicable documentation and the tests, if required, must be conducted in accordance with SANS 10103 or other applicable documentation; or
- (b) If excavation, earthmoving, pumping, drilling, construction, or demolition, or any similar activity, power generation or music causes or may cause a noise nuisance or disturbing noise, instruct in writing that such work, activity, generation or music be forthwith discontinued until such conditions as the municipality may deem necessary have been complied with.

#### Motor Vehicles

(5) No person may drive a vehicle, or allow it to be driven, on a public road, if the sound level at the measuring point measured, when stationary, in accordance with the procedure prescribed in SANS 10181 exceeds -

- (a) in the case of a non-exempted vehicle, the stationary sound level specified in SANS 10281 for that type of vehicle; or
- (b) in the case of an exempted vehicle, by more than 5 dBA the applicable reference sound level indicated in SANS 10281, for that type of vehicle.

(6) The municipality may in order to determine whether a vehicle being used on any road in the area of jurisdiction of the municipality, including a private, provincial or national road crossing its area of jurisdiction, complies with the provisions of the by-law, instruct the owner or driver of the vehicle -

- (a) to stop the vehicle or cause it to be stopped; and
- (b) to have any appropriate inspection or test, as the municipality may deem necessary, conducted on the vehicle on the roadside where it was stopped or on a place, date and time determined by the municipality in writing.

(7) The authorised person must, prior to any testing being undertaken in terms of subsection (6)(b) inform the driver of the vehicle that -

- (a) the vehicle has been stopped to test it in terms of this by-law for noise nuisance;
- (b) the vehicle is being detained for the purpose of such testing;
- (c) if the results of such testing indicates noise nuisance from the vehicle or if the driver concerned fails or refuses to assist with such test, it will constitute an offence under this by-law; and
- (d) A person who fails to comply with a direction given under subsection (6)(a) commits an offence.

(8) An inspection done in terms of subsection (6)(b) shall be carried out -

- (a) at or as near as practicable to the place where the direction to stop the vehicle is given; and
- (b) within 1 hour of the vehicle being stopped in accordance with the direction of the authorised person.

(9) If, after conducting a sound level test. The authorised person is satisfied that the vehicle -

- (a) is not exceeding the permitted sound levels prescribed in subsection (5), then the authorised person must furnish the driver of the vehicle with a certificate (valid for a period of 24 months) indicating that the vehicle is not being driven or used in contravention of subsection (5); or
- (b) is exceeding the permitted sound levels prescribed in subsection (5). the authorised must issue the driver of the vehicle with a repair notice in accordance with subsection (10).

(10) Are pair notice must -

- (a) 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; and
- (b) contain, amongst others, the following information -
  - (i) the make, model and registration number of the vehicle;
  - (ii) the name, address and identity number of the driver of the vehicle; and
  - (iii) if the driver is not the owner, the name and address of the vehicle owner.

- (11) A person commits an offence under this section if the person fails -  
 (a) to comply with the repair notice referred to in subsection (10)(a);  
 (b) to take the vehicle for re-testing as referred to in subsection (10)(a).
- (12) It is not a defence in proceedings under subsection (11) to aver that the driver of the vehicle failed to bring the repair notice to the attention of the owner of that vehicle.
- (13) The authorised person must issue a notification in terms of section 341 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), where the owner of the vehicle fails -  
 (a) to comply with a repair notice issued in terms of subsection (9)(b); or  
 (b) to take the vehicle for re-testing as required by subsection (10)(a).

**Music, open-air music festivals, shows, inclusive of air shows and similar gatherings**

- (14) (a) No person may stage any open-air entertainment festival, such as, but not limited to a show, an air show, music concert, festival, sports event or similar gathering without a prior written consent of the municipality.
- (b) If any music causes or may cause a noise nuisance, the municipality may instruct in writing that such music be discontinued until such conditions as the municipality may deem necessary have been complied with.
- (c) Subject to the provisions of paragraph (b) and applicable provisions of the any other law, the municipality may attach any instrument and/or equipment used to generate music if no permission has been obtained as required by paragraph (a).
- (d) An instrument and/or equipment attached under paragraph (c) shall be kept in safe custody by the municipality.
- (e) The municipality may lift the attachment contemplated in paragraph (c) if the owner or person in control of the instrument and/or equipment has applied for permission in terms of paragraph (a).
- (f) This subsection is not applicable to -  
 (i) churches;  
 (ii) schools;  
 (iii) other education facilities; or  
 (iv) any other defined area or activity to which the Council has declared this subsection not to apply. *General prohibitions*
- (15) Any person who -  
 (a) fails to comply with the provisions of this section;  
 (b) fails to comply with a written condition, instruction or notice issued by the municipality in terms of this section;  
 (c) tampers with, remove, put out of action, damage or impair the functioning of a noise monitoring system, noise limiter, noise measuring instrument, acoustic device, road traffic sign or notice placed in a position by or on behalf of the municipality;  
 (d) in respect of a duly authorised person of the municipality -  
 (i) fails or refuses to grant admission to such official to enter and to inspect the premises;  
 (ii) fails or refuse to give information which may lawfully be required of him or her to such official;  
 (iii) hinders or obstruct such official in the execution of his or her duties; or  
 (iv) gives false or misleading information to such official knowing that it is false or misleading, is guilty of an offence.

**General powers of the municipality**

- (16) An authorised person may -  
 (a) for the purposes of applying this section, at any reasonable time enter premises upon reasonable notice to conduct any appropriate examination, inquiry or inspection thereon as it may deem expedient and to take any steps it may deem necessary;  
 (b) if a noise emanating from a premises, vehicle, recreational vehicle or private area is a noise nuisance or disturbing noise, instruct in writing -  
 (i) the person causing such noise or who is responsible for the infringement;  
 (ii) the owner, tenant or occupant of such building, premises, vehicle, recreational vehicle or private area from which or from where such noise emanates or may emanate; or  
 (iii) all such persons,

to discontinue or cause to be discontinued such noise or to take steps to or apply appropriate remedies to lower the level of such noise to a level conforming to the requirements of this by-law within the period stipulated in the instruction - Provided that the provisions of this paragraph do not apply in respect of a disturbing noise or noise nuisance caused by rail vehicles or air traffic or on a public road by vehicles that are not used as recreational vehicles;

(c) if the noise is caused by an animal, and the owner or person in charge of that animal fails to comply with an instruction referred to in subsection (16)(b), subject to the applicable provisions of any other law, impound or cause to be impounded such animal;

(d) impose such appropriate conditions as it deems fit when granting any permission or exemption, including the specification of times and days when activities that may cause noise are permitted or prohibited;

(e) subject to the applicable provisions of any other law, place or cause to be placed measuring instruments or similar devices, road traffic signs or notices at any place within the municipality's jurisdiction for the enforcement of the provisions of this bylaw - Provided that road traffic signs and notices shall be placed on private property only with the permission of the owner.

## 19. Emissions that Cause a Nuisance

### Prohibition

- (1) Any occupier or owner of premises from which a nuisance emanates, or where a nuisance exists must take measures to contain emissions that cause a nuisance.
- (2) Any occupier or owner of premises that fails to comply with subsection (1) commits an offence.

### Abatement notice

- (3) An authorised person may serve an abatement notice on any person, whom he or she reasonably believes is likely to commit or has committed an offence under subsection (2), 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; or
  - (c) to comply with any other conditions contained in the notice.
- (4) For the purposes of subsection (3), an authorised 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.
  -
- (5) An abatement notice under subsection (3) may be served -
  - (a) upon the owner or any person, 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.
- (5) Any person who fails to comply with an abatement notice served on that person in terms of subsection (5) commits an offence.
- (6) In addition to any other penalty that may be imposed, a court may order a person
- (7) convicted of an offence under subsection (6) 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

- (8) The municipality may, at any time, 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.

## CHAPTER 3

## GENERAL MATTERS

**20. Appeals**

Any person may appeal against any decision taken under this by-law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act.

**21. Offences and Penalties**

- (1) Any person who contravenes section 4(9), 8(2), 10(5), 11(1), 13(5), 17(3), 18(7)(d), 18(11), 18(15) or 19(2) is liable on conviction to imprisonment for a period not exceeding 6 months or to a fine or to both a fine and such imprisonment.
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- (2) Any person who contravenes section 6(2), 8(5), 8(13), 9(3)(a), 9(9)(c), 15(5), 16(3) or 19(6) is liable on conviction to imprisonment for a period not exceeding 2 years or to a fine or to both a fine and such imprisonment.
- 
- (3) Any person who contravenes section 12 or 14(2) is liable on conviction to imprisonment for a period not exceeding 1 year or to a fine or to both a fine and such imprisonment.
- 
- (4) It is an offence to -  
 (a) supply false or misleading information to an authorised person in respect of any matter pertaining to this by-law, or;  
 (b) refuse to co-operate with the request of an air quality officer or authorised 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 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 continuing offences is be guilty of a separate offence each day during which that person fails to comply with a notice, direction or instruction referred to in this by-law.

**22. Enforcement**

- 
- (1) The Council may appoint so many authorised persons as it may consider necessary to be responsible for compliance and enforcement monitoring of this by-law.
- 
- (2) The authorised persons must take all lawful, necessary and practicable measures to enforce the provisions of this by-law.

**23. Exemptions**

- 
- (1) Any person may, in writing, apply for exemption from the provisions of this by-law to the Council.
- 
- (2) An application in terms of subsection (1) above must be accompanied by reasons.
- 
- (3) The Council may grant a temporary exemption in writing from one or all of the provisions of the by-law, provided that the Council -  
 (a) is satisfied that granting the exemption will not prejudice the objectives referred to in section 2; and  
 (b) grants any exemption subject to conditions that promote the attainment of the objectives referred to in section 2.
- 
- (4) The Council must not grant an exemption under subsection (1) until the Council has -  
 □ (a) taken measures to ensure that all persons whose rights may be significantly detrimentally affected by the granting of the exemption, including but not limited to adjacent land owners or occupiers (including surrounding communities), are aware of the application for exemption and how to obtain a copy of it;  
 □ (b) provided such persons with a reasonable opportunity to object to the application; and  
 □ (c) duly considered and taken into account any objections raised.
- 
- (5) The Council may -  
 □ (a) from time to time review any exemptions granted in terms of this section; and  
 □ (b) on good grounds withdraw any exemption.

**24. State and Council Bound**

This by-law is binding on the State and the Council except in so far as any criminal liability is concerned.

**25. Repeal of By-Laws**

Any by-laws relating to Air Quality adopted by the Council or any Municipality now comprising an administrative unit of the council is repealed from the date this by-laws come into operation.

**26. Short Title**

This by-law is called the Air Quality Management By-Law, 2011

**27. Commencement**

- (1) This by-law will come into operation on a date or dates to be determined by the Council by publication in the *Provincial Gazette*.
- (2) Different dates may be determined in terms of subsection (1) above for different provisions of the by-law.
- (3) Commencement date of section 9 is subject to the declaration of small boilers as controlled emitters in terms of section 23 of the AQA and must be proclaimed.

**SCHEDULES**

**Schedule 1**

**List of Substances and its Associated Local Emission Standards (section 5(1))**

The list of Substances and associated standards must be identified by the relevant municipality, as and when necessary.

**Schedule 2**

**Application Form to Operate Small Boiler (Section 9(2)) Name of Enterprise -**

Declaration of accuracy of information provided -

I, \_\_\_\_\_, declare that the information provided in this application is in all respect factually true and correct.

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
CAPACITY OF SIGNATORY

I, \_\_\_\_\_ owner/occupier of the land/property known as \_\_\_\_\_ (registered name) within the municipality's jurisdiction hereby apply for permission to operate a small boiler on the said property.



**6. Point source emissions**

Unique stack ID	Pollutant name	Height of release above ground	Average annual release rate			Emission hours [e.g. 07H00 – 17H00]	Type of emission [continuous/intermittent]

**7. Signature**

\_\_\_\_\_  
Signature of the Applicant

\_\_\_\_\_  
Date of Application

**8. Office Use Only**

**8.1. Authorised Person - Site Inspection Observations**


**8.2. Authorised Person - Recommendations**


**8.3. Approved / Not Approved (Complete whichever is applicable)**

The application is approved, subject to the following conditions -

1.

(a)
(b)
(c)
(d)
(e)

---

**The application is not approved for the following reasons -**

(a)
(b)
(c)
(d)
(e)

\_\_\_\_\_  
**Air Quality Officer Signature**

**Date -**



Schedule 3

Application Form for Open Burning (Section 11(1))

I, \_\_\_\_\_ owner / occupier of the land / property known as \_\_\_\_\_(registered name) within the municipality's jurisdiction hereby apply for permission to burn the following materials on the said property.

1. Contact details

Responsible Persons Name	
Telephone Number	
Cell Phone Number	
Fax Number	
E-mail address	

2. Description of the extent of the areas to be burned


3. Types of materials to be burned

(a)
(b)
(c)
(d)
(e)

4. Reasons for burning materials


5. Air quality impacts in the local area


**6. Approximate date and time to burn materials**

Date	Time

**7. Notification of adjacent owners and occupiers (including surrounding communities)**

The applicant must attach proof that the adjacent owners and occupiers have been notified of the open burning, and their rights to lodge any written objections to the municipality.

**8. Signature**

\_\_\_\_\_  
Signature of the Applicant

\_\_\_\_\_  
Date of Application

**9. Office Use Only**

**9.1. Authorised Person - Site Inspection Observations**


**9.2. Authorised Person - Recommendations**


**9.3. Approved / Not Approved (Complete whichever is applicable)**

The application is approved, subject to the following conditions -

(a)
(b)
(c)
(d)
(e)

The application is not approved for the following reasons -

(a)
(b)
(c)
(d)
(e)

\_\_\_\_\_  
Air Quality Officer Signature

Date -

Schedule 4

Application Form to Burn Sugar Cane (Section 13(1)(a))

I, \_\_\_\_\_ occupier(s) of the land / properties known as \_\_\_\_\_  
 (registered name) within the municipality's jurisdiction hereby apply for permission to burn sugar cane on the said property.

1. Contact details

Responsible Persons Name	
Telephone Number	
Cell Phone Number	
Fax Number	
E-mail address	

2. Description of the extent of the area(s) to be burned


3. Reasons for the sugar cane burning


4. Air quality impacts in the local area


5. Dates or months to burn sugar cane

Dates or Months	

6. Notification of adjacent owners and occupiers (including surrounding communities)

The applicant must attach proof that the adjacent owners and occupiers have been notified of the proposed burning of sugar cane, and their rights to lodge any written objections to the municipality. The notification must clearly specify (a) the extent of the area to be burned; (b) reasons for the sugar cane burning; (c) dates or months for the sugar cane burning; (d) adjacent owners and occupiers' right to lodge written objections within 14 days to the municipality.

7. Signature

\_\_\_\_\_  
Signature of the Applicant

\_\_\_\_\_  
Date of Application

8. Office Use Only

8.1. Authorised Person - Site Inspection Observations


8.2. Authorised Person - Recommendations


8.3. Approved / Not Approved (Complete whichever is applicable)

The application is approved, subject to the following conditions -

(a)
(b)
(c)
(d)
(e)

The application is not approved for the following reasons -

(a)
(b)
(c)
(d)
(e)

\_\_\_\_\_  
Air Quality Officer Signature

Date -

**Schedule 5  
Application Form to Undertake Pesticide Spraying (Section 15(2)(a))**

I, \_\_\_\_\_ owner(s) / occupier(s) of the land / properties known as \_\_\_\_\_ (registered name) within the municipality's jurisdiction hereby apply for permission to spray pesticides on the said property.

**1. Contact details**

Responsible Persons Name	
Telephone Number	
Cell Phone Number	
Fax Number	
E-mail address	

**2. Description of the extent of the proposed treated area(s)**


**3. Types of product label to be used**

(a)
(b)
(c)
(d)
(e)

**4. Air quality impacts in the local area**


**5. Dates or months for pesticide spraying**

Dates or Months	

**6. Notification of adjacent owners and occupiers (including surrounding communities)**

The applicant must attach proof that the adjacent owners and occupiers have been notified of the proposed pesticide spraying, and their rights to lodge any objections to the municipality. The notification must clearly specify (a) the extent of the proposed treatment area; (b) reasons for pesticide use; (c) the active ingredient; (d) dates or months for pesticide spraying; (e) time, if any, indicated on the product label specifying when the area can safely be re-entered after application; (D) adjacent owners and occupiers' right to lodge written objections within 14 days to the municipality.

7. Signature

\_\_\_\_\_  
Signature of the Applicant

\_\_\_\_\_  
Date of Application

Office Use Only

8.1. Authorised Person - Site Inspection Observations


8.2. Authorised Person - Recommendations


8.3. Approved / Not Approved (Complete whichever is applicable)

The application is approved, subject to the following conditions -

(a)
(b)
(c)
(d)
(e)

The application is not approved for the following reasons -

(a)
(b)
(c)
(d)
(e)

\_\_\_\_\_  
Air Quality Officer Signature

Date:

Schedule 6

**Spray Booth Construction (Section 16(4)) Construction**

Such activities must be conducted in a spray booth or spray cabinet specifically designed for the purpose. It must be constructed of non-combustible material.

**Ventilation Spray Booth**

Every spray booth shall be provided with a mechanical ventilation system which must be capable of moving the air in the occupied zone at not less than -

*0,5 ml/s* where the air is horizontally supplied and extracted.

*0,4 ml/s* where the air is introduced through the roof and extracted through slots along the edge of the walls at floor level.

*0,3 ml/s* where the air is supplied through the roof and extracted through a grill over the whole of the floor area.

**Spray Cabinets**

Where spray cabinets are used (Le. where the operator stands in front and sprays through an opening into a cabinet), the following minimum air flow must be maintained through an opening.

*1ml/s* for opening up to  $0,9m^2$

*0,75 ml/s* for opening between  $0,9$  and  $1,8m^2$

*0,5m/s* for opening exceeding  $1,8m^2$

**Lighting**

A spray booth must be fitted with a non-operable inspection window of strengthen and shatterproof of glass. Every employer shall ensure that his spray booth is lighted in accordance with the illuminance values as specified below. (Only incandescent electric lights which are enclosed in outer flame and vapor-proof fittings may be installed).

Types of Activity	Illuminance (LUX)
Rubbing, dipping, ordinary painting	200
Fine painting, spraying and finishing	300
Retouching and matching	500

**Fume Extraction System**

All extraction systems must be designed and commissioned by competent engineers to ensure that the total extraction from any room is balanced by adequate ingress of fresh air into works room.

All ducts and enclosures in connection with the extraction system through which the fumes have to pass must be constructed of non-combustible materials with the interior having a smooth surface.

The fume extraction system must be kept in full operation while spraying done and for any additional time required to clear the fumes from the room.

The blades of any fan used in the spray booth or spray cabinet shall be of nonferrous metal.

Suitable filters must be provided at the point of extraction.

The point of discharge must be positioned so as to ensure that such air does not contaminate any air which is likely to be drawn into ventilate any existing building.

Personal Protection Equipment.

Manager shall ensure that workers actively involved in spraying operations are provided with approved respirators or breathing apparatus. When paints containing isocyanine are used a positive pressure air fed face mask should be worn. Chemical absorption canisters should not be relied on because of their limited effective life.

**General**

In addition to the above, it is also necessary to comply with the requirements as laid down by the Chief Fire Officer.

[NO. 172 OF 2011]

**NOTICE IN TERMS OF SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: STANDARD BED AND BREAKFAST AND GUEST HOUSE BY-LAW**

I, M.G Qabathe, Member of the Executive Council responsible for Cooperative Governance, Traditional Affairs and Human Settlement in the Free State Province, after consulting the Minister of Cooperative Governance and Traditional Affairs and the South African Local Government Association: Free State, do hereby in terms of section 14(2)(a)(i) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), make standard by-laws as set out in the Schedule.

**SCHEDULE**

**BED AND BREAKFAST AND GUEST HOUSE STANDARD BY-LAW**

**Table of contents**

1. Definitions
2. Requirements for premises
3. Special consent and Business License required to operate bed and breakfast or guest house facility
4. Suspension, cancellation and amendment of special consent
5. Duties of operator of bed and breakfast or guest house facility
6. Appeals
7. Offences and penalties
8. Repeal
9. Short title and commencement

**DEFINITIONS**

1. In these By-laws, words applying to any individual shall include persons and groups, and the masculine gender shall include the feminine gender and the singular number shall include the plural and vice versa, and unless the context otherwise indicates -
  - "**authorised official**" means any person authorised as such by the Council for purposes of these By-laws to perform and exercise any or all of the functions specified therein;
  - "**bed and breakfast facility**" means a -
    - (a) commercial accommodation establishment operated from a private single dwelling house;
    - (b) managed by a resident owner or resident lessee;
    - (c) providing sleeping accommodation and breakfast;
    - (d) aimed primarily at the tourist or business market; and
    - (e) where the facilities and services offered are for the exclusive use and benefit of overnight registered guests,
 and the term "**guest house facility**" has a corresponding meaning;
  - "**Council**" means the Council of the ..... Local Municipality or its successors in law, its Executive Committee, and any committee or person or other body acting by virtue of any power delegated to it in terms of legislation;
  - "**lettable room**" means a habitable room;
  - "**Licensing Authority**" means any local authority, or person or body, designated or appointed under section 2 of the Business Act, 1991 (Act No 71 of 1991);
  - "**Municipality**" means the.....Local Municipality established in terms of Section 12 of the Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub -delegated to such political structure, political office bearer, councillor, agent or employee;
  - "**nuisance**" means any condition or conduct which is injurious or offensive to any person or which is dangerous to or compromises the health or safety of any person, or which causes an annoyance or disturbance to any person or to the residents of any area or which constitutes a threat or a potential threat to the environment or which causes harm or damage to the environment, or which may potentially harm or damage the environment;
  - "**special consent**" means the Council's special consent granted in terms of Council's applicable Town Planning Scheme;
  - "**Town Planning Scheme**" means the Town Planning Scheme(s) of the Municipality.



**REQUIREMENTS FOR PREMISES**

2. (1) No person may operate a bed and breakfast or a guest house facility on any premises unless he or she has complied with all applicable legislation, including -
  - (a) the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977) where all buildings constructed on the premises must comply with this Act and its regulations;
  - (b) the Council's applicable Town Planning Scheme with specific reference to parking, floor area ratio, height, coverage and zoning, number of rooms, if prescribed by a Town Planning Scheme applicable to the area where the property is located and with Council's Outdoor Advertising Bylaws with reference to signage.
  - (c) the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) and the Regulations governing general hygiene requirements for food premises and the transport of food, formulated under the Health Act, 1977 (Act No. 63 of 1977), where a Certificate of Acceptability must be obtained from the Council's Senior Health Inspector.
  - (d) the Broadcasting Act, 1999 (Act No. 4 of 1999) if the lettable room is supplied with a television set;
  - (e) the South African Music Rights Organisation (SAMRO) where a licence is required if background music is to be played to the guests;
  - (f) the Free State Gambling and Liquor Act, 2010, (Act No. 6 of 2010) if liquor, including complimentary drinks, are served to guests;
  - (g) the Tobacco Products Control Act, 1993 (Act No. 83 of 1993) where it is a requirement that signs are displayed in areas designated for smoking and no -smoking signs are displayed elsewhere;
- (2) The premises must provide -
  - (a) access to bedrooms and bathrooms at all times for registered guests;
  - (b) a serviceable lock and key (for privacy) to each lettable room;
  - (c) an area where breakfast can be served, adequate for the use of, and easily accessible to any guest on the premises;
  - (d) a bathroom and toilet for each lettable room suitably placed in a separate compartment which is close to the lettable room and is easily accessible to the guest/s of a lettable room and separate to that of the owner of the facility;
- (3) No kitchen facility may be provided to guests in the lettable rooms;
- (4) The operation of the facility may not detract from the residential character and amenities of the property or the immediate surroundings;
- (5) The facility must be of such a nature that the predominant land use is retained and if in a residential area, the residential character of the house is retained.
- (6) The facility may not include a place of public assembly or a place of public amusement.

**SPECIAL CONSENT AND BUSINESS LICENSE REQUIRED TO OPERATE A BED AND BREAKFAST OR GUEST HOUSE FACILITY**

3. (1) A person who wants to operate a bed and breakfast or guest house facility must apply to the Council in writing in the prescribed format for Council's special consent;
- (2) When the Council receives an application for such special consent and, before deciding whether or not to approve the application, the Council -
  - (a) may request the applicant to provide any further information which the Council considers relevant to enable it to make an informed decision;
  - (b) will take into consideration -
    - (i) the scale and size of the proposed establishment in relation to character of the area;
    - (ii) whether the premises are suitable for the proposed use;
    - (iii) whether there is sufficient on-site parking facilities for motor vehicle and
    - (iv) any other matter which would, in its opinion, interfere with the amenities and character of the neighbourhood; and
  - (c) must ensure that the relevant premises are inspected by authorised officials as soon as reasonably possible.
- (3) Subject to subsection (2), the Council may -
  - (a) approve the application for special consent subject to such terms and conditions that are reasonably aimed at eliminating or reducing the risk, if any, which is likely to be caused by the relevant activity; or
  - (b) refuse the application for special consent.
- (4) The applicant must also apply for and obtain a Business License from the Licensing Authority for the area in which the facility is located.

**SUSPENSION, CANCELLATION AND AMENDMENT OF SPECIAL CONSENT**

4. (1) The Council may by written notice to the owner of the property on which a special consent was granted, suspend or cancel the special consent -
  - (a) with immediate effect, if the authorised official reasonably believes that it is urgently necessary to do so to eliminate or reduce a significant risk to public health posed by a nuisance; or
  - (b) after expiry of the period stipulated in a notice affording the owner a reasonable opportunity to comply with the notice and the owner having failed to comply with the notice.

- 
- (2) The Council may add to the conditions of the special consent by written notice to the owner of the property, if the authorised official reasonably believes that it is necessary to do so to protect public health or to take account of changed circumstances since the special consent was issued.

#### DUTIES OF OPERATOR OF BED AND BREAKFAST OR GUEST HOUSE FACILITY

5. A person who operates a bed and breakfast or guest house facility must -
- (a) be resident on the property;
  - (b) abide by all relevant health, fire, business, labour, town planning and media laws and regulations;
  - (c) ensure that the application for Council's special consent to operate a bed and breakfast or guest house facility is accompanied by letters of consent from the registered owners of the adjoining properties;
  - (d) keep all sanitary, ablution and water supply fittings in good working order;
  - (e) keep the premises and all furniture, fittings, appliances, equipment, containers, curtains, covers, hangings and other soft furnishings, table linen, bed linen and cloths of whatever nature used in connection with the facility in a clean, hygienic and good condition at all times;
  - (f) supply fresh linen and unused soap for each letting; and
  - (f) take adequate measures to eradicate pests on the premises.

#### APPEALS

6. (1) Any person whose rights are affected by a decision of the Council or of any authorized official under these Bylaws may in terms of Section 62 of the Local Government: Municipal System Act, 2000 (Act No. 32 of 2000), appeal against the decision by giving written notice of the appeal and the reasons for the appeal to the municipal manager within 21 days of the date of the issue of the notification of the decision.
- (2) The municipal manager will refer the appeal to the appropriate appeal authority in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000). The appeal authority must commence with the appeal within 6 weeks and decide the appeal within a reasonable period.

#### OFFENCES AND PENALTIES

7. Any person who -
- (1) contravenes or fails to comply with a provision of these Bylaws or a direction issued by the Council in terms of these Bylaws, or a condition imposed under these Bylaws;
  - (2) obstructs or hinders any person in the execution of any power or the performance of any duty or function in terms of any provision of these Bylaws; or
  - (3) furnishes false, incorrect or misleading information when applying for permission from the Council in terms of a provision of these Bylaws,
- is guilty of an offence and liable, on conviction, to a fine or in default of payment to imprisonment for a period not exceeding six months, or to both fine and imprisonment.

#### REPEAL OF BY-LAWS

8. Any by-laws relating to bed and breakfast and guest house facilities 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.

#### SHORT TITLE

9. This by-law is called the Bed and Breakfast and Guest House Bylaw, 2011.
-

NO. 173 OF 2011

**NOTICE IN TERMS SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEM ACT, 2000: STANDARD BUILDING REGULATIONS BY-LAW**

I, M.G Qabathe, Member of the Executive Council responsible for Cooperative Governance, Traditional Affairs and Human Settlement in the Free State Province, after consulting the Minister of Cooperative Governance and Traditional Affairs and the South African Local Government Association: Free State, do hereby in terms of section 14(2)(a)(i) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), make standard by-laws as set out in the Schedule.

**SCHEDULE****BUILDING REGULATIONS AND BUILDING STANDARD BY-LAW.****Table of Contents**

1. Definitions
2. Scope of By-Laws
3. Cat-heads, cranes and platforms
4. Slab footways or pavement
5. Planting on footways and sidewalks
6. Street gutter bridged
7. Encroachments
8. Restriction on the erection of buildings within the one-in-fifty-year flood line
9. Minimum erf size
10. Restriction of additional buildings
11. Relay of storm water from a high-lying erf to a lower lying erf
12. Enclosures
13. Height restrictions
14. Design and appearance
15. Roofs
16. Connection to sewer
17. Disconnection of Drainage Installations and Conservancy or Septic Tanks
18. Drainage Work which does not comply with the Requirements
19. Maintenance
20. Drainage and Sewer Blockages
21. Interference with or Damage to Sewers and Water Care Works
22. Entry onto Premises
23. Manholes on Municipal Property
24. Mechanical Food-Waste or other Disposal Units
25. Sewage or other Pollutants not to enter Storm water drains
26. Storm water not to enter Sewers
27. Discharge from Swimming Pools
28. Permission to Discharge Industrial Effluent
29. Control of Industrial Effluent
30. Metering and Assessment of the Volume and Composition of Industrial Effluent
31. Prohibited Discharges
32. Connection from mains
33. Valves in Communication Pipes
34. Additions to System
35. Extension of System to other premises
36. Inspection and approval of Fire Extinguishing Service
37. Connection to be at pleasure of the Council
38. Installation of Reflux Valve
39. Sprinkler system
40. Header tank or duplicate supply from mains
41. Notices
42. Penalty Clause
43. Repeal Of By - Laws
44. Short Title

## Definitions

- 1 In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and, except where otherwise provided, all words and phrases have the same meanings as those contained in the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), the National Building Regulations promulgated thereunder and the User's Code for the application of the National Building Regulations, SABS 0400/1990.
- "adequate" or "effective"** means adequate or effective in the opinion of the Council;
- "approved"** means approved by the Council, regard being had, in all cases, to all the circumstances of the particular case and to accepted principles of drainage installation and, in the case of any appliance, fitting or other object, to the purpose which it is intended to serve;
- "anti-siphonage pipe"** means any pipe or portion of a pipe provided for the protection by ventilation of the water seal or trap against unsealing by siphonage or backpressure;
- "cleaning eye"** means any access opening to the interior of a discharge pipe or trap provided for the purposes of internal draining and which remains permanently accessible after completion of the drainage installation;
- "communication pipe"** any pipe leading from a main to the premises of any consumer as far as the street boundary of such premises situated nearest to such main, or, in cases where the meter is installed inside the premises of any consumer in terms of this part of these by-laws, as far as the inlet of the meter;
- "connecting sewer"** means that part of a sewerage system which is vested in the Council and by means of which a drain is connected to the Council's sewer;
- "connection"** means the point where a drain is connected to the connecting sewer;
- "conservancy tank"** means a tank which is used for the retention and temporary retention of the discharge from a drainage installation and which is emptied at intervals determined by the Council;
- "consumer"** means the occupier of any premises with whom or which the Council has contracted to supply water or the owner or any person who has entered into a contract with the Council for the supply of water or who is lawfully obtaining water from the Council;
- "Council"** means the Council of the Municipality of ..... and/or any duly authorized committee or official of the said Municipality;
- "drain"** means that portion of a drainage installation other than soil-water pipes, waste-water pipes, ventilation pipes and anti-siphonage pipes, which is vested in the owner of the premises and which has been laid in the ground and is used or intended to be used for conveying sewage to the connecting sewer or to a common drain or a conservancy tank or septic tank which is situated on the premises;
- "drainage installation"** means an installation vested in the owner of the premises and includes any drain, soil-water pipe, stack, waste-water pipe, ventilation pipe, anti-siphonage pipe, soil-water fitting, waste-water fitting, mechanical appliance or any other appliance or fitting or combination thereof for the collection and conveyance of sewage;
- "drainage work"** means the construction or reconstruction of or any alteration or addition to, or any work done in connection with a drainage installation but must not include any work undertaken solely for purposes of repair or maintenance;
- "gully"** means a pipe fitting incorporating a trap into which waste water is discharged;
- "industrial effluent"** means any liquid, whether or not containing matter in solution or suspension, which is emitted in the course of or as a result of any trade or industrial operation, including any mining operation, and includes any liquid besides soil-water, waste-water or storm-water,
- "main"** means any pipe, aqueduct or other work under the exclusive control of the Council and used by it for the purpose of conveying water to consumers, but does not include any communication pipe, as herein defined.
- "Municipal Manager"** means the person appointed as Municipal Manager by the municipal council in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) as amended and includes a person acting in this position.
- "owner"** in relation to immovable property means the person in whom the legal title is vested and includes:
- (a) a person receiving the rent or profits of any land or property from any tenant or occupier thereof, or who would receive such rent or profits if such land or property were leased, whether for his/her own account or as agent for any person entitled thereto;
  - (b) in case where the person in whom the legal title to premises is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
  - (c) in relation to -
    - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), the developer or the body corporate in respect of the common property, or
    - (ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed, and includes the lawfully appointed agent of such a person;
- "premises"** means any piece of land, the external surface boundaries of which are delineated on -
- (a) a general plan or diagram registered in term of the Land Survey Act, 1927 (Act No. 9 of 1927) or in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937), or
  - (b) a sectional plan registered in term of the Sectional Titles Act, 1986 (Act No. 95 of 1986),
- "purified effluent"** means the water discharged from a water care works after purification, either into a water course or for purposes of re-use;

"sanitary fitting" or "sanitary appliance" means any soil-water fitting and any waste-water fitting;

"septic tank" means any tank designed to receive sewage and to effect the adequate decomposition of organic matter in sewage by bacterial action;

"sewage" means soil-water, waste-water or industrial effluent whether separately or together;

"sewer" means any pipe with fittings, vested in the Council and used or designed or intended for use for or in connection with the conveyance of sewage;

"soil-water" means any liquid containing human or animal excreta;

"soil-water fitting" means any fitting used for the reception and discharge of soil-water;

"soil-water pipe" means any pipe, other than a drain, used for the conveyance of soil-water with or without waste-water;

"stack" means the main vertical component of a drainage installation or any part thereof other than a ventilation pipe;

"storm water" means any liquid resulting from natural precipitation or accumulation and includes rain-water, spring-water and ground-water;

"tariff" means the tariff of charge regarding the Council's sewerage services, as determined by the Council from time to time in terms of Section 75A of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) or any other applicable law;

"trap" means a pipe fitting or portion of a sanitary appliance designed to retain a water seal in position;

"Ventilation pipe" means any pipe or portion of a pipe not conveying any liquid and used to ventilate a drainage installation in order to prevent the destruction of water seals and which leads to the open air at its highest point;

"waste-water" means used water that has not been polluted by soil-water or industrial effluent, and does not include storm water,

"waste-water fitting" means any fitting used for the reception and discharge of waste-water; "waste-water pipe" means any pipe, other than a drain, used for the conveyance of water-waste only;

"water care works" means any water works for the purification treatment or disposal of effluent;

"water seal" means the water in a trap, which serves as a barrier against the flow of foul air or gas;

#### Scope of By-Laws

2. These by-laws applies to every building, sewerage installation and/or water installation, and, regarding sewerage and water installations in particular, to the operation and maintenance of any such installation in any new building or existing building with or without any alteration or addition to such an existing installation, whether or not required by the Council to be made or altered in terms of the National Building Regulations or these bylaws.

#### Cat-heads, cranes and platforms

3. Cat-heads, lifting cranes, platforms and other such contrivances must not overhang any street or sidewalk without the prior written consent of the Council.

#### Slab footways or pavement

4. (1) The owner or occupier of an erf adjoining a street, may lay or fix slab footways or pavements on any street sidewalk or footway.
- (2) Paving or slabs must be laid to the grade, line and cross-fall pointed out by the Council and must conform to the following further requirements:
  - (a) For ordinary paving or slabs, the minimum cross-fall must be 1:100 and the maximum cross-fall 1:25.
  - (b) Non-skid paving or slabs of a type to be approved by the Council must be used for cross-falls between 1:25 and 1:15: provided that the maximum cross-fall must not exceed 1:15.
  - (c) Longitudinal grades must not be steeper than 1:25 for ordinary paving. Slabs and non-skid paving or slabs may be used for longitudinal grades between 1:25 and 1:15: provided that the maximum longitudinal grade must not exceed 1:15.
- (3) When carriage openings are formed in kerbs and cross footways or pavements, such openings must be paved or slabbed.
- (4) The Council may, for purposes of this section, impose such conditions as it may deem necessary in the interests of public safety, the preservation of municipal property and for any such purpose necessitating the imposition of such conditions.

#### Planting on footways and sidewalks

5. (1) The owner or occupier of an erf adjoining a street may, at his or her own cost, grade and plant with grass any land lying between the erf and that part of the street intended, laid out or made up for the use of vehicular traffic.
- (2) The owner or occupier of an erf aforesaid may plant flowers or small shrubs in a strip of land not exceeding 1 meter in width immediately adjoining the said erf.
- (3) The Council may impose such conditions as it deems necessary, regard being had to public safety, the preservation of municipal property and for any such purpose necessitating the imposition of such conditions.

#### Street gutter bridged

6. No person must bridge over or enclose any gutter or storm water drain under the control of the Council without the prior written consent of the Council.

**Encroachments**

7. (1) A cantilevered overhanging roof may be erected over the street boundary or building line, at a height of at least 2,75m above the finished ground level, measured from the finished ground level to the lowest point of the overhanging roof.
- (2) Foundations that are at least 0,75m under the ground level may exceed a street boundary or building line with a maximum of 0,5m.
- (3) Sunshades and overhead lamps may exceed a street boundary or building line: provided that there is a head clearance of at least 2,1m, measured from the finished ground level to the lowest point of such sunshades or overhead lamps.
- (4) Eaves projections may exceed the street boundary or building line.

**Restriction on the erection of buildings within the one-in-fifty-year flood line**

8. (1) No building must without the prior permission of the Council be erected so that it is, at its nearest point, nearer to the centre of any natural watercourse than a line, as may be determined by the Council, indicating the maximum level likely to be reached on an average every fifty years by flood water in the said watercourse.
- (2) For the purpose of this section, a natural watercourse means a topographic land depression which collects and conveys surface storm water in a definite direction, and includes any clearly defined natural channel, which conveys water in a definite course along a bed between visible banks, whether or not its conformation has been changed by artificial means and whether or not such channel is dry during any period of the year, and includes any river, spruit, and stream.

**Minimum erf size**

9. Subject to the town planning scheme of the Municipality and any other legislation, all erven within the jurisdiction of the Municipality must be at least 400 m<sup>2</sup> in size

**Restriction of additional buildings**

10. (1) No person may erect a building additional to a building already approved by the Municipality: Provided that the Municipality may grant approval for such building subject to the applicable legislation.
- (2) If no prior approval for such building was obtained, the owner of the erf must within 14 days after receipt of a notice issued in accordance with section 41, demolish the building.
- (3) Should the owner fail to demolish the building within the time period, referred in subsection (2), the Municipality may demolish the building and the owner will be liable for the reasonable cost associated with such demolition.

**Relay of storm water from a high lying erf to a lower lying erf**

11. If, in the opinion of the Council, it is impracticable for storm water to be drained from any high-lying erf direct to a public street, the owner of any low lying erf is obliged to accept and permit the passage of such storm water and the owner of such high-lying erf, the storm water from which is discharged over the low-lying erf, is liable for a proportionate share of the cost of any pipe-line or drain which the owner of such low-lying erf may find necessary to construct for the purpose of conducting water so discharged.

**Enclosures**

12. Where any erf is enclosed in whichever manner, such enclosure must be designed, erected and maintained according to sections 13, 14 and 15.

**Height restrictions**

13. (1) No enclosure except those on Industrial and Business zoned erven irrespective of the type of material used, may exceed a height of 2.1m.
- (2) Apart from the provisions of subparagraph (1) hereof, barbed wire or similar wire and safety spikes may be erected only from a height of 1.75m.

**Design and appearance**

14. (1) An enclosure which is visible from an adjacent street or public open space must comply with the following conditions -
  - (a) All surfaces which are visible from such street or public open space must -
    - (i) be skillfully finished;
    - (ii) be of good quality material;
    - (iii) be without defect; and
    - (iv) have an exposed or finished side;
  - (b) painted surfaces visible from such street or public open spaces, must be white only or a different colour as approved by the Council.
  - (c) If such enclosure is made of precast material and is visible from such street or public open space, it must only have a brick pattern and be painted white or a different finish or colour as approved by the Council.
  - (d) If wood forms part of such enclosure, it is thoroughly treated with a wood-preserving agent.

- (2) An enclosure, as provided in sub section (1) which is visible from any adjacent erf, must comply with the following requirements -
- (a) All surfaces fronting on the adjacent erven must be -
    - (i) skilfully finished;
    - (ii) of good quality material;
    - (iii) without defect; and
    - (iv) maintenance free
  - (b) if applicable, the struts, posts and columns of such an enclosure must show on the owner's side
  - (c) If wood forms part of such enclosure, it must be thoroughly treated with a wood-preserving agent.
- (3) Notwithstanding the provisions in these By-laws -
- (a) the enclosure, as provided in subsection (1), must, within a distance of 4.5m from any street boundaries or public open space boundaries be splayed or lowered to a height of 1m, if the Council so requires;
  - (b) no barbed wire or similar wire and safety spikes in any area Industrial -zoned erven excluded may be visible from any street, public open space or adjacent erf;
  - (c) the enclosure must be properly maintained to the sole satisfaction of the Council.
  - (d) the height of any enclosure or wall will be measured from natural ground level.

**Roofs**

15. (1) Sheet metal which is used for roofs and is visible from the street or surrounding erven must be properly painted within fifteen months after construction thereof if the Council so requires.
- (2) No roof surface may have a luminous finish.

**Connection to sewer**

16. (1) No part of any drainage installation must extend beyond the boundary of the piece of land on which the building or part thereof served by the drainage installation is erected: provided that, where it considers it necessary or expedient to do so, the Council may permit the owner to lay a drain at his or her own expense through an adjoining piece of land upon proof of the registration of an appropriate servitude or of a notarial deed of joint drainage, as the Council may require.
- (2) Subject to the provisions of subsection (3), and without prejudice to the provisions of the National Building Regulations regarding the inspection and testing of drainage installations, the owner of a premises must, 14 days before the drainage installation on his or her premises will be ready for connection to a connecting sewer, advise the Council of his or her intention to so connect. As soon as the Council has provided the connecting sewer, he or she must connect the drain to it at his/her own expense.
- (3) Any alternative or additional connection required by the owner must be subject to the approval of the Council and is effected at the owner's expense.
- (4) No person must permit the entry of any substance whatsoever other than clean water for testing purposes into any drainage installation before the drainage installation has been connected to the sewer.
- (5) Save as may be otherwise authorized by the Council in writing, no person other than an official duly authorized to do so, may lay and connect any connecting sewer to the sewer.
- (6) The conveyance of sewage from two or more premises by means of a common drain to a connecting sewer may be authorized by the Council.

**Disconnection of Drainage Installations and Conservancy or Septic Tanks**

17. (1) If an existing conservancy tank or septic tank is no longer required for the storage or treatment of sewage, or if permission for such use is withdrawn, the owner must cause it to be disconnected and either completely removed or completely filled with earth or other suitable material: provided that the Council may require such tank to be otherwise dealt with, or may permit it to be used for some other purpose subject to such conditions as the Council may consider necessary, regard being had to all the circumstances of the case.
- (2) After all the requirements of the National Building Regulations in regard to disconnection have been complied with and on request by the owner, the Council must issue a certificate to the effect that the disconnection has been completed in terms of the National Building Regulations and that any sewerage charges raised in respect of the disconnected portion of the drainage installation must cease to be raised with effect from the first day of the month following the issue of such certificate: provided that, until such certificate is issued by the Council, any such charges must continue to be raised.
- (3) When a drainage installation is disconnected from a sewer, the Council must seal the opening so made and must recover from the owner the cost of such work in terms of section 14(5).
- (4) Any person who, without the permission of the Council, breaks or removes or causes or permits the breakage or removal of any such seal referred to in subsection (3), is guilty of an offence.
- (5) Where a soil-water fitting has during the month been connected to or disconnected from a drainage installation which discharges into a sewer system, the tariff, excluding the fixed tariff for every erf, stand, premises or other area, with or without improvements, which, in the opinion of the Council, can be connected to a sewer, must be calculated as if such connection or disconnection had taken place on the first day of the month following the month in which such connection or disconnection was effected.

**Drainage Work which does not comply with the Requirements**

18. (1) Where any drainage installation has been constructed or any drainage work has been carried out which fails in any respect to comply with any of the provisions of the National Building Regulations or these by-laws, the owner must, on receipt of a written notice by the Council to do so and notwithstanding the fact that he may have received approval of plans in respect of the said installation or work in terms of the National Building Regulations or previous by-laws, carry out such repairs, replacements, maintenance work or alteration to the installation as and within the time which the said notice may specify.
- (2) When, in the opinion of the Council, a nuisance exists as a result of the emission of gas from any trap or sanitary fitting or any other part of a drainage installation, the Council may require the owner, at his or her own expense, to take such action as may be necessary to prevent the recurrence of the said nuisance.
- (3) Where any sewage, after being discharged into a drainage installation, enters or overflows any soil-water fitting or waste-water fitting connected to the same drainage installation and leaks from the drainage installation whether by reason of surcharge, back pressure or any other circumstance, the Council may, by notice in writing, require the owner to carry out, within the period specified by such notice, any work necessary to abate such entry, overflow or leakage of sewage and to prevent any recurrence thereof.
- (4) The Council may, instead of serving notice as aforesaid or where such notice has not been complied with within the time prescribed therein, without prejudice to its right to also prosecute the person or body to whom the notice was directed, because of an infringement of the National Building Regulations or these by-laws, proceed itself to carry out any such alteration, removal or other work as it may deem necessary for compliance with the provisions of the National Building Regulations or these bylaws and may recover the cost thereof from the owner by the ordinary process of law in terms of subsection (5).
- (5) Where any work other than that for which a fixed charge has been determined, is undertaken by the Council, the costs of which it is entitled in terms of these bylaws to recover from any person, there may be included in such costs such claim to be determined by the Council as will cover all expenditure reasonably incurred by the Council.

**Maintenance**

19. Where any part of a drainage installation is used by two or more owners or occupiers, they are jointly and severally liable in terms of this section for the maintenance and repair of such drainage installation.

**Drainage and Sewer Blockages**

20. (1) No person must cause or permit such an accumulation of grease, oil, fat, solid matter or any other substance in any trap, tank, pipe, drain or fitting as will cause its blockage or ineffective operation.
- (2) When the owner or occupier of a premises has reason to believe that a blockage has occurred in any drainage installation thereon, then he must forthwith inform the Council of the facts and take steps to have it cleared.
- (3) Where a blockage occurs in a drainage installation any work necessary for its removal shall, subject to the provisions of subsection (5), be undertaken by or under the supervision of a plumber or registered person as required in the National Building Regulations in regard to the control of plumbers and plumbing work.
- (4) Any plumber or registered person as aforesaid must, before proceeding to remove any blockage from a drainage installation, notify the Council by telephone or otherwise of his or her intention to do so, and must when he or she has done so, notify the Council of that fact and of the nature, location and cause of the said blockage.
- (7) The Council must, whether or not it has been requested by the owner to do so, be entitled, at its own discretion, to remove a blockage from a drainage installation and may recover the costs thereof from the owner in accordance with Section 18(5).
- (5) Should the clearing by the Council of any blockage in a drainage installation necessitate the removal or disturbance of any paving, lawn or other artificial surfacing on any premises, the Council is not liable for the reinstatement thereof.
- (8) Should any drainage installation on any premises overflow as a result of an obstruction in the connecting sewer, and the Council is reasonably satisfied that such obstruction was caused by objects emanating from the drainage installation, the owner of the premises served by the drainage installation is liable for the cost of clearing the blockage and the Council may recover such cost from the owner. in accordance with Section 18(5).
- (9) Where a blockage has been removed from a drain or portion of a drain which serves two or more pieces of land, the charges for the clearing of such blockage is recoverable in the first place in equal portions from each of the owners thereof, who must however, be jointly and severally liable for the whole charge.

**Interference with or Damage to Sewers and Water Care Works**

21. Any damage caused to the Council's sewer or any part of its sewerage or water care works by or in consequence of the non-compliance with or contravention of any provision of the National Building Regulations or these by-laws must be rectified or repaired by the Council at the expense, of the person responsible for the said non-compliance or contravention or of causing or permitting same.

**Entry onto Premises**

22. (1) An official authorized by the Council has the right to enter upon any premises at any reasonable time in order to take samples of or test sewage or industrial effluent or to carry out any inspection or work in connection with a drainage installation which the Council may deem necessary.



- (2) Any owner or occupier of premises who denies or causes or instructs any other person to deny entry to premises to any official demanding the same in terms of subsection (1), or who obstructs or causes or instructs any person to obstruct such official in the performance of his or her duties, or who withholds or causes or instructs any other person to withhold information required by the official for the purpose of carrying out his said duties, or who gives or causes or instructs any other person to give to the official any information which is to his/her knowledge false, is guilty of an offence.

#### **Manholes on Municipal Property**

23. (1) Where, for any reason whatsoever, the provision of adequate means of access to the Council's connecting sewer is impracticable on any private premises, the Council may at the expense of the owner, cause or permit a manhole to be constructed over the Council's connecting sewer in such public place and in such position and of such materials and dimensions as the Council may decide and, in addition, the owner must bear the cost, as assessed by the Council, of any alteration to existing services in the public place which may, by reason of the construction of the manhole, be necessary.
- (2) The owner of the private premises referred to in subsection (1) must, if so required by the Council, pay rental to the Council for the space occupied by the manholes in the public place.

#### **Mechanical Food-Waste or other Disposal Units**

24. (1) No person must incorporate into a drainage installation a mechanical food waste or other disposal unit or garbage grinder which has a power capacity in excess of 500W, unless a standard water meter, which the Council installs and seals at the cost of the owner and to which the Council has the right of access at all times, has been connected into the supply pipe which provides water to the unit.
- (2) The Council may require the owner or occupier of any premises on which a food-waste or other disposal unit or a garbage grinder has been installed, or the owner of such unit or grinder, either to remove, repair or replace any unit which, in the opinion of the Council, is functioning inefficiently or which may impair the working of the Council's sewerage system.
- (3) The owner must, upon the removal of any such unit or grinder, notify the Council in writing within 14 days of its removal.
- (4) The charges as prescribed in the applicable tariff must be paid in respect of the discharge of a food-waste, other disposal unit or a garbage grinder referred to in subsection (1).

#### **Sewage or other Pollutants not to enter Storm water drains**

25. (1) The owner or occupier of any piece of land on which steam or any liquid other than potable water is stored, processed or generated, must provide all facilities necessary to prevent any discharge, leakage or escape of such liquid to any street, storm water drain or watercourse except where, in the case of steam, the Council has specifically permitted such discharge.
- (2) Where the hosing down or flushing by rainwater of an open area on any private premises is, in the opinion of the Council, likely to cause the discharge of objectionable matter into any street gutter, storm water drain, river, stream or other watercourse, whether natural or artificial, or to contribute towards the pollution of any such watercourse, the Council may instruct the owner of the premises to execute, at his/her own cost, whatever measures by way of alterations to the drainage installation or roofing of the area it may consider necessary to prevent or minimize such discharge or pollution.

#### **Storm water not to enter Sewers**

26. No person must discharge or cause or permit to be discharged any storm water or any substance other than sewage into a drainage installation.

#### **Discharge from Swimming Pools**

27. Water from fountains, boreholes, wells, reservoirs or swimming pools situated on private premises is discharged into a drainage installation only with the prior written consent of the Council and subject to such conditions as to place, time, rate of discharge and total discharge as the Council may impose.

#### **Permission to Discharge Industrial Effluent**

28. (1) No person must discharge or cause or permit to be discharged into any sewer, any industrial effluent or other liquid or substance other than soil-water or waste-water without the prior written permission of the Council or, if such permission has been obtained, otherwise than in strict compliance with any and all of the conditions of such permission.
- (2) Every person must, before discharging any industrial effluent or other liquid substance into a sewer, make application in writing to the Council for permission to do so on the prescribed form, to be completed in duplicate, and must thereafter furnish such additional information and submit such samples as the Council may require.
- (3) The Council may, at its discretion, having regard to the capacity of any sewer or any mechanical appliance used for sewage or any water care works, whether or not vested in the Council and subject to such conditions as it may deem fit to impose, including the payment of any charge assessed in terms of the relevant tariff, grant permission for the discharge of industrial effluent from any premises into any sewer.
- (4) A person to whom permission has been granted in terms of subsection (3) to discharge industrial effluent into a sewer must, before doing or causing or permitting to be done anything which results in any change in the quantity or discharge or nature of that effluent, notify the Council in writing of the date on which it is proposed that the change must take place and of the nature of the proposed change.

- (5) Any person who discharges or causes or permits to be discharged any industrial effluent into the sewer without having first obtained permission to do so in terms of subsection (3) is guilty of an offence and be liable to such charge as the Council may assess for the conveyance and treatment of the effluent so discharged and for any damage caused as a result of such unauthorized discharge.
- (6) Without prejudice to its rights in terms of subsection (5) or of Section 29(3)(c), the Council is entitled to recover from any person who discharges into a drain or sewer any industrial effluent or any substance which is prohibited or restricted in terms of Section 27 or which has been the subject of an order issued in terms of Section 27(2), the whole cost of expenses or charges incurred or to be incurred by the Council or of losses suffered or to be suffered as a result of any or all of the following:
- (a) Injury to persons, damage to the sewer or any water care works or mechanical appliance or to any property as the result of the breakdown, either partial or completely of any sewer or water care works or mechanical appliance, whether under the control of the Council or not; or
  - (b) A prosecution in terms of the National Water Act, 1998 (Act No. 36 of 1998), as amended, or any action against the Council consequent on any partial or complete breakdown of any water care works or mechanical appliance caused directly or indirectly by the said discharge, including fines and damages which may be imposed or awarded against the Council.
- (7) Due to any change in circumstances arising from a change in the sewage treatment process or the introduction of new or revised or stricter or other standards by the Council or in terms of the National Water Act, 1998 (Act No. 36 of 1998), or as a result of any amendment of these by-laws or due to any other reason, the Council may from time to time review, amend, modify or revoke any permission given or any conditions attached to such permission and/or impose new conditions for the acceptance of any industrial effluent into the sewer or prohibit the discharge of any or all such effluent into the sewer upon giving adequate written notice in advance of its intention to do so, and, upon expiration of such period of notice the previous permission or conditions, as the case may be, are regarded as having lapsed and the new or amended conditions, if any, as the case may be, must forthwith apply.

#### Control of Industrial Effluent

29. (1) The owner or occupier of any premises from which industrial effluent is discharged into a sewer, must provide adequate facilities such as overflow level detection devices, standby equipment, overflow catch-pits or other appropriate means effectively to prevent the accidental discharge into any sewer, whether through the negligence of operators, power failure, failure of equipment or control gear, overloading of facilities, spillage during loading or unloading or for any other similar reason, of any substance prohibited or restricted or having properties outside the limits imposed in terms of these by-laws.
- (2) The owner or occupier of any premises on which industrial effluent originated and who intends applying treatment to such effluent before discharging it, must obtain prior written permission from the Council.
- (3) The Council may, by notice served on the owner or occupier of any premises from which industrial effluent is discharged, require him or her, subject to any other provision of the National Building Regulations or these by-laws, to do all or any of the following:
- (a) to subject the effluent before it is discharged into the sewer, to such pre-treatment as will ensure that it will at all times conform in all respects with the requirements of Section 27(1) or to modify the effluent cycle of the industrial process to such an extent and in such a manner as in the opinion of the Council is necessary to enable any water care works receiving the said effluent, whether under the control of the Council or not, to produce treated effluent complying with any standards which may be laid down in respect of such works in terms of the National Water Act, 1998 (Act No. 36 of 1998);
  - (b) to restrict the discharge of effluents to certain specified hours and the rate of discharge to a specified maximum and to install, at the expense of the owner or occupier such tanks, appliances and other equipment as in the opinion of the Council may be necessary or adequate for compliance with the said restrictions;
  - (c) to install a separate drainage installation for the conveyance of industrial effluent and to discharge the same into the sewer through a separate connection, as directed by the Council, and to refrain from discharging the said effluent through any drainage installation intended or used for the conveyance of domestic sewage or from discharging any domestic sewage through the said separate installation for industrial effluent;
  - (d) to construct at his or her own expense any drainage installation conveying industrial effluent to the sewer one or more inspection, sampling or metering chambers of such dimensions and materials and in such positions as the Council may prescribe;
  - (e) to pay, in respect of the industrial effluent discharged from the premises, such charge as may be calculated in terms of the tariff: Provided that, where, due to the particular circumstances of any case, the actual chemical oxygen demand (CODJ) or permanganate value (PV) and the concentration of metals in the effluent cannot be assessed by means of the method of assessment prescribed by the SABS, the Council may use such alternative method of assessment as it may deem expedient and the charge to be levied is assessed accordingly;
  - (f) to provide all such information as may be required by the Council to enable it to assess the charges payable in terms of the tariff; and
  - (g) for the purposes of subsection (f) to provide and maintain at his or her own expense a meter or meters measuring the total quantity of water drawn from any borehole, spring or other source of water, excluding that of the Council, used on the property and discharged as industrial effluent into the sewer.

**Metering and Assessment of the Volume and Composition of Industrial Effluent**

30. (1) The Council may incorporate, in such position as it determines in any drainage installation conveying industrial effluent to a sewer, any meter or gauge or other device for the purpose of ascertaining the volume or composition of the said effluent, and it is an offence for any person to pass, open, break into or otherwise interfere with or do damage to any such meter, gauge or other device: Provided that the Council may, at its discretion, enter into an agreement with any person discharging industrial effluent into the sewer, determining an alternative method of assessing the quantity of effluent so discharged.
- (2) The Council is entitled to install and maintain any such meter, gauge or device as aforesaid at the expense of the owner of the premises on which it is installed.
- (3) The owner of any premises on which is situated any borehole or well used for a water supply for trade or industrial purposes must:
- (a) register such borehole or well with the Council;
  - (b) provide the Council with full particulars of the discharge capacity of the borehole or well; and
  - (c) if the Council has reason to doubt the reliability of the particulars given, carry out, at the expense of the owner, such tests on the discharge capacity of the borehole or well as may, in the opinion of the Council, be necessary for the purpose of these by-laws.

**Prohibited Discharges**

31. (1) No person must discharge or cause or permit the discharge or entry into any sewer of any sewage, industrial effluent or other liquid or substance which:
- (a) in the opinion of the Council, may be offensive to or may cause a nuisance to the public;
  - (b) is in the form of steam or vapour or has a temperature exceeding 44°C at the point where it enters the sewer;
  - (c) has a pH value less than 6.0 or greater than 10.0;
  - (d) contains any substance of whatsoever nature likely to produce or emit explosive, flammable, poisonous or offensive gasses or vapours in any sewer;
  - (e) contains any substance having a flashpoint of less than 90°C or which emits a poisonous vapour at a temperature below 93°C;
  - (f) contains any material of whatsoever nature, including, oil, grease, fat or detergents capable of causing interference with the proper operation of water care works;
  - (g) shows any visible signs of tar or associated products or distillates, bitumens or asphalts;
  - (h) contains any substance in such concentration as is likely in the final treated effluent from any water care works to produce an undesirable taste after chlorination or an undesirable odour or colour, or excessive foam;
  - (i) exceeds any of the limits or concentrations of substances specified in the Annexure: Provided that the Council may approve such greater limits or concentrations for such period or on such conditions as it may specify on consideration of the effect of dilution in the sewer and of the effect of such substance on the sewer or any sewage treatment process if the Council is satisfied that, in the circumstances, the discharge of such substance will not:
    - damage any sewer, mechanical appliance, water care works or equipment; or
    - (ii) prejudice the use of sewage effluent for re-use; or
    - (iii) adversely affect any waters into which purified sewage effluent is discharged, or any land or crops irrigated with the sewage effluent;
  - (j) contains any substance of whatsoever nature which, in the opinion of the Council:
    - (i) is not amenable to treatment at the water care works, or which causes or may cause a breakdown or inhibition of the normal sewage treatment processes; or
    - (ii) is of such nature as is or may be amenable to treatment only to such degree as to prevent the final treated effluent from the water care works from satisfactorily complying in all respects with any requirement imposed in terms of the National Water Act, 1998 (Act No. 36 of 1998); or
    - (iii) whether listed in the Annexure or not, either alone or in combination with other matter may:
      - (aa) generate or constitute a toxic substance detrimental to the health of persons employed at the water care works or entering the Council's sewers or manholes in the course of their duties; or
      - (bb) be harmful to sewers, water care works or land used for the disposal of purified sewage effluent; or
      - (cc) adversely affect any of the processes whereby sewage is purified or any re-use of purified sewage effluent.
- (2) (a) Any person receiving from an official duly authorized thereto by the Council a written order instructing him to stop the discharge into the sewer of any substance referred to in subsection (1), must forthwith stop such discharge.
- (b) Any person who contravenes the provisions of subsection (1) or who fails to comply with an order issued in terms of subsection (2)(a), is guilty of an offence.

- (c) Notwithstanding the provisions of subsection (2)(b), should any person have failed to comply with the terms of an order served on him or her in terms of subsection (2)(a) and such discharge is likely, in the opinion of the Council, to cause damages to any sewer or mechanical or other appliance or to seriously prejudice the efficient operation of any water care works, the Council may, after further written notice, refuse to permit the discharge of any industrial effluent into the sewer until such time as the industrial effluent complies in all respects with the Council's requirements as prescribed in terms of these by-laws, in which event the person responsible for the discharge must forthwith stop it, or if he or she fails to do so, the Council may prevent him from proceeding with the discharge.

#### Connection from mains

32. (1) All communication pipes which are intended for preventive or automatic use in case of fire must be laid by the Council as far as the boundary of the consumer's property.  
 (2) Such communication pipes must be used only for fire extinguishing purposes.  
 (3) No take-off of any kind is made, other than those in connection with automatic sprinklers and drenchers, hydrant connections or necessary for a pressure tank upon the top of a building, which tank must be controlled by a suitable ball tap.

#### Valves in Communication Pipes

33. Every communication pipe must be fitted with a proper stop valve, which said valve must be -  
 (a) supplied by the Council at the expense of the consumer;  
 (b) installed between the consumer's property and the main;  
 (c) of the same diameter as the communication pipe;  
 (d) in such position as must be determined by the Council.

#### Additions to System

34. No further sprinkler must be added or connected without the prior written consent of the Council to any existing fire extinguishing system after such system has been connected to the mains.

#### Extension of System to other premises

35. No extension or connection from any fire extinguishing system to other premises must be made. In the event of any such connection or extension being made, the Council is entitled to enter upon any premises and to take all steps necessary to disconnect such connection or extension at the cost of the persons responsible for such extension or connection.

#### Inspection and approval of Fire Extinguishing Service

36. No supply of water must be made or given until the fire extinguishing system has been inspected and the Council has certified in writing that such service is in accordance with these by-laws and the work has been carried out to the Council's satisfaction.

#### Connection to be at pleasure of the Council

37. Connection to the mains is at the pleasure of the Council, which is entitled to disconnect any fire extinguishing services at any time.

#### Installation of Reflux Valve

38. In all private installations where a fire pump connection is installed, a reflux valve to close off the supply from the Council's mains when the fire pump connection is being used must be installed between the boundary of the property and the fire pump connection.

#### Sprinkler system

39. (1) A sprinkler system may be installed in direct communication with the main, but the Council must not be deemed to guarantee any specified pressure of water at any time.  
 (2) When an automatic sprinkler system has been installed and completed, the owner must advise the Council in writing within 14 days of the date of completion of the installation of such sprinkler system.

#### Header tank or duplicate supply from mains

40. In the event of a header tank being installed above ground level, it must be provided with an overflow pipe, which must discharge in such a position as to be readily observable, and must not be led away by any down-pipe to any drain.

#### Notices

41. (1) Every notice, order or other document issued or served by the Council in terms of these by-laws is valid if signed by the Municipal Manager or an official of the Council duly authorized thereto by the said Municipal Manager.  
 (2) If a notice is to be served on a person in terms of these by-laws, such service is effected by:  
 (a) delivering the notice to him or her personally or to his or her duly authorized agent;

- (b) delivering the notice at his or her residence or place of employment to a person apparently not less than sixteen years of age and apparently residing or employed there;
  - (c) If he or she has nominated an address for legal purposes, by delivering the notice to such an address;
  - (d) registered or certified post addressed to his or her last known address.
  - (e) in the case of a body corporate, by delivering it to the registered office or the business premises of such a body corporate; or
- (3) If service cannot be effected in terms of sub-section (2) by affixing it to the principal door of entry to the premises, or displaying it on a conspicuous place on the land to which it relates.
- (4) Any notice, order or other document served in terms of these by-laws on any person must be so served by delivering it, or a true copy thereof, to the person to whom it is addressed personally or at his or her last known residence or place of business or by posting it to him or her by registered post.
- (5) In every notice, order or other document issued or served in terms of these by-laws, the premises to which it relates must be specified but the person for whom it is intended may be referred to as "the owner" or "the occupier" if his or her name is not known.

**Penalty Clause**

42. Any person who contravenes or fails to comply with any provision of these bylaws is guilty of an offence and liable upon conviction to-
- (a) a fine or imprisonment for a period not exceeding six months or either such fine or such imprisonment or both such fine and such imprisonment;
  - (b) in the case of a continuing offence, an additional fine or an additional period of imprisonment of 10 days or either such additional fine or such additional imprisonment or both such additional fine and imprisonment for each day on which such offence is continued, and
  - (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as a result of such contravention or failure.

**Repeal of By-Laws**

43. Any by-laws relating to building regulations 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.

**Short Title**

44. This by-law is called Building Regulations and Building Standard Standard By-law, 2011.

## ANNEXURE

## LIMITS OF CONCENTRATION OF CERTAIN SUBSTANCES

Subject to the provisions of Section 29(1) of these by-laws:

- (1) The limits of the PV, pH and electrical conductivity of sewage are as follows:
- (a) PH-within the range 6,0-10,0;
- (b) Electrical conductivity not greater than 300m/Sm at 20°C.
- (2) The maximum permissible concentrations of pollution expressed in milligrams per liter [mg/l] are as follows:
- (a) GENERAL:
- (i) PV-not to exceed: 1 400mg/l;
  - (ii) Caustic alkalinity (expresses as CaCO<sub>2</sub>): 2 000 mg/l;
  - (iii) Substances in suspension (including fat, oil, grease, waxes and like substance); 2 000mg/l;
  - (iv) Substances soluble in petroleum ether. 500mg/l;
  - (v) Sulphides, hydro-sulphides and polysulphides (expressed as S): 50mg/l;
  - (vi) Substances from which hydrogen cyanide can be liberated in the drainage installation, sewer or water care works (expressed as HCN): 20mg/l;
  - (vii) Formaldehyde (expressed as HCHO): 50mg/l;
  - (viii) Phenolic compounds: 1.0mg/l;
  - (ix) Non-organic solids in suspension: 100mg/l;
  - (x) Chemical oxygen demand (COD): 5 000mg/l;
  - (xi) All sugars and/or starches (expressed as glucose): 1 500mg/l;
  - (xii) Available chlorine (expressed as Cl): 100mg/l;
  - (xiii) Sulphates and sulphites (expressed as SO<sub>4</sub>): 1 800mg/l;
  - (xiv) Fluorine-containing compounds (expressed as F): 5mg/l;
  - (xv) Anionic surface activators: 500mg/l;
  - (xvi) Orthophosphate (expressed as P): 10mg/l.
- (b) METALS
- (i) Group 1:
    - (aa) Chromium (expressed as Cr);
    - (bb) Copper (expressed as Cu);
    - (cc) Nickel (expressed as Ni);
    - (dd) Zinc (expressed as Zn);
    - (ee) Silver (expressed as Ag);
    - (ff) Cobalt (expressed as Co);
    - (gg) Cadmium (expressed as Cd);
    - (hh) Manganese (expressed as Mn);

The total collective concentration of all metals in Group 1 (expressed as indicated above) in any sample of the effluent, must not exceed 20mg/l, nor must the concentration of any individual metal in any sample exceed 5mg/l.
  - (ii) Group 2:
    - (aa) Lead (expressed as Pb);
    - (bb) Selenium (expressed as Se);
    - (cc) Mercury (expresses as Hg).

The total collective concentration of all metals in Group 2 (expressed as indicated above), in any sample of the effluent must not exceed 50mg/l, nor must the concentration of any individual metal in any sample exceed 20mg/l.
  - (iii) Group 3:
    - (aa) Arsenic (expressed as As);
    - (bb) Boron (expresses as B).

The total collective concentration of the metals in Group 3 (expressed as indicated above) in any sample of the effluent must not exceed 20mg/l.

## RADIO-ACTIVE WASTE:

Radio-active waste or isotopes: such concentration as may be laid down by the Atomic Energy Corporation or any State Department: Provided that, notwithstanding the requirements set out above in this Annexure, the Council reserves the right to limit the total mass of any substance or impurity discharges per 24 hours into the sewers from any premises: Provided further that the method of testing in order to ascertain the concentration of any substance mentioned above is the test normally used by the Council for this purpose. Any person discharging into a sewer any substance referred to in the Annexure, may ascertain the details of the appropriate test from the Council.

[NO. 174 OF 2011]

**NOTICE IN TERMS OF SECTION 14 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: STANDARD CEMETERIES AND CREMATORIA BY-LAW**

I, M.G Qabathe, Member of the Executive Council responsible for Cooperative Governance, Traditional Affairs and Human Settlement in the Free State, after consulting the Minister of Cooperative Governance and Traditional Affairs and the South African Local Government Association: Free State, do hereby in terms of section 14(2)(a)(i) of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), make standard by-laws as set out in the Schedule.

**SCHEDULE**

**CEMETERIES AND CREMATORIA BY-LAW**

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**CHAPTER 1: INTERPRETATION**

**Definitions and Application**

1. (1) In these By-laws, unless the context otherwise indicates:-
  - “**Administrator of cemeteries**” means the head of the section or department of the Council which has the responsibility for the administration of the cemeteries of the Council, and any person acting in his or her stead or any person duly authorised by the Council to act on his or her behalf.
  - “**adult**” means a deceased person over the age of 12 years and any deceased person the dimensions of whose coffin cannot be accommodated in an excavation of 1,40 m in length and 400 mm in width;
  - “**after-hours fee**” means a fee over and above the set norm of fee for burial or cremation outside normal week day cemetery operating hours, save in the case of cremations or burials, which, because of religious belief, are undertaken after such hours, or in the case of burial, where the mourners undertake to close the grave;
  - “**ashes**” means the cremated remains of a body;
  - “**berm**” means a concrete base on which a memorial is erected;
  - “**berm section**” means a section set aside by the Council in a cemetery, where memorial work is erected on a berm;
  - “**Births and Deaths Registration Act**” means the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992);
  - “**body**” means any dead human body, including the body of a stillborn child;
  - “**burial order**” means an order issued in terms of the Births and Deaths Registration Act;
  - “**burial**” means burial or inhumation into earth or any other form of burial and includes a tomb and any other mode of disposal of a body;
  - “**cemetery**” means any land or part thereof within the municipal area set aside by the Council or approved by the Council as a cemetery;
  - “**child**” means a deceased person who is not an adult;
  - “**columbarium**” means the place set aside in the basement of the crematorium or chapel for the placement in a niche of a receptacle containing ashes;
  - “**Commonwealth war grave**” means any grave, tombstone, monument or memorial connected with a Commonwealth war burial in terms of the Commonwealth War Graves Act, 1992 (Act No. 8 of 1992);
  - “**Council**” means –
    - (a) the Local Municipality of ..... Established in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 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 Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); or
    - (d) a service provider fulfilling a responsibility under these By-laws, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act, or any other law, as the case may be.
  - “**cremation**” means the process of disposing of a human body by fire;
  - “**crematorium**” includes the buildings in which the ceremony is conducted and the cremation is carried out;
  - “**crematorium section**” means a section of a cemetery or crematorium set aside by the Council for the burial of ashes;
  - “**cremated remains**” means all recoverable ashes after the cremation process;
  - “**exhumation**” means the removal of a body from its grave;
  - “**garden of remembrance**” means a section of a cemetery or crematorium set aside for the erection of memorial work , placing or scattering of ashes, but does not include a columbarium;
  - “**grave**” means any piece of land excavated for the burial of a body within a cemetery and includes the contents, headstone or other marker of such place and any other structure on or associated with such place;
  - “**grave of conflict**” means the grave of a person who died while defending the country;
  - “**hero**” means a person who performed a heroic act for the country and is given the status of a hero by the Council;



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

“**indigent person**” means a destitute person who has died in indigent circumstances, or if no relative or other person, welfare organisation or non governmental organization can be found to bear the burial or cremation costs of such deceased person and includes a pauper;

“**indigent relief**” means assistance received for the burial or cremation of an indigent person;

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

“**lawn section**” means a section in a cemetery set aside by the Council where memorial work is restricted to a headstone only;

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

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

“**memorial wall**” means a wall in a cemetery or crematorium section provided for the placement of inscribed tablets commemorating deceased persons;

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

“**municipal area**” means the area under the control and jurisdiction of the Council; “**niche**” means a compartment in a columbarium or garden of remembrance for the placing of ashes;

“**normal operational hours**” means Monday to Friday 08:00 to 15:00 excluding Saturdays, Sundays and Public holidays;

“**office hours**” means Monday to Friday 07:00 to 16:00 excluding Saturdays, Sundays and Public holidays;

“**officer-in-charge**” means the registrar of a crematorium appointed in terms of Regulation 21 of the Regulations Relating to Crematoria and Cremations, made in terms of Ordinance No. 18 of 1965, and includes a person authorized by the Council to be in control of any cemetery;

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

“**prescribed fee**” means a fee determined by the Council by resolution in terms of section 10G(7)(a)(ii) of the Local Government Transition Act, 1993( Act No. 209 of 1993), or any other applicable legislation;

“**South African Heritage Resources Agency**” means the South African Heritage Resources Agency, established in terms of section 11 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999)

“**stone mason**” means a person carrying on business as a stone mason; “**tomb**” means an above ground burial vault;

“**victim of conflict**” means a person defined in section 1 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

- (2) If any provision in these By-laws vests or imposes any power, function or duty of the Council in or on an employee of the Council and such power, function or duty has in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), or any other law been assigned to a service provider, the reference to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorised by it.
- (3) These By-laws are subject to the National Environmental Management Act, 1998 (Act No. 107 of 1998).

## CHAPTER 2: DISPOSAL OF A BODY

### Requirements for disposal of a body

2. (1) No person shall save with the prior written consent of the Council, dispose of or attempt to dispose of a body, other than by burial in a cemetery or by cremation in a crematorium.
- (2) A person may not bury or cremate a body in a cemetery without -
  - (a) the permission of the officer-in -charge; and
  - (b) arranging a date and time of such burial with such officer-in- charge.

### Application for burial

3. (1) (a) A person intending to bury a body must complete and submit the prescribed application form to the officer-in-charge for approval.
- (b) The next of kin of the deceased, or such other person who is authorized by the next of kin of the deceased, must sign such application.
- (c) Despite the provisions of paragraph (b) the officer-in-charge may, if he or she is satisfied that the signature of the next of kin cannot be obtained timeously, approve an application by an interested party.
- (d) The applicant must -
  - (i) submit the application at least three working days before the burial;
  - (ii) indicate whether the application is in respect of a first, second or third burial, in respect of a particular grave; and
  - (iii) Indicate the date and time for such burial.
- (2) The officer-in-charge must approve an application if -
  - (a) it is accompanied by an original burial order in terms of the Births and Deaths Registration Act;

- (b) the prescribed fee has been paid; and
- (b) an application in terms of subsection (1) has been submitted.
- (3) The officer-in-charge must, where necessary, take into account the customs of the deceased, and the people responsible for the burial.

#### Reservation of a grave

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

#### Postponement or cancellation of a burial

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

#### Number of bodies in a coffin

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

#### Burial and subsequent burials

- 7. (1) Burial may take place only in a grave allocated by the officer-in-charge.
- (2) (a) Subject to paragraph (b), not more than two burials may be permitted in a grave;
- (b) A third burial may be allowed only if-
  - (i) an application has been made to the officer-in-charge and written permission has been granted;
  - (ii) the grave has been deepened; and
  - (iii) a prescribed fee has been paid;
- (c) A person who has been given permission for either a second or third burial must -
  - (i) give at least two days notice; and
  - (ii) at his or her own cost remove, and, subsequent to the burial, replace all memorial work on such a grave.

#### Private rights

- 8. (1) The holder of private rights includes -
  - (a) a person who purchased a grave or who received a grave as a gift from the purchaser and whose name appears in the register of the Council;
  - (b) a person who paid the prescribed burial fees in respect of the first burial in the grave;
  - (c) a person to whom private rights to a grave have been transferred;
  - (d) a person who inherited the private rights .
- (2) The private rights in a grave are transferable, but such transfer only becomes effective on registration by the Council.
- (3) If there is a dispute about the holder of private rights, the dispute must be referred to the officer-in-charge for determination.

#### Sizes of graves

- 9. Subject to the provisions of section 7 and 10 the standard size of a grave is as follows -
  - (a) an adult's grave must measure 2 300 mm in length and 900 mm in width and 2000 mm in depth.
  - (b) a child's grave must measure 1 500 mm in length and 700 mm in width and 1 500 mm in depth.

**Enlarging and deepening a grave**

10. (1) An applicant for a burial may, by giving at least 24 hours notice before the burial, request that a grave be enlarged or deepened.
- (2) If a coffin is too large for the size of an adult grave, such grave must be enlarged to accommodate such coffin.
- (3) If a child's coffin is too large for a child's grave it must be buried in an adult's grave, on payment of the prescribed fee.
- (4) A grave may, on application and on payment of the prescribed fee, be deepened for burial of a third coffin.

**Coffins**

11. (1) Coffins to be placed in a grave must be made of natural wood or other perishable material.
- (2) Coffins intended for cremation must be constructed mainly of timber or wood derivatives.

**Covering of coffins**

12. (1) Every coffin must be covered with at least 300 mm of soil immediately after burial;
- (2) There must be at least -
- (a) 1 200 mm of soil between a coffin of a buried adult and the surface of the ground; or
- (b) 900 mm of soil in the case of a coffin of a child.
- (3) The provisions of subsection (2) do not apply to a burial in a tomb.

**Body bags**

13. (1) If there is more than one body in a coffin each body must be contained in a separate body bag.
- (2) A body intended for burial at a cemetery or cremation in a crematorium must be sealed in a body bag inside a coffin, unless this is contrary to the tradition, customs or religious beliefs of the deceased person or the applicant

**CHAPTER 3: FUNERALS****Religious or memorial services**

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

**Control of hearses at the cemetery**

15. No person in a cemetery may -
- (a) drive a hearse or cause a hearse to be driven except on a designated roadway;
- (b) park a hearse or detain a hearse on a roadway after the coffin has been removed from the hearse; or
- (c) park a hearse in such a manner that it interferes with other burials in progress.

**Conveyance of coffins and bodies**

16. (1) An applicant in terms of section 3 is responsible at his or her own cost for ensuring that a coffin is conveyed to the cemetery for burial or to the crematorium for cremation.
- (2) No person may in any street, cemetery, crematorium or other public place convey a body in a disrespectful manner.

**Instructions at cemeteries**

17. (1) The officer-in-charge at the cemetery may issue instructions relating to -
- (a) the parking of vehicles;
- (b) a funeral procession;
- (c) the duration of a service.
- (2) Every person taking part in a funeral procession at the cemetery, or attending a cremation service, must comply with all reasonable instructions of the officer-in-charge.

**Duration of service**

18. No person may occupy a chapel at a cemetery for the purpose of a funeral service or cremation, for more than 30 minutes, without the permission of the officer-in-charge and payment of the prescribed fee.

**Hours for burial**

19. (a) Subject to paragraph (b) burial may take place only between 08h00 and 15h00.
- (b) The Officer-in-charge may, on such conditions as he or she may determine, and on payment of the prescribed fee, give permission to bury outside the stipulated hours.
- (c) If the burial takes place outside the stipulated hours, the applicant will provide tools and assume the responsibility of closing the grave.
- (d) If the applicant requires the Council to provide the service outside the stipulated hours, the Council may provide such service on payment of the prescribed after hours fee, subject to such conditions as the officer-in-charge may determine.

**CHAPTER 4: RE – OPENING OF GRAVES AND EXHUMATIONS**

**Conditions of exhumations**

20. (1) No person may exhume or cause to be exhumed a body without the written consent of the –
- (a) Premier of the Free State Provincial Government;
  - (b) the Council;
  - (c) the Administrator of cemeteries; and
  - (d) the Council's Medical Officer of Health.
- (2) Whenever an exhumation is to take place, the officer-in-charge must inform the Provincial Commissioner of the South African Police Services.
- (3) A member of the South African Police Services must always be present when an exhumation is being conducted.
- (4) An exhumation must not take place when the cemetery is open to the public and must take place under the supervision of the officer-in-charge.
- (5) If remains are to be exhumed from any grave, only the undertaker under the supervision of the officer-in-charge, may cause the grave to be excavated for such exhumation;
- (6) (a) If a grave is to be excavated for exhumation, the officer-in-charge must be given 48 hours written notice before the time of exhumation, and
- (7) (b) The authority referred to in paragraph (1)(d) and the prescribed fee must accompany such notice.
- (7) A person who wishes to exhume the remains of an indigent person must pay the costs incurred by the Council at the time of burial, to the Administrator of Cemeteries.
- (8) The person carrying out the exhumation must ensure that the body and grave are properly disinfected and deodorized.
- (9) The South African Police must -
- (a) if there is proof of illegal burial immediately exhume the body; and
  - (b) take it to a government mortuary for investigation.
- (10) A grave of victims of conflict and a grave which is older than 60 years may only be exhumed with the permission of the South African Heritage Resources Agency.
- (11) A Commonwealth war grave may only be exhumed in accordance with the provisions of section 3 of the Commonwealth War Graves Act, 1992 (Act No. 8 of 1992).

**Exhumation and reburial**

21. (1) The Council may, if a body has been buried in contravention of these By-laws, cause the body to be exhumed and re-buried in another grave.
- (2) The relatives of the deceased must be -
- (a) notified of the intended exhumation and re-burial; and
  - (b) allowed to attend the re-burial.

**Screening of exhumation**

22. (1) A grave from which a body is to be exhumed must be screened from the view of the public during the exhumation.
- (2) The person carrying out the exhumation must provide a suitable receptacle for each body or remains.

**CHAPTER 5: CARE OF GRAVES**

**Gardening of graves and other objects on grave**

23. (1) The Council is responsible for keeping cemeteries clean unless these By-laws provide otherwise.
- (2) No person may –
- (a) plant, cut or remove plants, shrubs or flowers on a grave without the permission of the officer-in-charge;
  - (b) plant, cut or remove plants, shrubs or flowers on the berm section; or
  - (c) place a metal cot on any grave.
- (3) A person may only erect, place or leave, an object or decoration on a grave during the first 30 days following the burial.
- (4) Natural or artificial flowers contained in receptacles may be placed on a grave at any time, but in a grave within a berm section or with a headstone, such flowers may only be placed in the socket provided.
- (5) The officer-in-Charge may –
- (a) remove all withered natural flowers, faded or damaged artificial flowers and any receptacle placed on a grave; or
  - (b) 30 days after publishing a general notice remove all objects of decoration, for the purpose of beautification of the area.
- (6) The Council is not liable for any loss or damage to any object on a grave unless such loss or damage is a result of the negligence of any employee of the Council.

## CHAPTER 6: MEMORIAL SECTION

**Erection of memorial work**

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

**Inferior memorial work**

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

**Inscription on memorial work**

26. (1) Any memorial work must display the number assigned to the grave by the officer-in-charge, in permanent and visible markings –
- (a) on the side of the base of the memorial work; and
  - (b) on the upper surface, in the lower left hand corner, of a tablet erected on a grave in a landscape section.
- (2) The name of the maker, designer or erector of the memorial work may appear on the work and must be placed at the base of the memorial work.

**Dismantling of memorial work**

27. (1) Only a holder of private rights, or a person authorised in writing by the holder of such rights, may, with the written permission of the officer-in-charge, dismantle, alter, or disturb, any memorial work on a grave.
- (2) Dismantled memorial work must either be removed from a cemetery or be left on the grave on which such memorial work had been erected.
- (3) The officer-in-charge may in the case of a second or subsequent burial in such grave, permit memorial work to be left elsewhere in the cemetery, for a period not exceeding 30 days after such burial.
- (4) The person dismantling the work must immediately after the work is completed, remove any surplus material, or rubble, resulting from the dismantling of any memorial work.
- (5) If a holder of rights or person referred to in subsection (1) –
- (a) fails to re-erect dismantled memorial work within 30 days after it was dismantled; or
  - (b) leaves such memorial work within the cemetery in contravention of subsection (2), the Council may give 30 days written notice to such holder of rights or person, instructing him or her to remove such memorial work from the cemetery with any rubble resulting there from, at his or her own expense or to re-erect such memorial work.
- (6) If any memorial work has –
- (a) been damaged;
  - (b) become a danger to the public; or
  - (c) been erected in contravention of these By-laws,
- the Council may give written notice to the holder of rights or person referred to in subsection (1), instructing him or her, at his or her own expense, within a period specified in the notice, to –
- (i) alter or make such memorial work safe so that it complies with the provisions of these By-laws ;
  - (ii) dismantle and remove such memorial work from the cemetery together with all rubble resulting there from.
- (7) If such holder of rights or person referred to in subsection (1) fails to comply with a notice in terms of subsection (5) or (6), the Council may –

- (a) re-erect the memorial work;
  - (b) dismantle and dispose of the memorial work and remove any rubble resulting there from; or
  - (c) make the memorial work safe, and such holder or person will be liable for any costs incurred by the Council.
- (8) The Council may without giving any notice, or incurring any liability to the holder of rights or person referred to in subsection (1) –
- (a) dismantle the memorial work and remove it and any rubble resulting therefrom, except memorial work that is protected by the provisions of the National Heritage Resources Act, 1999, (Act No. 25 of 1999); or
  - (b) make the memorial work safe, if such memorial work has become so dangerous to the public that immediate steps to safeguard the public are essential.
- (9) After the Council has acted in terms of subsection (8), it must immediately, in writing, notify the holder of rights or person that, unless he or she reclaims the memorial work from the cemetery within a specified period, the Council will dispose of the memorial work.
- (10) Such holder of rights or person referred to in subsection (1) is liable for costs incurred by the Council, when the Council has acted in the manner contemplated in subsection (8).
- (11) If the holder of rights or person referred to in subsection (1) fails to pay the costs referred to in subsection (10), or to reclaim the memorial work dismantled by the Council, the Council may dispose of such memorial work in any manner it deems fit.
- (12) If any proceeds are derived from the disposal, such proceeds will be offset against the cost of the dismantling, removal, storing, and disposing, of memorial work and rubble resulting therefrom.

#### General requirements for memorial work

28. (1) Memorial work must be constructed or made of durable material, approved by the South African Bureau of Standards with a life expectancy of at least 25 years.
- (2) Any person erecting memorial work in a cemetery or crematorium must do so with the approval of the officer-in-charge.
- (3) A person erecting memorial work must comply with the following requirements-
- (a) when joining any part of the memorial work the person must use copper or galvanized iron pins as follows-
    - (i) for memorial work up to a height of 500 mm, two or more pins of at least 5mm thick and 100 mm long;
    - (ii) for memorial work 501 mm up to a height of 1 000 mm, two or more pins at least 10 mm thick and 200 mm long; or
    - (iii) for memorial work 1 001 mm and higher at least two or more pins 20 mm thick and 300 mm long;
  - (b) any part of memorial work which rests on the ground, stone or foundation must be properly secured and bedded;
  - (c) a material of uneven thickness must not be used;
  - (d) the undersides of every flat memorial work and the base of every memorial work must be sunk at least 50 mm below the natural level of the ground;
  - (e) a border which is more than 225 mm above the surface of the ground or more than 200 mm deep must not be used without the consent of the Council;
  - (f) all memorial work and border stones must be securely clamped with round copper or galvanized iron clamps;
  - (g) all memorial work up to 150 mm in thickness must be securely attached to the base;
  - (h) all the components of memorial work must be completed before being brought into a cemetery;
  - (i) footstones must consist of one solid piece;
  - (j) in all cases where memorial work rests on a base -
    - (i) such memorial work must have a foundation;
    - (ii) such memorial work must be set with cement mortar;
    - (iii) the bottom base of a single memorial work must not be less than 900mm long 220 mm wide x 250 mm thick and that of a double memorial work not less than 2 286 mm long x 200 mm wide x 250 mm thick; and
    - (iv) if loose stone chips are placed on a grave, the level of such stone chips must not be higher than 10 mm below the level of the surrounding curb stones .

#### Requirements for memorial work in lawn section

29. The following provisions apply to memorial work and graves in a lawn Section –
- (a) the dimensions of the base of any headstones on an adult's grave must not exceed 900 mm in length and 260 mm in width, but if the base of the headstone is erected over two adjoining graves, such base must not exceed 2 200 mm in length and 260 mm in width;
  - (b) the dimensions of the base of any headstone of a child's grave must not exceed 610 mm in length and 260 mm in width, but if the base of the headstone is erected over two adjoining graves such base must not exceed 1 200 mm in length and 260 mm in width;
  - (c) no portion of any headstone may extend beyond the horizontal dimensions of its base;
  - (d) headstones must be erected on the concrete berms supplied by the Council, except in the case of a temporary erection where the applicant must provide a foundation suitable to support the headstone, until the Council has installed the berm;
  - (e) no part of any memorial work may exceed 1 500 mm in height above the berm;
  - (f) any headstone must be so positioned that the front edge of the headstone is at least 130 mm from the edge of the berm;

- (g) no object other than a headstone which may incorporate more than two sockets for receptacles for flowers may be placed on any grave; and
- (ii) a vase containing natural flowers, or artificial flowers and foliage, may be placed in a socket built in the headstone and such vase must not exceed 300 mm in height; and
- (h) a kerb demarcating any grave and a slab covering are not permitted.

#### Requirements for memorial work in memorial section

30. The maximum horizontal measurements of any memorial work erected on a grave in a memorial section must -
- (a) in the case of an adult's grave, be 2 500 mm in length and 1 050 mm in width; or
  - (b) in the case of a child's grave, be 1 500 mm in length and 900 mm in width.

#### Requirements for memorial work in landscape section

31. (1) The Council may set aside a section in a cemetery as a landscape section;
- (2) Memorial work erected on a grave in a landscape section must -
- (a) not exceed 500 mm in length, 500 mm in width and a minimum of 30 mm thick;
  - (b) not be made of ferrous material.
- (3) The memorial work must be embedded horizontally on the ground level on a suitable foundation.
- (4) Where memorial work is restricted to a plaque or memorial slab, 500 mm by 500 mm, such plaque or memorial slab must be placed horizontal at 30 mm below grass level.

### CHAPTER 7: CREMATIONS

#### Application for cremation

32. (1) A person intending to cremate must submit the prescribed and duly completed application form supplied by the officer-in-charge for approval not later than 15:00, a day before the intended date of cremation, and such application must be accompanied by -
- (a) a prescribed fee;
  - (b) a burial or removal order issued in terms of the Births and Deaths Registration Act; and
  - (c) a death certificate; and
- (2) If all the above requirements are met, the officer-in-charge must approve such application.
- (3) The cremation may only take place in a crematorium.
- (4) If the application is made in terms of subsection (1) in respect of a body of a person-
- (a) who at the time of death was suffering from a communicable disease as defined in section 1 of the Health Act; or
  - (b) in whom at any time a pacemaker or radioactive material was inserted:
- the applicant must clearly indicate this fact and in the case of a body referred to in paragraph (b), whether such pacemaker or radioactive material was removed from the deceased.

#### Cremation times

33. (1) Cremation may take place from Monday to Friday between 09:00 and 14:00.
- (2) No cremation may take place on Saturdays, Sundays, and public holidays.
- (3) Despite the provisions of subsection (1), the officer-in-charge to whom an application is made, may if he or she is satisfied that the case is one of emergency, permit cremation outside cremation time on payment of the prescribed fee.

#### Provision of receptacles

34. (1) The applicant must provide a receptacle for receiving ashes with the full names of the deceased, unless such ashes are to be buried by the Council.
- (2) (a) A receptacle which is intended to be placed in a niche in the columbarium must be made of wood, stone, or other suitable material, and must be of such a size and design as to fit readily into such niche.
- (b) An inscription plate may be affixed to such a receptacle, or the niche may be closed with a suitable marble or other plaque.

#### Ash collection and disposal

35. (1) After cremation the ashes must be entrusted to the care of the person who applied for the cremation, should he or she so desire, if not, be kept by the owner of the crematorium.
- (2) The person collecting the ash must indicate in the prescribed application forms the quantity of ash to be retained for collection.
- (3) If there are no express arrangements for burial or safekeeping, the owner of a crematorium may bury or scatter the ashes in a garden of remembrance.

**Burial and exhumation of ashes**

36. (1) A person who wants to bury ashes in a grave, exhume ashes from a grave or scatter ashes must make an application to the officer-in-charge.
- (2) The officer-in-charge must, on payment of a prescribed fee, give written permission to the applicant for burial, or exhumation, or scattering of ashes, and prepare such grave for burial or exhumation of ashes.
- (3) An ash grave in a crematorium section or wall of remembrance must measure 610 mm in length and 610 mm in width.

**Use of niches and spaces, affixing of memorial**

37. (1) Ashes may be deposited in a columbarium or garden of remembrance if an application accompanied by the prescribed fee is made to the officer-in-charge, and if the officer-in-charge gives written permission.
- (2) A niche or a space abutting on a path in a garden of remembrance or a niche or a space in a memorial wall, must not be used for storing ashes or for affixing memorial work, without the consent of the officer-in-charge and payment of the prescribed fee.
- (3) Identity plaques must be made of material approved by the officer-in-charge and affixed simultaneously with the placing of the ashes.
- (4) Ashes and plaques may be removed with the consent of the officer-in-charge.
- (5) Flower holders may be affixed to the plaque only with the consent of the officer-in-charge.

**Memorial work in crematorium**

38. (1) A person may erect a memorial work in a crematorium in remembrance of the deceased if he or she—
- (a) was cremated at that crematorium in terms of section 32; or
- (b) presents a cremation certificate from another crematorium
- (2) Memorial work erected in a garden of remembrance must be made of marble, granite, or other suitable material, and measure either 230 mm by 150 mm by 25 mm thick, or 250 mm by 305 mm by 25 mm thick, as arranged with the Officer-in-charge, if it is intended -
- (a) to be placed on a space on a memorial wall or on a space abutting on a path in a garden of remembrance;
- (b) to seal a niche, must be of the same material and size as to conform with the memorial work next to it and have no items affixed to it except the lettering or photo of the deceased; or
- (c) for erection on a grave, not exceed 610 mm in length, 610 mm in width and 1,2 m in height.
- (3) Memorial work must only be removed from or affixed to a memorial wall or to a space abutting on a path in the garden of remembrance with the written consent of the Officer-in-charge.

**Book of remembrance, memorial cards and miniature books**

39. (1) If the Council provides a book of remembrance in a cemetery or crematorium, a memorial inscription may be entered in such book on application to the officer-in charge and on payment of the prescribed fee.
- (2) If an inscription is entered in the book of remembrance, an inscription memorial card or an inscribed miniature may be purchased, if it is available, on payment of the prescribed fee.

**Duplicate cremation certificates**

40. A person may obtain a duplicate cremation certificate on application and on payment of the prescribed fee to the officer-in-charge.

**CHAPTER 8: INDIGENT PERSONS****Burial of indigent persons**

41. (1) A person making an application for an indigent person's burial must make a declaration to that effect.
- (2) An indigent person may be buried or cremated according to conditions determined by the Council.
- (3) If an indigent person is cremated the ashes must be retained by the Council for a period of not less than 12 months.
- (4) If ashes are not claimed within the period of 12 months be buried in an ash grave.



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**CHAPTER 9: GENERAL**
**Prohibited acts**

42. (1) No person -
- (a) under the age of 16 years may enter any cemetery or crematorium unless when accompanied by an adult, or with the consent of the officer-in-charge;
  - (b) may enter or leave any cemetery or crematorium, except by the gateway provided;
  - (c) may enter any office or enclosed place in a cemetery or crematorium, where entry is prohibited, without the consent of the officer-in-charge, which may be given only when such person is attending business connected with such cemetery or crematorium.
- (2) No person may, within any cemetery or crematorium -
- (a) interfere with any fountain, statue, monument, equipment, fence, grave or Council property;
  - (b) pick, damage, deface or destroy any flower, plant or seed;
  - (c) damage, deface or remove any memorial work, grave, building, fence or fixtures;
  - (d) throw litter outside containers provided by the Council for that purpose;
  - (e) sit, stand, walk, climb, draw, or write on any grave or memorial work;
  - (f) swim, bath or wash himself him or herself or any animal in a pond, fountain, artificial watercourse, dam or stream;
  - (g) reside in a cemetery, or, without the written consent of the officer-in -charge, build any structure or encroach on any land;
    - (h) capture, chase, shoot at, or interfere with any fish, bird, or animal, except where licensed to do so, or take, touch or damage birds' eggs or nests;
    - (i) light any fire or burn any object unless there is special provision therefore made by the Council;
    - (j) drive, ride or park any vehicle, bicycle, tricycle or push-cart, wear roller blades or draw or propel any vehicle, except in the places and at the times referred to in these By-laws;
    - (k) drive or ride any vehicle, except in the places referred to in paragraph (j) at a speed exceeding 15 km per hour;
    - (l) carry on or solicit business, hold any demonstration, or perform an activity which is not normally associated with a cemetery or crematorium;
    - (m) cause a nuisance or commit any offensive or indecent act;
    - (n) play any game except in a designated area;
    - (o) use a facility provided for the opposite sex;
    - (p) brew, sell or drink alcohol or abuse drugs;
    - (q) play any musical instrument without the written consent of the officer-in-charge;
    - (r) deliver a public speech except for a funeral service or cremation, without the written consent of the officer-in-charge,
    - (s) do anything which may endanger or cause disturbance to any person ;
    - (t) hold organized functions, advertise, dig any hole, trench or place any tent, caravan, booth screen, stand, or any construction or obstruction, without the written consent of the officer-in-charge;
    - (u) undertake any community or voluntary work, without the written consent of the officer-in -charge;
    - (v) make any film, without the written consent of the officer-in -charge, and payment of the prescribed fee;
    - (w) remain between sunset and sunrise without the written consent of the officer-in-charge;
    - (x) bring or allow an animal, except a guide dog, without the consent of the officer-in-charge; and
    - (y) hinder, obstruct or resist the officer-in-charge or any official of the Council in the performance of his or her duties or in the exercise of any authority assigned to him or her by or in terms of these By-laws.
- (3) Any animal found in a cemetery may be impounded and must be released on payment of a fee.

**Penalty clause**

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

**Repeal of By-laws**

44. Any By-laws relating to cemeteries and cremation 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.

**Short title**

45. These By-laws are called the Cemeteries and Crematoria By-laws, 2011.
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[NO. 175 OF 2011]

**NOTICE IN TERMS OF SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: STANDARD CHILDCARE SERVICES BY-LAWS**

I, M.G Qabathe, Member of the Executive Council responsible for Cooperative Governance, Traditional Affairs and Human Settlement in the Free State Province, after consulting the Minister of Cooperative Governance and Traditional Affairs and the South African Local Government Association: Free State, do hereby in terms of section 14(2)(a)(i) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), make standard by-laws as set out in the Schedule.

**SCHEDULE**

**CHILDMINDER SERVICES BY-LAW**

**1. Definitions**

In these bylaws, unless the context indicates otherwise –

"**Approved**" means approved by the authorised officer;

"**Authorised officer**" means an officer of the Municipality to whom it has delegated a duty, function or power under these bylaws in relation to the exercise or performance of that duty, function or power;

"**Child**" means a child admitted to a child-minder service;

"**Child-minder Service**" means any undertaking involving the custody and care of a maximum of six children apart from their parents or relatives during the whole or part of the day on all or any days of the week;

"**Certificate**" means a certificate issued in terms of section (3);

"**Certificate holder**" means any person to whom a certificate has been issued in terms of section (3);

"**Communicable disease**" means a communicable disease as defined by section (1) of the Health Act, 1997 (Act No. 63 of 1977);

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

"**National Building Regulations**" means the regulations published under the National Building Regulations and Building Standards Act, 1977 (Act No. 105 of 1977);

"**Premises**" means any building or part thereof including outdoor play areas in or upon which a child-minder service is carried on;

"**Prescribed**" means prescribed by the authorised officer referred to in section (3).

**2. Application of bylaws**

(1) These bylaws applies to all child-minder services within the area of jurisdiction of the Municipality.

(2) Subject to the provisions of sub-section (3), no person must conduct a child-minder service unless it has been registered in terms of section (3) and he is in possession of a valid certificate issued in terms of that section.

(3) A person who is at the date of commencement of these sections conducting a child-minder service must within one month of the date, or within such extended period as the Municipality may, on application made prior to the expiry of the said period on writing, allow, apply for registration of such service in terms of section (3) and if he or she fails to do so or his application is refused, he or she must, if he or she continues to conduct such service after such period or after refusal of his application be deemed to have contravened sub-section (2).

(4) A person whose service has been registered in terms of section (3) must in the conduct of his or her service, ensure that it and the premises in which it is conducted complies with all the requirements of this by law and he must comply with the conditions and restrictions imposed upon the registration of the service and if he or she fails to do so he or she is guilty of an offence for which the penalties referred to in section (13) are be applicable.

**3. Registration of child-minder services**

(1) Every person who intends to conduct a child-minder service must apply to the authorised officer for registration of that service and must supply such information and plans as that officer may require.

(2) The authorised officer must approve an application and register the service in respect of which it has been made in terms of sub-section (1) if he or she is satisfied –

(a) that the applicant is not a mentally or legally unsuitable person to conduct a child-minder service and that there are no circumstances which are likely to be prejudicial to the health, safety and welfare of children who may be cared for by the service; and

(b) that the requirements of sections 6 and 7 have been complied with;

(c) that the applicant has not before been convicted of any offence involving abuse of children in any way whatsoever; and must refuse the application if he or she is not satisfied, provided that he may afford an applicant an opportunity of effecting compliance with the requirements of sections 6 and 7 within a prescribed period.

- (3) In approving an application for registration the authorised officer may impose such conditions and restrictions, required in terms of these sections in order to ensure that the health and safety of the children are maintained.
- (4) Upon approval and registration in terms of sub-section (2) the authorised officer must issue a certificate to the applicant which must contain a description of the premises in respect of which the registration has been effected and any conditions or restrictions imposed in terms of sub-section (3), including restrictions as to the number and ages of the children who may be cared for by the service.

**4. Validity of registration**

- (1) Subject to the provisions of sub-section (2) and of section (5), registration and the certificate issued in respect thereof is valid for an indefinite period but must be valid only in respect of the premises referred to in section (3)(4).
- (2) If a certificate holder wishes to transfer his or her service to other premises or if the premises referred to in section (3)(4) are or are to be materially altered so that they no longer comply with the requirements of section (6), the certificate holder must apply to the authorised officer on the prescribed form for the registration of his or her service to be amended accordingly and the provisions of sub-sections (2), (3) and (4) of section (3) are *mutatis mutandis* applicable.
- (3) Registration lapses and the registration certificate issued to the certificate holder ceases to be valid -
  - (a) upon his death;
  - (b) if he or she ceases to conduct his or her service,
- (4) A certificate holder must notify the authorised officer in writing if he or she suspends his or her service or ceases to conduct it.

**5. Cancellation of registration**

- (1) The authorised officer must, by written notice to the certificate holder, cancel registration of a child-minder service if-
  - (a) the certificate holder is convicted of an offence under these sections or pays an admission of guilt in respect of any such offence; or
  - (b) the certificate holder fails to comply with any condition or restriction imposed in terms of section (3)(3); or
  - (c) if it can be readily proven that the authorised officer is of the opinion that the certificate holder is an unsuitable person to conduct a child-minder service, or that circumstances exist that are likely to be prejudicial to the health, safety and welfare of children being cared for by the service.
- (2) Upon cancellation of registration in terms of sub-section (1) the registration certificate ceases to be valid; provided that before cancelling registration the authorised officer may at his or her sole discretion suspend registration to give the certificate holder an opportunity to remedy a defect in the premises or rectify an omission and if the certificate holder does so to his or her satisfaction the authorised officer may elect not to cancel the registration. During the period of such suspension the certificate holder may not conduct his or her child-minder service.
- (3) A certificate holder whose registration has been cancelled in terms of section (1), may within 14 days of the date of the notice by which he was given notice of such cancellation, appeal in writing to the appropriate committee of Municipality against the cancellation and the decision of the committee is final.
- (4) Cancellation of registration in terms of sub-section (1) will not come into effect until the 14 day period referred to in sub-section (2) has lapsed, or in the case of an appeal in terms of the said sub-section until the cancellation is confirmed by the committee.

**6. Requirements for premises**

The following minimum accommodation and facilities must be provided in respect of the child-minder service at all times that such service is being conducted:

- (a) An adequate, suitable and unobstructed indoor floor area approved by the authorised officer and reserved for the use of the children.
- (b) An approved floor covering to the floor area in terms of paragraph (a) above.
- (c) Adequate facilities for the preparation of meals on the premises.
- (d) An adequate supply of toilet paper and soap must be available and accessible to the children.
- (e) Suitable toilet and wash facilities for children who are not toilet-trained.
- (f) Plastic buckets with a close fitting lid or other approved means for the storage of soiled napkins.

**7. Equipment for children**

The certificate holder must provide equipment for the children complying with the following requirements:

- (a) approved individual resting or sleeping equipment for each child;
- (b) sufficient crockery and cutlery for the sole use of the children and kept in a clean and good condition at all times.

**8. Medical care of children**

The certificate holder must -

- (a) observe all children for any signs of illness, indisposition, injury or other abnormal condition, including possible child abuse;
- (b) immediately notify the parent or guardian of such illness, indisposition, injury or other abnormal condition;
- (c) immediately isolate the child so suffering and devote all care necessary to the comfort and treatment of the child whilst on the premises;

- (d) in the event of a communicable disease or detection of signs of possible child abuse, notify the authorised officer and SAPS immediately;
- (e) keep a record of all injuries and illnesses which occurred or manifested themselves whilst the child was on the premises and keep records of injuries observed on the child which have occurred other than at the premises'
- (f) ensure that all children admitted to the child-minder service have completed basic immunisation schedules considered necessary by the authorised officer vested with the powers and functions referred to in section (3); provided that if any child is too young such immunisation must be carried out and completed as soon as the child is old enough.

## 9. Health and safety measures

- (1) The certificate holder must, in the interests of the health and safety of the children -
  - (a) take effective precautions for the protection of the children against fires, hot-water installations, electrical fittings and appliances and any other article, condition or thing which may be dangerous or likely to cause injury to any child;
  - (b) not accept for admission to the child-minder service or retain in such service any child under the age of five years if there is a swimming or paddling pool on the premises; provided that the provisions of this paragraph must not apply to a person referred to in section (2)(3) in respect of the premises described in the certificate and issued to him or her in terms of section (3)(4) for as long as that certificate remains valid and he or she complies with conditions imposed by the authorised officer in terms of section (3)(3) as to security measures to be taken in relation to the pool on those premises to prevent danger to children;
  - (c) where required re -ensure that all gates or doors of outdoor play areas are close-fitting and securely locked or otherwise closed so as to prevent children from entering or leaving the confines of such areas or the premises of their own accord and to prevent the entrance or presence of domestic animals, including dogs;
  - (d) equip and maintain a first-aid cupboard with first-aid materials and equipment to the satisfactions of the authorised officer and keep it readily available for use and out of reach of the children;
  - (e) store medicines, corrosive and other harmful substances, including alcoholic beverages, in a safe manner and in a place not accessible to the children;
  - (f) ensure that no noxious or poisonous plant or shrub grows on the premises;
  - (g) arrange for the medical examination of employees and other person involved in the conduct of the child-minder service or present on the premises when called upon by the authorised officer to do so and must not allow any such person who is found to be suffering from or to be a carrier of a communicable disease to remain on the premises;
- (2) The provisions of the Regulations relating to Communicable Disease and the Notification Medical Conditions published under Government Notice 2438 dated 30 October 1987 are *mutatis mutandis* applicable to the premises of child-minder services as if they fell within the scope of the expression "teaching institution" in regulation 1 of those Regulations and -
  - (a) a breach by a certificate holder if a duty placed upon a principal in terms of those Regulations is deemed to be a breach of these sections;
  - (b) the duties placed upon and the powers vested in a medical officer of health under those Regulations must be placed upon or vest in the authorised officer to whom the powers and functions referred to in section (3) have been delegated for the purposes of these sections.

## 10. Management responsibilities

The certificate holder must ensure that -

- (a) no refuse receptacle or any other potentially harmful or hazardous thing or material is stored in the outdoor play area used by the children;
- (b) the buckets used for the soiled napkins are kept in a clean and sanitary condition at all times and cleaned regularly with an approved disinfectant;
- (c) the children are at all times under adult supervision;
- (d) meals, which are provided to the children must meet the requirements of the authorised officer;
- (e) prepared infant feeds are supplied by parents or guardians in bottles with covered teats;
- (f) the premises are maintained in a clean, hygienic, safe, sound and pest and rodent free condition.

## 11. Health register

The certificate holder must maintain a health register reflecting the following details of all children admitted to the child-minder service -

- (a) The child's name and date of birth.
- (b) The name of the parents or guardian and their address.
- (c) The name and address and telephone number of a medical practitioner who may be consulted in emergencies with written authority given by the parents or guardian to send for him.
- (d) Details of immunisation.
- (e) Details of allergies and any medical treatment which each child may be undergoing.

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**12. Right of entry and inspection of premises and records**

Subject to the provisions of Section 101 of the Local Government: Municipal Systems Act 2000 (Act No. 32 of 2000) an authorised officer may for any purpose connected with the carrying out of these bylaws, at all reasonable times, enter any premises upon which a child-minder service is conducted, or upon which such officer has reasonable grounds for suspecting the existence of such child-minder service and make such examination, enquiry and inspection thereon as he may deem necessary.

**13. Offences and penalties**

(1) Any person who fails to give, or refuses access to any authorised officer, if he or she requests entrance to such premises, or who obstructs or hinders such officer in the execution of his or her duties in terms of these sections or who fails or refuses to give information or to produce records that he or she may lawfully be required to give or produce to such officer, or who gives to such officer false or misleading information knowing it to be false or misleading, is guilty of an offence.

(2) A person who contravenes any provision of these sections or contravenes any conditions or restrictions imposed upon the granting of an application in terms of section (3) is guilty of an offence and upon conviction liable to the penalties prescribed by a Chief Magistrate of the Magistrate's Court with jurisdiction in the area where the offence was committed.

**14. Repeal of By- Laws**

Any by-laws relating to Child-minder Services 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.

**15. Short Title**

This By-law is called the Child-minder Services By-law, 2011.

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**PROVINCIAL GAZETTE**  
(Published every Friday)

All correspondence, advertisements, etc. must be addressed to the Officer in charge of the Provincial Gazette, P.O. Box 517, Bloemfontein, Tel.: (051) 403 3139. Free Voucher copies of the Provincial Gazette or cuttings of advertisements are NOT supplied.

**Subscription Rates (payable in advance)**

The subscription fee for the Provincial Gazette (including all Extraordinary Provincial Gazettes) are as follows:

**SUBSCRIPTION: (POST)**

PRICE PER COPY	R 18.80
HALF-YEARLY	R469.40
YEARLY	R938.80

**SUBSCRIPTION: (OVER THE COUNTER / E-MAIL)**

PRICE PER COPY	R 11.10
HALF-YEARLY	R 277.90
YEARLY	R 555.80

Stamps are not accepted

**Closing time for acceptance of copy**

All advertisements must reach the Officer in Charge of the Provincial Gazette **not later than 16:00, three workings days** prior to the publication of the Gazette. Advertisements received after that time will be held over for publication in the issue of the following week, or if desired by the advertiser, will be inserted in the current issue as a "Late Advertisement". In such case the advertisement must be delivered to the Officer in Charge **not later than 08:00 on the Tuesday** preceding the publication of the Gazette and double rate will be charged for that advertisement.

A "Late Advertisement" will not be inserted as such without definite instructions from the advertiser.

**Advertisement Rates**

Notices required by Law to be inserted in the Provincial Gazette: R26.40 per centimeter or portion thereof, single column.

Advertisement fees are payable in advance to the Officer in charge of the Provincial Gazette, P.O. Box 517, Bloemfontein, 9300, Tel.: (051) 403 3139.

**NUMBERING OF PROVINCIAL GAZETTE**

You are hereby informed that the numbering of the Provincial Gazette /Tender Bulletin and notice numbers will from 2010 coincide with the relevant financial year. In other words, the chronological numbering starting from one will commence on or after 1 April of every year.

**PROVINSIALE KOERANT**  
(Verskyn elke Vrydag)

Alle korrespondensie, advertensies, ens. moet aan die Beampte Belas met die Provinsiale Koerant, Posbus 517, Bloemfontein, Tel.: No. (051) 403 3139 geadresseer word. Gratis eksemplare van die Provinsiale Koerant of uitknipsels van advertensies word NIE verskaf nie.

**Intekengeld (vooruitbetaalbaar)**

Die intekengeld vir die Provinsiale Koerant (insluitend alle Buitengewone Provinsiale Koerante) is soos volg:

**INTEKENGELD: (POS)**

PRYS PER EKSEMPLAAR	R 18.80
HALFJAARLIKS	R469.40
JAARLIKS	R938.80

**INTEKENGELD: (OOR DIE TOONBANK / E-POS)**

PRYS PER EKSEMPLAAR	R 11.10
HALFJAARLIKS	R 277.90
JAARLIKS	R 555.80

Seëls word nie aanvaar nie.

**Sluitingstyd vir die Aannee van Kopie**

Alle advertensies moet die Beampte Belas met die Provinsiale Koerant bereik **nie later nie as 16:00 drie werksdae** voordat die Koerant uitgegee word. Advertensies wat na daardie tyd ontvang word, word oorgehou vir publikasie in die uitgawe van die volgende week, of as die adverteerder dit verlang, sal dit in die Koerant wat op die pers is as 'n "Laat Advertensie" geplaas word. In sulke gevalle moet die advertensie aan die Beampte oorhandig word **nie later nie as 08:00 op die Dinsdag** voordat die Koerant gepubliseer word en dubbeltarief sal vir dié advertensie gevra word.

'n "Laat Advertensie" sal nie sonder definitiewe instruksies van die Adverteerder as sodanige geplaas word nie.

**Advertensietariewe**

Kennisgewings wat volgens Wet in die Provinsiale Koerant geplaas moet word: R26.40 per sentimeter of deel daarvan, enkel-kolom.

Advertensiegelde is vooruitbetaalbaar aan die Beampte belas met die Provinsiale Koerant, Posbus 517, Bloemfontein 9300, Tel.: (051) 403 3139.

**NOMMERING VAN PROVINSIALE KOERANT**

U word hiermee in kennis gestel dat die nommering van die Provinsiale Koerant / Tender Bulletin en kennisgewingnummers vanaf 2010 met die betrokke boekjaar sal ooreenstem. Met ander woorde, die kronologiese nommering beginnende met een, sal op of na 1 April van elke jaar begin.