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

PROVINCIAL NOTICES

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[NO. 184 OF 2011]

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

**DUMPING AND LITTERING BY-LAW**

**DEFINITIONS**

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

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

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

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

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

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

**DUMPING AND LITTERING**

2. (1) No person may—
- (a) litter or cause or permit littering of waste;
  - (b) dump or cause or permit the dumping of waste.
- (2) If the provisions of subsection (1) are contravened, Council may direct, by way of a written notice in terms of subsection (5),
- (a) any person who committed, or who directly or indirectly caused or permitted, the contravention;
  - (b) the generator of the waste, whether or not the generator is responsible for the contravention;
  - (c) the owner of the land or premises where the contravention took place, if the owner failed to take the steps set out in subsection (3);
  - (d) the person in control of, or any person who has or had, at the time of the contravention, a right to use, the land or premises where the contravention took place, if that person failed to take the steps set out in subsection (3);
  - (e) any person who negligently failed to prevent the contravention from taking place;
- to cease the contravention in a specified time, or to prevent a further contravention or the continuation of the contravention, and to take whatever steps Council considers necessary to clean up or remove the waste, to rehabilitate the affected facets of the environment and to ensure that the waste, and any contaminated material which cannot be cleaned or rehabilitated, is disposed of lawfully.
- (3) A person who owns land or premises, or who is in control of or has a right to use land or premises, may not use or permit the use of the land or premises for unlawful dumping of waste and must take reasonable steps to prevent the use of the land or premises for this purpose.
- (4) Council may issue notices—
- (a) for the purposes of giving directions in terms of subsection (2);
  - (b) for compelling persons to comply with their obligations under subsections (3); and
  - (c) for any other purpose under this by-law, and may, in the notice, specify a reasonable time within which the directions given in the notice must be complied with.

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

#### OFFENCES

3. Any person who contravenes section 2(1) is guilty of an offence.

#### PENALTIES AND CONVICTIONS

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

#### REPEAL OF BY-LAWS

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

#### SHORT TITLE

6. This by-law is called the Dumping and Littering By-law, 2011.

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#### PROVINCIAL NOTICE

[NO. 185 OF 2011]

#### NOTICE IN TERMS OF SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: STANDARD ELECTRICITY SUPPLY 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.

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CHAPTER 1:  
GENERAL

## Definitions

1. For the purpose of these by-laws, any word or expressions to which a meaning has been assigned in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), bears the same meaning. In these by-laws unless the context indicates otherwise—
- "**accredited person**" means a person registered in terms of the Regulations as an electrical tester for single phase, an installation electrician or a master installation electrician, as the case may be;
- "**applicable standard specification**" means the standard specifications as listed in Schedule 2 of these by-laws;
- "**authorised official**" means a person authorised by the municipality in terms of these by-laws to execute work, conduct an inspection and monitor and enforce compliance with these by-laws;
- "**certificate of compliance**" means a certificate issued in terms of the Regulations in respect of an electrical installation or part of an electrical installation by an accredited person;
- "**consumer**" in relation to premises means—
- any occupier of premises or any other person with whom the municipality has contracted to supply, or is actually supplying, electricity at those premises; or
  - if premises are not occupied, any person who has a valid existing agreement with the municipality for the supply of electricity to those premises; or
  - if there is no such person or occupier, the owner of the premises;
- "**credit meter**" means a meter where an account is issued subsequent to the consumption of electricity;
- "**electrical contractor**" means an electrical contractor as defined in the Regulations;
- "**electrical installation**" means an electrical installation as defined in the Regulations;
- "**high voltage**" means the set of nominal voltage levels that are used in power systems for bulk transmission of electricity in the range of 44kV to 220 kV;
- "**low voltage**" means the set of nominal voltage levels that are used for the distribution of electricity and whose upper limit is generally accepted to be an ac voltage of 1000V (or a dc voltage of 1500 V);
- "**medium voltage**" means the set of nominal voltage levels that lie above low voltage and below high voltage in the range of 1 kV to 44 kV;
- "**meter**" means a device which records the demand or the electrical energy consumed and includes conventional and prepayment meters;
- "**motor load, total connected**" means the sum total of the kW input ratings of all the individual motors connected to an installation;
- "**motor rating**" means the maximum continuous kW output of a motor as stated on the maker's rating plate;
- "**motor starting current**" in relation to alternating current motors means the root mean square value of the symmetrical current taken by a motor when energised at its rated voltage with its starter in the starting position and the rotor locked;
- "**municipality**" means the ..... Local Municipality established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"municipal manager" means the municipal manager as defined in section 82(1)(a) of the Structures Act;

"occupier" includes any person in actual occupation of the land or premises without regard to the title under which he occupies, and, in the case of premises, or parts of premises, let to a lodger or any other person, includes the person receiving the rent payable by a lodger or any other person whether for himself or as an agent for any other person;

"owner" includes any person that has the title to any premises or land, or any person receiving the rent or profits for allowing the occupation or use of any land, premises or part of any premises who would receive such rent or profit if the land or premises were let or used whether he does so himself or for another;

"point of consumption" means a point of consumption as defined in the Regulations;

"point of metering" means the point at which the consumer's consumption of electricity is metered and which may be at the point of supply or at any other point on the distribution system of the municipality or the electrical installation of the consumer, as specified by the municipality or any authorised official; provided that it must meter all of, and only, the consumer's consumption of electricity;

"point of supply" means the point determined by the municipality or any authorised official at which electricity is supplied to any premises by the municipality;

"premises" means any land, or any part of, any building or structure above or below ground level and includes any vehicle, aircraft or vessel;

"prepayment meter" means a meter that can be programmed to allow the flow of pre-purchased amounts of energy in an electrical circuit;

"Regulations" means Regulations made in terms of the Occupational Health and Safety Act, 1993 (Act 85 of 1993);

"SANS Codes" means the South African National Standards Codes or the South African Bureau of Standards Codes as defined in Regulation No 1373 published in Government Gazette 24002, dated 8 November 2002 in terms of the Standards Act, 1993 (Act 29 of 1993) or as may be published in the future in terms of that Act;

"safety standard" means the Code of Practice for the Wiring of Premises SANS 0142 incorporated in the Regulations;

"service connection" means all cables and equipment required to connect the supply mains to the electrical installation of the consumer at the point of supply;

"service delivery agreement" means an agreement between the municipality and a service provider in terms of which the service provider is required to provide electricity services;

"service provider" means any person who has entered into a service delivery agreement with the municipality in terms of section 81(2) of the Systems Act;

"service protective device" means any fuse or circuit breaker installed for the purpose of protecting the municipality's equipment from overloads or faults occurring on the installation or on the internal service connection;

"standby supply" means an alternative electricity supply not normally used by the consumer;

"supply mains" means any part of the municipality's electricity network;

"Structures Act" means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998)

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

"tariff" means the charge to users for the provision of electricity services or for any related charge, determined and promulgated by the municipality, or adjusted by a service provider, in terms of Tariff Policy by-laws adopted under section 75 of the Systems Act;

"token" means the essential element of a prepayment metering system used to transfer information from a point of sale for electricity credit to a prepayment meter and vice versa; and

"voltage" means the root-mean-square value of electrical potential between two conductors.

## CHAPTER 2: GENERAL CONDITIONS OF SUPPLY

### The Provision of Electricity Services

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

### Exclusive Provision of Electricity Services

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

### Supply by agreement

4. (1) No person must use or is entitled to use electricity supplied by the municipality or service provider unless or until he or she has entered into an electricity supply agreement in writing with the municipality or service provider for the provision of electricity services.
- (2) The provisions of an agreement relating to the supply of electricity services (henceforth the "Electricity Supply Agreement") together with the provisions of these by-laws govern electricity supply in all respects.

- (3) A person who uses an electricity supply without entering into an electricity supply agreement is liable for the cost of electricity used as stated in section 38 of these by-laws notwithstanding the fact that he or she has not entered into an agreement.

#### Application for Supply

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

#### Processing of Requests for Supply

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

#### Permission to Use Property

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

#### Statutory Servitude

8. (1) Subject to the provisions of subsection (3) and in order to provide, establish and maintain electricity services within its municipal area, the municipality may—
- (a) acquire, construct, lay, extend, enlarge, divert, maintain, repair, discontinue the use of, and close up and destroy electricity supply mains;
- (b) construct, erect or lay any electricity supply main on, across, through, over or under any street or immovable property and the ownership of any such main vests in the municipality;
- (c) do any other thing necessary or desirable for or incidental, supplementary or ancillary to any matter contemplated by paragraphs (a) to (c).
- (2) If the municipality constructs, erects or lays any electricity supply main on, across, through, over or under any street or immovable property neither owned by the municipality nor under the control or management of the municipality, it must pay the owner of the street or property compensation in an amount agreed upon by the affected owner and the municipality or, in the absence of agreement, compensation determined either by arbitration or a court of competent jurisdiction.
- (3) The municipality must, before commencing any work other than repairs or maintenance, on or in connection with any electricity supply main on or under immovable property not owned by the municipality or not under the control or management of the municipality, give the owner or occupier of the property reasonable notice of the proposed work and the date on which it proposes to commence its work.

#### Improper Use

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

**Deposits**

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

**Payment of Charges**

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

**Interest on Overdue Accounts**

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

**Principles for the Resale of Electricity**

13. (1) Unless otherwise authorised by the municipality, no person must sell or supply electricity, supplied to his or her premises under an agreement with the municipality, to any other person or persons for use on any other premises, or permit or suffer such resale or supply to take place.
- (2) If electricity is resold for use upon the same premises, the electricity resold must be measured by a sub-meter of a type which has been approved by the South African Bureau of Standards and supplied, installed and programmed in accordance with the standards of the municipality.
- (3) The tariff, rates and charges at which and the conditions of sale under which electricity is resold under subsection (2) must not be less favourable to the purchaser than those that would have been payable and applicable had the purchaser been supplied directly with electricity by the municipality or a service provider.
- (4) Every reseller must furnish the purchaser with monthly accounts that are at least as detailed as the relevant billing information details provided by the municipality to its electricity consumers.

**Right to Disconnect Supply**

14. (1) The municipality may give notice to any consumer that it intends to disconnect the supply of electricity if, in its opinion, there is an appreciable risk of harm or damage to any person or property.
- (2) The notice referred to in subsection (1) must —
- (a) be for 14 (fourteen) days;
- (b) inform the consumer of the nature of the risk;
- (c) call upon him or her, if he or she does not wish the discontinuation to take place, to give good and adequate reasons within that period why this should not happen.
- (3) Where he or she has failed either to give good and adequate reasons or to remedy the cause of the risk, the municipality may disconnect the supply of electricity to such premises.
- (4) Where any person, who is liable in law to pay for any supply of electricity, fails to pay for it, the municipality may give such a person notice calling on him or her to make such payment and the notice must —
- (a) be for 14 (fourteen) days;
- (b) inform him or her of the amount due and payable;
- (c) notify him or her that if he or she does not pay it, his or her electricity must be disconnected unless he or she gives good and adequate reasons within that period why this should not happen.

- (5) Where he or she has failed either to pay the due amount or to give good and adequate reasons as envisaged in subsection (4), the municipality may disconnect the supply of electricity to such premises.
- (6) Where the municipality is of the opinion, on reasonable grounds, that risk or harm to person or property is immediate or imminent, the municipality may, subject to any other provision in these by-laws, disconnect the supply of electricity to any premises.
- (7) In the case where an installation has been illegally reconnected on a consumer's premises after having been previously legally disconnected by the municipality, or in the case where the municipality's electrical equipment has been tampered with to prevent the full registration of consumption by the meter, the electricity supply equipment may be physically removed from those premises by the municipality.

#### **Non-Liability of the Municipality**

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

#### **Leakage of Electricity**

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

#### **Failure of Supply**

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

#### **Seals of the Municipality**

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

#### **Tampering With Service Connection or Supply Mains**

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

#### **Protection of Municipality's Supply Mains**

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



- (2) The municipality may subject to obtaining an order of court, demolish, alter or otherwise deal with any building, structure or other object constructed, erected or laid in contravention with these by-laws.
- (3) The municipality may in the case of an emergency or disaster remove anything damaging, obstructing or endangering or likely to damage, obstruct, endanger or destroy any part of the electrical distribution system.

#### **Prevention of Tampering with Service Connection or Supply Mains**

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

#### **Unauthorised Connections**

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

#### **Unauthorised Reconnections**

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

#### **Temporary Disconnection and Reconnection**

24. (1) The municipality must, at the request of the consumer, temporarily disconnect and reconnect the supply of electricity to the consumer's electrical installation upon payment of the tariff prescribed for each such disconnection and subsequent reconnection.
- (2) In the event of a necessity arising that requires the municipality to effect a temporary disconnection and reconnection of the supply of electricity to a consumer's electrical installation, and if the consumer is in no way responsible for bringing about this necessity, the municipality is not entitled to payment of the tariff referred to in subsection (1).
- (3) Where there are circumstances which the municipality has good grounds to believe are exceptional, the municipality may temporarily disconnect the supply of electricity to any premises without notice for the purpose of effecting repairs or carrying out tests or for any other legitimate purpose, but, where there are no such exceptional circumstances, the municipality must provide adequate notice to the user of the electricity before a temporary disconnection of electricity services may take place.

#### **Temporary Supplies**

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

#### **Temporary Work**

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

#### **Load Reduction**

27. (1) At times of peak load, or in an emergency, or when, in the opinion of the municipality, it is necessary for any reason to reduce the load on its electricity supply system, the municipality may without notice interrupt and, for a period as the municipality considers necessary, discontinue the electricity supply to any consumer's electrically operated thermal storage water heater or any specific appliance or the whole installation.

- (2) The municipality is not liable for any loss or damage directly or consequentially due to or arising from an interruption and discontinuance of the electricity supply envisaged in subsection (1).
- (3) The municipality may install upon the premises of the consumer any apparatus or equipment necessary to give effect to the provisions of subsection (1), and any authorised official may at any reasonable time enter any premises for the purpose of installing, inspecting, testing adjusting or changing apparatus or equipment.
- (4) The consumer or the owner, as the case may be, must when installing an electrically-operated water storage heater, provide any necessary accommodation and wiring.

#### **High, Medium and Low Voltage Switchgear and Equipment**

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

#### **Substation Accommodation**

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

#### **Wiring Diagram and Specification**

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

#### **Standby Supply**

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

#### **Consumer's Emergency Standby Supply Equipment**

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

#### **Circular Letters**

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

### CHAPTER 3: SERVICE PROVIDERS

#### Agreement and Assignment

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

#### Customer Charter

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

### CHAPTER 4: RESPONSIBILITIES OF CONSUMERS

#### Consumer to Erect and Maintain Electrical Installation

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

#### Fault in Electrical Installation

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

#### Discontinuance of Use of Supply

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

#### Change of Occupier

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

**Service Apparatus**

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

**CHAPTER 5:  
SPECIFIC CONDITIONS OF SUPPLY**

**Service Connection**

41. (1) The consumer bears the cost of the service connection.
- (2) Notwithstanding subsection (1), ownership of the service connection, laid or erected by the municipality, vests in the municipality and the municipality is responsible for the maintenance of the service connection up to the point of supply.
- (3) The municipality must determine what work should be carried out in order to install a service connection to the consumer's premises.
- (4) A service connection must be laid underground, whether the supply mains are laid underground or erected overhead, unless an overhead service connection is specifically required by the municipality.
- (5) The consumer must provide, fix and maintain on his or her premises ducts, wire ways, trenches, fastenings and clearance to overhead supply mains as are required by the municipality for the installation of the service connection.
- (6) The conductor used for the service connection must have a cross-sectional area according to the size of the electrical supply but must not be less than 10 mm<sup>2</sup> (copper or copper equivalent), and all conductors must have the same cross-sectional area, unless otherwise approved by an authorised official.
- (7) Unless otherwise approved by the municipality, only one service connection must be provided by the municipality to each registered erf.
- (8) In respect of two or more premises belonging to one owner and situated on adjacent erven, a single bulk supply of electricity may be made available provided the erven are consolidated or notarially tied.
- (9) Any covers of a wire way carrying the supply circuit from the point of supply to the metering equipment must be made to accept the seals of the municipality.
- (10) Within the meter box, the service conductor or cable, as the case may be, must terminate in an un-obscured position and the conductors must be visible throughout their length when cover plates, if present, are removed.
- (11) In the case of blocks of buildings occupied by a number of individual consumers, separate wire ways and conductors or cables must be laid from the common metering room or rooms to each individual consumer in the blocks of buildings. Alternatively, if trunking is used, the conductors of the individual circuits must be clearly identified (tied together every 1,5m) throughout their length.

**Metering Accommodation**

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

**CHAPTER 6:  
SYSTEMS OF SUPPLY**

**Load Requirements**

43. Alternating current supplies must be provided as prescribed by the Electricity Act, 1987 (Act No. 41 of 1987), and in the absence of a quality of supply agreement, as set out in applicable standard specification.

**Load Limitations**

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

**Interference with Other Persons' Electrical Equipment**

45. (1) No person must operate electrical equipment having load characteristics which, singly or collectively, give rise to voltage variations, harmonic currents or voltages, or unbalanced phase currents which fall outside the applicable standard specification.  
 (2) The assessment of interference with other persons' electrical equipment must be carried out by means of measurements taken at the point of common coupling.  
 (3) Should it be established that undue interference is in fact occurring, the consumer must, at his or her own cost, install the necessary equipment to filter out the interference and prevent it reaching the supply mains.

**Supplies to Motors**

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

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

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

**Power Factor**

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

**Protection**

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

**CHAPTER 7:  
MEASUREMENT OF ELECTRICITY**

**Metering**

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

**Accuracy of Metering**

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

- (c) call upon the consumer in such notice to provide it with reasons in writing, if any, within 21 days or such longer period as the municipality may permit, why his or her account should not be adjusted as notified.
- (11) The municipality is entitled to adjust the account as notified in subsection (10), but may do so only if—
- (a) it has considered any reasons provided by the consumer in terms of subsection (10) and must not make any adjustment unless satisfied that there are good grounds for doing so; and
  - (b) an authorized official decides, after having considered the representation made by the consumer that the representations do not establish a case warranting an amendment to the monetary value established in terms of subsection (7), the municipality is entitled to adjust the account as notified in terms of subsection (10), subject to the consumer's right to appeal against the decision of the official in terms of section 62 of the Systems Act.

#### Reading of Credit Meters

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

#### Prepayment Metering

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

### CHAPTER 8: ELECTRICAL CONTRACTORS

#### Additional Requirements

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

**Damage by Electrical Contractors**

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

**CHAPTER 9:  
COST OF WORK**

**Cost of Work**

55. (1) The municipality may repair and make good any damage to property done in contravention of these by-laws or resulting from a contravention of these by-laws, provided that in effecting any repairs it does so in a manner that is fair.
- (2) The cost of any such work carried out by the municipality which was necessary due to the contravention of these by-laws by a consumer must be borne by the consumer and must be reflected as a debit against his or her account.

**CHAPTER 10:  
ADMINISTRATIVE ENFORCEMENT PROVISIONS**

**Part I:  
Appointment of Authorised Officials**

**Appointment of Authorised Officials**

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

**Part II:  
Powers of Authorised Officials**

**Right of Admittance to Inspect, Test or do Maintenance Work**

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

**Refusal or Failure to Give Information**

58. (1) In order to monitor or enforce compliance with these by-laws, an authorised official, may, require any person to disclose information, either orally or in writing, and either alone or in the presence of witnesses, on any matter to which these by-laws relate and require that the disclosure be made on oath or affirmation.



- (2) An authorised official may be accompanied by an interpreter and any other person reasonably required to assist the authorised official in conducting the inspection.
- (3) An authorised official must, on request by a person requested to give information, provide his identification as an authorised official.
- (4) No person must refuse or fail to give such information as may be reasonably and lawfully required of him or her by any authorised official or render any false information to any such official regarding any electrical installation work completed or contemplated.

#### Refusal of Admittance

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

### Part III: Administrative Penalties

#### Establishment of an Administrative Penalty System

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

#### Infringement Notices

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

#### Trial

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

#### Withdrawal of Infringement Notice

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

#### Infringement Notice Not an Admission

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

**CHAPTER 11:  
JUDICIAL ENFORCEMENT PROVISIONS**

**Offences**

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

**CHAPTER 12:  
GENERAL**

**Service of Documents and Process**

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

**Service of Notices**

67. (1) Any notice, order or other document that is served on any person in terms of these by-laws must, subject to the provisions of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), be served personally, falling which it may be regarded as having duly been served—
- (a) when it has been left at that person's place of residence or business, or, where his or her household is situated in the Republic, when it has been left with a person who is apparently 16 years or older;
  - (b) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic either personally or in the manner provided by paragraphs (a), (c) or (d);
  - (c) if that person's address and the identity or the address of his or her agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates; or
  - (d) subject to section 66, if sent by registered post, whether service by registered post is, or is not required, if effected by sending it by properly addressing it to the addressee's last known residence, place of business or postal address, prepaying and posting a registered letter containing the notice, order or other document, and unless the contrary be proved, is presumed to have been effected at the time at which the letter would be delivered in the ordinary course of post.
- (2) When any notice or other document must be authorised or served on the owner, occupier or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and it is not necessary to name that person.
- (3) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.
- (4) Any legal process is effectively and sufficiently served on the service provider when it is delivered to the managing director or a person in attendance at the managing director's office.

**Compliance with Notices**

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

**CHAPTER 13:  
REPEAL OF BY-LAWS**

**Repeal of By-Laws**

69. (1) Any by-laws relating to electricity supply adopted by the Municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these by-laws.

- (2) Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, must be deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision (if any) of this By-law, as the case may be.

**Short title**

70. This By-law is called the Electricity Supply By-law, 20...

**ANNEXURE 1: APPLICABLE STANDARD SPECIFICATION**

“applicable standard specification” means—

SANS 1019 Standard voltages, currents and insulation levels for electricity supply;

SANS 1607 Electromechanical watt-hour meters;

SANS 1524 Parts 0,1 & 2 - Electricity dispensing systems;

SANS IEC 60211 Maximum demand indicators, Class1.0;

SANS IEC 60521 Alternating current electromechanical watt-hour meter (Classes 0.5, 1 & 2);

SANS 0142 Code of practice for the wiring of premises;

NRS 047 National Rationalised Specification for the Electricity Supply - Quality of Service;

NRS 048 National Rationalised Specification for the Electricity Supply - Quality of Supply; and

NRS 057 Electricity Metering: Minimum Requirements.

**ANNEXURE 2: OFFENCES**

COLUMN A	COLUMN B
Offence	Penalty

[NO. 186 OF 2011]

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

**Definitions**

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

**Council permission required**

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

**Rules for the construction of encroachments**

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

**Columns**

4. (1) The Council may determine areas within the municipal area where no person is permitted to place veranda columns over any public road or pavement.
- (2) No person is permitted to place any veranda column over any pavement where such pavement is less than 2,6 m wide.
- (3) No person may place any veranda column more than 3 m from the building line measured to the outside of the column or at less than 3 m centre to centre.
- (4) No person may place any veranda column over any pavement at the corner of a public road that is beyond the alignment of the building lines.

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

#### Balconies and bay windows

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

#### Plinths, pilasters, corbels and cornices

6.
  - (1) No plinth, pilaster or other encroachment beyond a building line carried up from ground level is permitted to encroach on a public road.
  - (2) Any pilaster, cornice, corbel or similar architectural feature which is at least 3 m above the ground may not exceed the following encroachment over a public road:
    - (a) a pilaster: 450 mm the total aggregate frontage length of the pilaster may not exceed one-fifth of the building frontage and any bay window in the same storey must be included in the calculation of the maximum aggregate length for bay windows;
    - (b) a fire-resisting ornamental hood or pediment over a door: 600 mm and in any part not less than 2,75 m in height above the footway or pavement;
    - (c) a cornice: 1,05 m if not exceeding 10,5 m above the footway or pavement and one-tenth of the height from the footway or pavement if exceeding 10,5 m with a maximum of 1,8 m.

#### Verandas around corners

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

**Pavement openings**

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

**Maintenance, removal and tenancy of projections**

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

**Encroachment erected in front of building**

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

**Encroachments**

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

**Offences and penalties**

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

**Repeal of by-laws**

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

**Short title**

14. These By-laws are called the Encroachment on Property By-laws, 2011.

[NO. 187 OF 2011]

**NOTICE IN TERMS OF SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION:  
STANDARD ENVIRONMENTAL HEALTH 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.

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**Definitions and Application**

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

**“accommodation establishment”** means any premises in or upon which the business of supplying lodging with or without one or more meals per day is conducted or intended to be conducted for reward or gain, but does not include any such premises which is duly registered as a hotel under any law relating to the registration of hotels, or which provides lodging with one or more meals per day and has fewer than five beds available for occupation, or which provides no meals and has fewer than three rooms that are let or intended for letting;

**“agent”** means a person specifically or generally appointed to attend to the affairs of another;

**“animal”** means horse, pony, mule, donkey, cattle, pig, sheep, goat, camel, reptile, indigenous animal and other wild or exotic animal, but excludes dogs and cats kept as domestic pets;

**“boarder”** means any person to whom lodging or both lodging and meals in an accommodation establishment is or are supplied by the proprietor for reward or gain;

**“carcass”** means the remains of any animal or poultry;

**“cattery”** means any establishment that has as its business the breeding or boarding of cats;

**“child care facility”** means any building or premises maintained or used, whether for profit or otherwise, for the temporary or partial care of children under 18 years of age apart from their parents, but does not include any boarding school, school hostel or any establishment which is maintained or used mainly for the tuition or training of children and which is controlled by or which has been registered or approved by the State;

**“communicable disease”** means any disease which can be communicated directly or indirectly from any person suffering therefrom or who is a carrier thereof to any other person;

**“cost”** means the amount determined by a duly authorized employee of the Council;

**“Council”** means the Council of the Municipality of ..... or its duly authorised employee, councillor, committee or agent;

**“generator”** means a person who generates medical waste.

**“hairstylist or barber”** means a natural person who carries on business by cutting, shaving, shampooing, curling, straightening or otherwise treating or removing people's hair or beards or providing beauty treatment for reward or gain;

**“health nuisance”** means any activity, condition, premises or thing which, on account of effluent, vapours, chemical effluvia, odours, noise, vibration, radiation, refuse, waste products, dirt, chemical or biochemical material, microbial infection, vermin, vegetation, overcrowding, lack of proper general hygiene, ventilation, lighting, design, situation or on account of any other cause or practice whatsoever, is in the opinion of the Director: Municipal Health or a duly authorised Council employee potentially injurious or dangerous to health or which is offensive, including, without affecting the generality of the foregoing, any facility for the storage, distribution or handling of water that is likely to be used by man for domestic purposes or consumption, including such water itself, which is contaminated or polluted;

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

**“medical certificate”** means a certificate signed by a medical practitioner;

**“medical practitioner”** means a person registered as such under the laws relating to the registration of persons as medical practitioners;

**“medical waste”** includes—

- (1) any waste, whether infected or not, resulting from a medical, surgical, veterinary or laboratory procedure on humans or animals, such as blood, body fluids, tissue, organs, body parts, extracted teeth, corpses (excluding corpses intended for burial in terms of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992));
- (2) used medical equipment and other medical material which is capable or is reasonably likely to be capable of causing or spreading disease or causing or spreading infection, such as used surgical dressings, swabs, blood bags, laboratory waste, blood collection tubes, colostomy- and catheter-bags; gloves, drip bags, administration lines and tongue depressors;
- (3) contaminated and uncontaminated sharps, including clinical items which can cause a cut or puncture or injection, such as needles, syringes, blades and microscope slides;
- (4) pharmaceutical products which have become outdated or contaminated or have been stored improperly or are no longer required, such as human and animal vaccines, medicines and drugs;
- (5) genotoxic chemical waste and radio isotopes from experimental or diagnostic work or any other source;



**'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;

**"nightsoil"** means human excrement not disposed of in an approved sanitary convenience;

**"objectionable material"** means garden litter, rubbish, waste material, rubble, scrap metal, article or thing, disused machinery, motor cars or other vehicles, as well as the disused parts thereof, refuse from any building operations, or any refuse capable of being deposited on any land or premises, including new or used building materials not necessarily required in connection with bona fide building operations actually in progress on any land, and includes any solid, liquid or gas which is or may become a nuisance or which materially interferes with the ordinary comfort or convenience of the public;

**"occupier"** in relation to any premises means and includes —

- (1) Any person in actual occupation of those premises; or
- (2) Any person legally entitled to occupy those premises; or
- (3) Any person having the charge or management of those premises, and includes the agent of any such person when he or she is absent from the Republic of South Africa or his or her whereabouts are unknown;

**"offensive"** means a state of affairs which is a health hazard or which has the potential to result in a health hazard;

**"overcrowding"** means

- (1) a residential occupancy in excess of 12 occupants per sanitary convenience and/or
- (2) occupancy of habitable rooms (being all rooms in a dwelling excluding kitchens, bathrooms and sanitary conveniences) for sleeping purposes where such occupation exceeds 1 adult person per 4 m<sup>2</sup> and/or 1 child under 10 years of age per 2 m<sup>2</sup>;

**"owner"** includes—

- (1) The person or persons in whom from time to time is vested the legal title to any immovable property;
- (2) In any case where a property is subject to a registered lease the lessee of such property;
- (3) In cases where the person in whom the legal title is vested is insolvent or deceased, or is of unsound mind or whose estate has been assigned for the benefit of his or her creditors, the person in whom the administration of the property is vested as trustee, executor, curator or assignee, or administrator;
- (4) In cases where the owner as above described is absent the agent or person receiving the rent of the property in question;
- (5) In any case where the property is beneficially occupied under a servitude or right similar thereto the occupier of such property;

**"permit"** means the written permission granted by the Council in terms of this by-law.

**"person"** includes any sphere of government; natural and juristic person includes any sphere of government; natural and juristic persons;

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

**"premises"** means any building, tent or any other structure, together with the land on which the same is situated and the adjoining land used in connection therewith and any land without buildings or tents, and includes any vehicle, conveyance, ship or boat;

**"proprietor"**, in relation to an accommodation establishment, means the natural person who carries on or who is charged with carrying on business by supplying lodging or both lodging and meals for reward or gain and includes an owner of said property;

**"structure"** means any stable, shed, pigsty, kraal, aviary, paddock, covering structure, poultry house, enclosure, run, loft or building used for the keeping, housing or enclosing of animals and poultry;

**"styptic"** means a substance applied to stop bleeding;

**"trades"** for purpose of this by-law is restricted to the following: accommodation establishments, hairdressers and barbers, tattooing and body piercing of humans and child care facilities;

**"transporter"** means any person who removes medical waste from the premises of a generator or who transports medical waste or both;

**"verminous"** means being infested with vermin which includes but is not limited to lice, fleas and any organism which may infest or be parasitic on a person;

- (2) This Bylaw is subject to the National Environmental Management Act, 1998 (Act No. 108 of 1998).

## PART 1

### PREVENTION AND SUPPRESSION OF HEALTH NUISANCES

#### Health nuisance

2. No owner or occupier of any shop or business premises or vacant land adjoining a shop or business premises must use, cause or permit to be used such shop or business premises, vacant land or any portion thereof which is open to the public, for the purpose of storing, stacking, or keeping any waste material, refuse, crates, cartons, containers or any other articles of like nature, in such a way as to cause a health nuisance.

**Prevention of health nuisances**

3. Notwithstanding the provision of any other By-law or legislation no person must—
- (1) Allow any erf to be overgrown with bush, weeds or grass or other vegetation, except cultivated trees, shrubs and grass, to such an extent that, in the opinion of the Council, it may be used as a shelter by vagrants, wild animals or vermin or may threaten the public health or the safety of any member of the community.
  - (2) Fail to maintain the sewers, drains, water fittings, waste water fittings, water closet fittings and all other sanitary accessories forming part of or attached to any building or structure in good and sound repair.
  - (3) Deposit, keep, cause or permit to be deposited or kept any night soil on any premises, except in a proper sanitary convenience approved by the Council.
  - (4) Keep, cause or suffer to be kept upon any premises any sanitary convenience of such nature or in such condition that it is a health nuisance.
  - (5) Carry, convey or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become a health nuisance, unless such objectionable material or thing is covered with suitable material in order to prevent the creation of any health nuisance.
  - (6) Cause or permit any stream, pool, ditch, drain, gutter, watercourse, sink, bath, cistern, water closet, privy or urinal on any land or premises to that owned or occupied by him or her or of which he or she is in charge to be or to become so foul or in such a state or to be so situated or constructed so as to be a health nuisance.
  - (7) Cause or permit any foul or polluted water or any foul liquid or objectionable material to run or flow from any premises to that owned or occupied by another person, whether occupied for trade, business, manufacturing, dwelling or other purposes, onto any land or into any storm water, river or canal system.
  - (8) Commit, cause or permit to be committed any act which may pollute any water to which inhabitants of the area of jurisdiction of the council have the right of use or access.

**Accumulation of waste**

4. (1) Where any objectionable material, article or matter of whatsoever nature has been accumulated or stored on any erf, street, thoroughfare, public square or commonage or where there is an overgrowth of bush, weeds, grass or vegetation on any erf in contravention of section 2 or 3 the Council may serve a notice, to abate such health nuisance, on —
- (a) The person directly or indirectly responsible for such accumulation or storing;
  - (b) The owner of such material, article or thing, whether or not he or she is responsible for such accumulation, or storing;
  - (c) The owner of the erf on which such accumulation or storing takes place, whether or not he is responsible therefor, or
  - (d) The owner of the erf on which there is an overgrowth of bush, weeds, grass or vegetation.
- (2) In the event of the recipient failing to comply with the requirements of a notice served on him or her in terms of subsection (1) within the time specified in such notice, the Council may, at the expense of the recipient, together with any assistants and advisors it may require, forthwith enter upon such premises and clear from such premises any such trees, bushes, weeds, grass, stones and rubble or objectionable matter. The cost of such work must be recoverable by the Council in any court of competent jurisdiction from the person in default.

**Occupation of premises**

5. No person must occupy or cause or suffer to be occupied any premises for habitable purposes so as to be a health nuisance, whether by overcrowding or otherwise.

**Letting of premises**

6. The owner of any premises which is let or sublet to more than one tenant, must maintain at all times in a clean and sanitary condition every part of such premises as may be used in common by more than one tenant.

**Factory or trade premises**

7. No person must keep, cause or suffer to be kept any factory or trade premises so as to cause or give rise to smells or effluvia that constitute a health nuisance.

**Precautions by occupier or owner**

8. Every person who is the occupier or in charge of any premises or the owner of any vacant land in the area of jurisdiction of the Council, must take all possible precaution to prevent conditions favouring the multiplication and prevalence of, and must take steps for the eradication of mosquitoes, flies, fleas, bugs, cockroaches or other vermin or pests. An authorised person employed by council may serve upon such owner, occupier or person in charge a notice in regard to the prevention or eradication of any such vermin or pest and specify a time period within which such vermin or pest must be eradicated.

**Accumulation or deposit of health nuisance**

9. No person must keep, cause or suffer to be kept on any premises any accumulation or deposit of filth, rubbish, refuse, manure, other offensive matter, or objectionable material or thing so as to be a health nuisance.

**Occupation of unserviced land**

10. No person must, without the written permission of the Council, occupy or permit to be occupied for human habitation a caravan, tent or other similar shelter of any description on unserviced land except on an authorised camping or caravan site.

**Contraventions**

11. Any person who contravenes or fails to comply with any provisions of this Part or fails to comply with any notice lawfully given thereunder is guilty of an offence.

**PART 2  
KEEPING OF ANIMALS AND POULTRY**

**Keeping of animals**

12. In order to promote public health no person must keep or permit to be kept on any premises or property any animal or poultry without the permission of the Council.

**Permit**

13. (1) For the purpose of promoting public health and restricting public nuisances, the Council may from time to time determine the number, kinds and sex of animals or poultry that may be kept per unit area and the areas within which such animals or poultry must be prohibited.
- (2) The Council may from time to time, determine the kinds of animals and poultry for which a permit is required and the relevant application fee and annual fee for such permit. Applications for such permits must be made on the prescribed form made available by the Council for such purposes.
- (3) Permits issued in terms hereof are not transferable and are only be valid for the specific property in respect of which the application was made.

**Requirements and approvals**

14. (1) The Council may require an application in terms of section 13(2) to be accompanied by a detailed site plan indicating all existing or proposed structures and fences on the property for which the permit is required.
- (2) The Council may require detailed plans and specifications of structures wherein it is proposed to keep animals and poultry, in order to evaluate whether or not to grant a permit applied for in terms of section 13(2).
- (3) Notwithstanding anything to the contrary contained in this by-law, the Council may refuse to approve an application or grant approval subject to specific conditions if, in its opinion, the property owing to its location, siting or geographical features or size, is unsuitable for the keeping of animals or poultry.
- (4) No structure that accommodates animals must be sited:
- a) within 15m of any boundary of the erf which abuts another residential erf; and
  - b) within 6m of any boundary of the erf which abuts any road or public open space.
  - c) within 4,5m from any dwelling, servants quarters, inhabited outbuilding and shop or building where food is processed.
- (5) Where a structure in which animals will be kept forms part of an outbuilding used for human habitation, such structure must be sited at least 4,5m from such habitable room and must not be under the same roof space as the habitable room.
- (6) No structure in which poultry is kept must be sited :
- a) within 1,5m from any boundary of a residential erf; and
  - b) within 1,5m from any dwelling, servants quarters, inhabited outbuilding and shop or building where food is processed, sold or stored.
- (7) All structures in which animals or poultry are kept must be suitably screened from any street to the satisfaction of the Council.
- (8) No structure in which poultry is kept must have a height in excess of 3,5m.
- (9) Notwithstanding the aforementioned provisions, the Council may after considering conditions particular to the property and on condition that no objection is received from adjoining neighbours, waive any or all of the requirements of this part and impose other conditions if appropriate.

**Storage of substances and disposal of carcasses**

15. (1) All manure resulting from the keeping of animals and poultry must, pending removal from the premises, be stored under shelter in sealed fly-proof containers and disposed of on a regular basis so as to prevent any nuisance from being created, provided that such disposal may not include composting on the premises.
- (2) All feed must be stored in a rodent proof place, container or storeroom for the keeping of animals and poultry.
- (3) The premises for keeping of animals and poultry must be kept in such condition as not to attract or provide harbourage for rodents.
- (4) Carcasses are to be disposed of at the owner's expense and in a manner approved by the Council.

**Stores**

16. The municipality may from time to time determine that a fly and rodent proof manure store and feed store of adequate size and constructed of permanent material, is required on premises where animals, poultry and pigeons are kept.

**Keeping of kennel or cattery**

17. No person must keep a kennel or cattery unless the following requirements are complied with:
- (1) Dogs and cats must be kept in a separate enclosure:
    - i) constructed of durable materials and with adequate access for cleaning, disinfecting and devermination purposes.
    - ii) with a floor constructed of concrete or other durable and impervious material brought to a smooth finish and graded to a channel 100mm wide, extending over the full width of the floor and situated within the enclosure, which channel must drain into a gully connected to the Council sewer system by means of a pipe of approved material with a minimum diameter of 100mm or to another approved disposal system.
    - iii) with a kerb 150mm high along the entire length of the channel referred to in subparagraph (ii), to prevent stormwater from such area from entering the channel.
  - (2) Every enclosure referred to in subsection (1) must contain a roofed shelter for the accommodation of dogs and cats of which:
    - i) every wall must be constructed of brick, stone, concrete or other durable material and must have a smooth internal surface without cracks or open joints.
    - ii) the floor must be of concrete or other impervious and durable material brought to a smooth finish without cracks or open joints and the surface between the floor and the walls of a permanent structure must be coved.
  - (3) In the case of dogs, a dog kennel of moulded fibre cement or other similar material which is movable and placed on a base constructed of concrete or other durable material with an easily cleaned finish, without cracks or open joints, may be provided instead of a shelter contemplated in section 17(2) and if the base of such kennel is not rendered waterproof, a raised sleeping board which will enable the dog to keep dry must be provided in every such kennel.
  - (4) A concrete apron at least 1m wide must be provided at the entrance of the enclosure over its full width, the apron must be graded to allow for the drainage of water away from the enclosure.
  - (5) A supply of potable water, adequate for drinking and cleaning purposes, must be provided in or adjacent to every enclosure.
  - (6) Separate isolation facilities for sick dogs and cats must be provided to the satisfaction of the Council.
  - (7) If cages are provided for the keeping of cats, such cages must be of durable, impervious material and constructed so as to be easily cleaned.

**Structures kept in good repair**

18. All structures must at all times be kept in a proper state of repair by the owner or occupier of the premises.

**Animal causing health nuisance**

19. (1) If, in the opinion of the Council, any animals kept on any property in terms of which a permit has been issued by the Council under this By-law cause a health nuisance, danger to health or endanger the safety of the public or where more animals are kept than authorised in the permit issued, the Council may serve written notice on the holder of the permit, or in his or her absence the person in charge, to remove or cause to be removed such nuisance or danger or excess number of animals within a specified period.
- (2) The holder of a permit or the person in charge, on receiving a notice in terms of subsection (1), must comply with the requirements as specified by the Council in such notice, failing which the Council may at its discretion —
- (a) cancel the permit to keep animals on such property, or
  - (b) amend the permit.

**Return of permit**

20. The holder of a permit must, when requested by Council to do so, return the permit issued to him or her for amendment or cancellation, as the case may be.

**Unauthorised use of structure**

21. No person must alter or use a structure for the keeping of animals or poultry for purposes other than those specified in the permit.

**Contraventions**

22. Any person who contravenes any of the provisions of this Part or fails to comply with any notice lawfully given thereunder must be guilty of an offence.

**PART 3**  
**MEDICAL WASTE MANAGEMENT**

**Generators of medical waste**

23. (1) Generators must handle and store medical waste in a safe manner that poses no threat to human health or to the environment and are under a duty to ensure that medical waste is removed from their premises, transported and disposed of in accordance with this By-law.
- (2) Without limiting the generality of the duty in subsection (1), generators must comply with the following requirements:
- (a) separate medical waste from other waste at the point at which it is generated;
  - (b) store medical waste in leak-proof, sealable containers and ensure that containers which are used for the storage of sharps and other clinical items which can cause cuts or punctures or injections are, in addition, rigid and puncture-resistant;
  - (c) label each medical waste container indelibly and in large, legible lettering with —
    - (i) the name and address of the generator;
    - (ii) the words "Danger: Medical Waste", "Gevaar: Mediese Afval" and "Ingozi: Inkunkuma Yezamayeza"; and the international bio-hazard logo; and
    - (iii) the date on which the medical waste container is removed from the generator's premises;
  - (d) prevent public access to medical waste containers which are in use;
  - (e) store filled medical waste containers in controlled, secure areas which are reserved for the storage of medical waste;
  - (f) make arrangements for the removal of medical waste from their premises and for the transportation of medical waste to a disposal site by a person who transports medical waste in terms of this By-law and who is registered as a transporter as contemplated in section 26 of this By-law;
  - (g) make arrangements for the disposal of medical waste by a person permitted to dispose of medical waste in terms of this By-law.
- (3) Generators may apply in writing to the Council for permission to handle, store and otherwise deal with their medical waste in a manner which does not comply with the requirements set out in subsection (2).
- (4) The Council may in writing grant the permission referred to in subsection (3); provided that it may grant such permission subject to conditions.
- (5) Generators may transport and dispose of medical waste, provided that they do so in terms of this By-law.
- (6) Generators must —
- (a) maintain an up-to-date written record of medical waste removed from their premises in the format as prescribed from time to time by the Council.
  - (b) acquire from the disposer of the medical waste written notification that the medical waste has been disposed of and, on receiving such notification, indicate in their written records that the medical waste has been thus disposed of;
  - (c) keep the written record referred to in (a) and the notification referred to in (b) for a period of one year after the removal from their premises of the medical waste.

**Transporters of medical waste**

24. (1) Transporters must remove medical waste from the premises of a generator, transport, store and deliver such medical waste to the site at which it will be disposed of in a safe manner which poses no threat to human health or the environment.
- (2) Without limiting the generality of the duty in subsection (1), transporters must comply with the following requirements:
- (a) not remove medical waste from the containers in which the generator has stored the medical waste;
  - (b) transport and store medical waste in such a way that no member of the public can gain access to the medical waste or the containers in which it is stored;
  - (c) transport medical waste in vehicles which are —
    - (i) capable of containing the medical waste;
    - (ii) designed to prevent spillage;
    - (iii) constructed of materials which are easy to clean and to disinfect;
    - (iv) capable of being secured in order to prevent unauthorised access;
  - (d) deliver medical waste only to a person and site permitted to dispose of medical waste in terms of section 26.
- (3) Transporters may apply in writing to the Council for permission to remove, transport, store and deliver medical waste in a manner which does not comply with the requirements set out in subsection (2).
- (4) The Council may in writing grant the permission referred to in subsection (3); provided that it may grant such permission subject to conditions.
- (5) Transporters may dispose of medical waste, provided that they do so in terms of this By-law.

- (6) Transporters must maintain a written record in respect of each collection and delivery of medical waste, which they must update simultaneously with each collection and delivery, and such record must be in the format as prescribed from time to time by the Council and must keep such record for a period of one year from the date on which the medical waste is delivered. Transporters must keep a copy of the relevant record in the vehicles used for the transportation of the medical waste.

#### Permits and records

25. (1) Medical waste may only be disposed of by a person—
- (a) who holds a license to operate a hazardous waste site in terms of the National Environment Management: Waste Act, 2008 (Act No. 59 of 2008)
  - (b) who complies with all terms and conditions attached to such license.
- (2) A person permitted in terms of subsection (1) to dispose of medical waste must do so at the site at which the license permits him or her to dispose of medical waste and may not dispose of medical waste at any other place.
- (3) Persons who dispose of medical waste must—
- (a) maintain an up-to-date written record of each delivery of medical waste to the disposal site in the format as prescribed from time to time by the Council.
  - (b) keep such record for a period of one year from the date on which the medical waste is disposed of.

#### Registration

26. (1) Every generator must register with the Council within 6 months of the coming into operation of this By-law by completing and submitting a written notification to the Council in the format prescribed from time to time.
- (2) Every transporter must register with the Council within 6 months of the coming into operation of this By-law by completing and submitting a written notification to the Council in the format prescribed from time to time.
- (3) Generators and transporters must advise the Council of any changes to the information provided in terms of subsections (1) or (2) as soon as such change takes place.

#### Contraventions

27. Any person who contravenes any provision of this Part or fails to comply with any notice lawfully given thereunder commits an offence.

### PART 4 TRADES

#### Accommodation Establishments

28. (1) Every accommodation establishment must comply with the following requirements:
- (a) The premises intended to be used or already in use as an accommodation establishment must be in good structural order and repair, both internally and externally.
  - (b) All furniture, linen, utensils, fittings and equipment provided by the proprietor must be clean and in good order and sufficient for the purpose thereof.
  - (c) Every room must be provided with adequate means of lighting and ventilation so as to enable such room to be used at all times without detriment to health or safety or causing a nuisance.
  - (d) Every accommodation establishment must be provided with a sufficient number of refuse receptacles with close-fitting lids.
  - (e) An adequate number of bathrooms and toilets, suitably equipped, must be provided on the premises.
  - (f) Separate bathrooms and toilets must be provided for male and female boarders and for employees, and must be so located that they are easily accessible to those persons they are intended to serve; provided, however, that where the number of boarders does not exceed twelve (12), separate facilities for the different sexes need not be supplied.
  - (g) Baths, showers and washbasins on the premises must be served at all times with running hot and cold water.
  - (h) The accommodation establishment must be provided with a suitable yard, paved and drained to the satisfaction of the Council.
  - (i) If ten (10) or more boarders can at any one time be lodged on the premises, these premises must have —
    - (i) a suitable sitting room or sitting rooms so furnished and of such capacity as to meet the reasonable requirements of the boarders, and
    - (ii) a suitable dining room or dining rooms which must provide seating accommodation on the basis of not less than one (1) square meter for each boarder, if meals are provided.
  - (j) If meals are provided or cooking takes place, the establishment must have an adequately equipped kitchen.

- (2) The proprietor of an accommodation establishment must be responsible for the due compliance with and observation of the provisions of this By-law, and further he or she must be responsible for the acts, omissions and defaults of his or her employees or agents in such regard, and any breach of this by-law by himself or herself, by any member of his or her family or by any of his or her employees or agents is deemed to be a breach by the proprietor personally of this By-law.
- (3) The proprietor of an accommodation establishment must, to the satisfaction of the Council, at all times—
- (a) maintain the whole of the accommodation establishment in a clean and sanitary condition;
  - (b) keep the furniture, utensils, linen and equipment in a sound condition and clean state;
  - (c) supply only wholesome food to the boarders and other persons on the premises, and
  - (d) not knowingly cause or permit any person suffering from a communicable disease to be employed in or on the premises unless he or she is in possession of a medical certificate to the effect that such person is fit to continue his or her employment.
- (4) The proprietor of an accommodation establishment must not—
- (a) allow any portion of the premises other than an approved bedroom to be used by any person for sleeping purposes; Provided that the aforesaid prohibition must not apply to any boarder occupying a bedroom in so far as it consists of a stoep or porch which has been suitably converted;
  - (b) accommodate any boarder in the same bedroom with another person unless such persons are of the same family or both of them have given their consent thereto;
  - (c) conduct the business of the said accommodation establishment in such a manner so as to cause any nuisance or annoyance to residents of neighbouring properties;
  - (d) permit cooking in a living room or an area designated as a living room;
  - (e) permit the premises to become overcrowded.
- (5) Notwithstanding compliance with all of the proceeding provisions, no person may operate an accommodation establishment unless the property is appropriately zoned in accordance with the zoning scheme applicable thereto, and in compliance with all applicable laws.

#### Hairdresser and barbers

29. (1) No person must conduct the business of hairdresser or barber in any premises within the municipal area unless—
- (a) all parts of the premises are effectively lit and ventilated;
  - (b) washbasins with hot and cold running water and fitted with a trapped waste pipe have been provided in the proportion of at least one basin for every two persons engaged at the same time in cutting, dressing or shampooing hair or shaving any person or in any operation pertaining to the business of hairdresser or barber;
  - (c) all tables and shelves on which instruments are laid are constructed of or covered with glass, marble, glazed tiles or other similar smooth, impervious, durable and non-corroding material;
  - (d) the floor is even and suitably covered with impervious material or constructed with a smooth, impervious surface, maintained so that it may be easily swept and thoroughly cleansed; and
  - (e) he or she has provided a sufficient number of readily portable refuse receptacles with close-fitting lids made of impervious material in such a manner that they can be readily washed and cleaned.
- (2) Every person carrying on the business of barber or hairdresser must ensure that —
- (a) the premises in which such business is conducted and all instruments, appliances, implements, utensils and other articles belonging or pertaining thereto or used or intended to be used in connection therewith, are maintained in a clean condition and a good state of repair at all times;
  - (b) all cut hair is immediately swept up and placed in a covered refuse receptacle provided for the purpose;
  - (c) every hairbrush used or intended to be used in the business is kept in a clean condition at all times and washed and thoroughly cleansed at least once a day;
  - (d) every towel which has been used upon any person is adequately laundered before being used upon any other person;
  - (e) precautionary steps are taken to prevent direct contact between the head or neck of any client and the chair in which he sits;
  - (f) every brush, comb, razor, scissors, clippers or other instruments, appliance or implement which has or have been used upon any person in such a way as to have come into contact with some exposed portion of such person's body has, or have, before being used upon any other person, been disinfected in one of the following ways
    - (i) immersion in boiling water;
    - (ii) immersion in a disinfectant solution; or
    - (iii) treated in an approved disinfecting apparatus in an approved manner;
  - (g) a sufficient number of each kind of instrument, appliance or implement has been provided.

- (h) no person is subjected to shaving, haircutting or any other operation connected with such business in that part of the premises in which the business of hairdresser or barber is ordinarily conducted, if such person appears to be verminous or to be suffering from any disease of the skin or hair and, should any such person have been subjected to any such operation, that all towels, instruments and other things used in connection with such operation have, notwithstanding anything to the contrary herein contained, immediately thereafter been sterilised by immersion in boiling water for at least fifteen minutes;
  - (i) no soap other than liquid, powder or tubed soap or shaving cream is used when any person is shampooed or shaved or is subjected to any other operation connected with the business of hairdresser or barber;
  - (j) no styptic substance other than in liquid or powder form and applied as a spray or by means of a clean, new piece of cotton-wool is used on any person;
  - (k) no person whose person or clothing is in a dirty condition engages in cutting, dressing or shampooing the hair of any other person or in shaving any such other person, or engages in any other operation connected with the business of hairdresser or barber to which such latter person is subjected;
  - (l) no person engages in cutting, dressing or shampooing the hair of any other person or in shaving any such other person, or engages in any other operation connected with the business of hairdresser or barber to which such latter person is subjected without washing his hands immediately before doing so;
  - (m) no person suffering from any communicable disease takes part in or is permitted or allows to take any part in any operation connected with the conducting of the business of hairdresser or barber unless such person has produced a medical certificate to the effect that he or she is fit so to take part.
  - (n) where waxing is practiced, the wax used in such a procedure may only be used for one application.
- (3) The provisions of this By-law applies with the necessary changes to any beauty treatment, manicuring or similar treatment.

#### **Tattooing and Body Piercing of Humans**

30. (1) Only professional tattooing and body piercing machines designed and assembled in a manner which prevents contamination of sterilized needle sets may be used for applying permanent tattoos or body piercing.
- (2) All clip cords and spray bottles must have triggers; grasped areas must also be protected by a plastic covering which must be disposed of after use on each client.
- (3) Work surfaces must be smooth and impervious and disinfected after rendering services to each client.
- (4) Equipment and supplies must be stored in clean, designated storage cabinets.
- (5) Instruments and equipment used for any procedure must be sterilised after each client.
- (6) All tubes and needles must be stored in single service, sterile, sealed autoclave bags that must be opened in the presence of the client.
- (7) A person responsible for tattooing or piercing must wash his hands with soap and hot water before attending to a client and new latex or nitrile examination gloves must be worn by the operator for the duration of the procedure for each client.

#### **Childcare facilities**

31. (1) No child care facility may be operated without the written approval of the Director: Municipal Health or his or her authorised representative, which approval may be subject to conditions.
- (2) Applications for approval must be made on the prescribed form and will only be processed after payment of the application fee approved from time to time by the Council.
- (3) Written approval in terms of subsection (1) does not exempt any person from the requirements of any other law related to the care of children and/or the use of the premises concerned.
- (4) Notwithstanding subsection (1) all child care facilities legally in operation at the time of promulgation of this By-law are exempted from requiring written approval for a period of 1 year from such promulgation.

#### **Contraventions**

32. Any person who contravenes any of the provisions of this Part is guilty of an offence.

### **PART 5:**

#### **THE CONVEYING AND HANDLING FOR SALE OF MEAT INTENDED FOR HUMAN CONSUMPTION**

##### **Handling of meat for human consumption**

33. No person must convey or cause or allow to be conveyed any meat for sale and intended for human consumption, save in accordance with the following requirements:
- (a) If the conveyance is a vehicle of 1 ton or over:
    - (i) Its internal walls, floor and roof must be continuously lined with corrosion resistant metal or other approved impervious suitable material. Such lining must be rounded at all corners, junctions and intersections, and all joints must be seamless. The vehicle must be maintained externally, internally and mechanically in good order and repair.



- (ii) Its body must be insulated in such a way that the temperature of the meat must not rise more than 5° Centigrade per hour.
- (iii) The rear end or sides of its body must be fitted with a closely fitting metal door or doors, the interior of which must also be of non-corrodible metal and be as far as possible free of projections and ledges.
- (iv) A fixed observation panel of glass in the partition between the driver's cab and the body of the vehicle is permissible.
- (v) A non-corrodible metal bar or bars with fixed or movable non-corrodible metal hooks, must be fitted to the roof of the vehicle, and all carcasses, or portions of carcasses must be hung therefrom during transit. Such bar or bars must be fixed high enough to ensure that carcasses hang clear of the floor.
- (vi) All chains or bars used for stabilising the load must be of non-corrodible metal and so installed that they can be easily removed for cleaning.
- (vii) A loose non-corrodible container, approved by the Director: Municipal Health or his or her authorised representative, and easily removable for cleaning, must be provided inside the vehicle for conveying offal, and no offal must be conveyed in such vehicle except in such container. Such container may be carried on the outside of the vehicle, provided it is fitted into another container that will protect its contents from contamination, and it can be easily removed for cleaning.
- (b) If the conveyance is a trailer, it must comply with the provisions of subparagraph (a)(i), (ii), (iii), (v), (vi) and (vii).
- (c) If the conveyance is a vehicle of under 1 ton:
  - (i) It must comply with the requirements of subparagraph (a) (i) and (iii).
  - (ii) It must be permissible for retail butchers to convey therein meat from an abattoir to their trading premises without hanging such meat, provided that it is conveyed in non-corrodible containers of adequate size, approved by the Director: Municipal Health or his or her authorized representative, and easily removable for cleaning and that no offal is conveyed in any container used for conveying meat, but is conveyed in a separate container complying with the requirements of subparagraph (a) (vii) above.
- (d) If the conveyance is a vehicle, conveying meat to a retail customer, the provisions of subparagraph (a) (i) and (iii) must be complied with.
- (e) Cooked or prepared meats must be conveyed in non-corrodible containers approved by the Director: Municipal Health or his or her authorized representative and must be wrapped or covered so as to prevent contamination.
- (f) Save as provided in subparagraphs (c) (ii) and (e), no meat must be conveyed on the floor of any vehicle.
- (g) No person, animal or article liable to contaminate meat must be carried in any vehicle used for conveying for sale any meat intended for human consumption.
- (h) The name and address of the owner and the trade name, if any, of his or her business must be printed in clear letters and figures, so as to be easily seen and legible, on both sides of every vehicle used for conveying meat for sale for human consumption.

#### Bulk handling of meat

34. (1) All persons engaged in the bulk handling for sale of meat intended for human consumption must wear clean protective covers of a material approved by the Director: Municipal Health or his authorized representative over their heads, necks and shoulders, so as to prevent contact between the meat and any part of their bodies, except their hands.
- (2) All employers of such persons must provide them with such covers and must ensure that the provisions of sub-section (1) are complied with.

#### Exemptions

35. For a period of four years after the date of promulgation of this By law, the provisions of paragraphs 34(a) (i), (ii), (iii), (v) and (vi), 34(b), except the provision that the trailer should comply with paragraph 34(a) (vii) and 34(d) of this by-law, do not apply to any vehicle already lawfully in use at such date for conveying meat for sale intended for human consumption.

#### Interpretation

36. The provisions of this Part must be in addition to, and not in substitution for, the provisions of any other regulations of the Council relating to food intended for sale, except in so far as such regulations may be repugnant to or inconsistent with this regulation, in which case the provisions of this by-law must prevail.

#### Contraventions

37. Any person who contravenes or fails to comply with any of the provisions of this Part is guilty of an offence.

### PART 6: GENERAL PROVISIONS

#### Right of entry and inspection

38. (1) Any duly authorised employee of the Council is authorised to inspect any premises within the municipal area in order to determine whether there is compliance with the provisions of this By-law.

- (2) When entering a premises in terms of sub-section (1), the authorised employee must on request by any person, identify himself or herself by producing written proof of authorisation.
- (3) The authorised employee may be accompanied by a person reasonably required to assist in conducting the inspection.

#### Service of documents and process

39. (1) Whenever any notice, order, demand or other document is authorised or required to be served on a person in terms of this By-law, it is deemed to have been effectively and sufficiently served on such person:
  - (a) when it has been delivered to him or her personally;
  - (b) when it has been left at his place of residence or business in the Republic with a person apparently over the age of sixteen years;
  - (c) when it has been posted by registered or certified mail to his or her last known residential or business address in the Republic and an acknowledgment of the posting thereof is produced;
  - (d) if his or her address in the Republic is unknown, when it has been served on his agent or representative in the Republic in the manner provided by paragraph (a), (b) or (c), or
  - (e) if his address and agent in the Republic are unknown, when it has been posted in a conspicuous place on the immovable property (if any) to which it relates.
- (2) When any notice, order, demand or other document as aforesaid is authorised or required to be served on a person by reason of his or her being or having been the owner or occupier of or holding some other right in respect of immovable property, it must not be necessary to name him or her but it must be sufficient if he or she is therein described as the owner, occupier or holder of such immovable property or other right, as the case may be.

#### Penalties

40. (1) Any person convicted of an offence under this By-law is liable to a fine and/or imprisonment for a period not exceeding two years.
- (2) In the case of a continuing offence an additional fine and/or imprisonment for a period not exceeding ten days for each day on which such offence continued may be imposed.
- (3) In addition to any penalty imposed in terms of subsections (1) and (2), the person so convicted is liable to pay the cost of repair of any damage caused or costs incurred in remedying any damage resulting from such an offence.

#### Exemptions

41. (1) Notwithstanding the provisions of this By-law, the Council may exempt any person and/or class of persons from any or all of these requirements and may impose any other requirements it deems appropriate.
- (2) Any premises on which animals or poultry are already being kept may be exempted from complying with requirements in respect of accommodation for animals for a period of 12 months from date of coming into operation of this By-law.
- (3) All permits, authorisations and concessions to keep animals or poultry granted in terms of any By-law or regulation repealed by section 43 must be deemed to have been granted in terms of this By-law.

#### Repeal

42. Any by-laws relating to environmental health 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

43. These by-laws are called the Environmental Health By-laws, 2011.

[NO. 188 OF 2011]

#### NOTICE IN TERMS OF SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: STANDARD FENCES AND FENCING 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 Structures Act, 2000 (Act No 32 of 2000), make standard By-laws as set out in the Schedule.

SCHEDULE

FENCES AND FENCING STANDARD BY-LAW

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**Definitions**

1. In this by-law, unless the context otherwise indicates -
  - "alter" includes to cause, allow or permit to be altered;
  - "boundary" means the real or notional line marking the limits of premises;
  - "agent", in relation to the owner of a property, means a person appointed by the owner of the property-
    - (a) to receive rental or other payments in respect of the property on behalf of the owner; or
    - (b) to make payments in respect of the property on behalf of the owner;
  - "erect" includes to cause, allow or permit to be erected;
  - "fence" means any fence, together with any gate or any contrivance forming part or serving the purpose of such a gate, erected as a boundary between any erven, lots or stands within the municipal area, and includes a fence which is not erected on a boundary, such as a garden fence or a free-standing wall on an erf, lot or stand;
  - "ground level" means the natural level of the ground, except where such level has been disturbed, in which case the street level is to be regarded as the ground level;
  - "municipality" means the Local Municipality of ..... established in terms of Section 12 of the Local Government: Municipal Structures Act of 1998 (Act No. 117 of 1998) and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;
  - "public land" means land the ownership of which is vested in an organ of state;
  - "repair" has the meaning assigned to it in the Fencing Act, 1963 (Act No. 31 of 1963);
  - "SANS Codes" means the South African National Standard Codes issued in terms of the Standards Act, 1993 (Act No. 29 of 1993).

**Principles and objectives**

2. The objective of this bylaw is to regulate fencing.

**Application**

3. Subject to the provisions of the Fencing Act, 1963 (Act No. 31 of 1963), the provisions in this by-law relating to an electrical fence, barbed wire and razor wire do not apply to land zoned for agricultural purposes, except where such electrical fence, barbed wire or razor wire is erected on the boundary between the land and public land.

**Fences**

4. (1) No person may, without the consent of the municipality, on a boundary of premises -
  - (a) erect a fence which is more than 2 metres in height from ground level;
  - (b) alter or make an addition to an existing fence which is more than 2 metres in height from ground level;
  - (c) erect or may have on a boundary, an electrified fence, electrified railing or other electrified barrier, unless it is erected on top of a wall which may not be less than 2 metres high and built of brick, cement, concrete or similar material; and
  - (d) erect a barbed-wire fence, railing, or other barrier with spikes or other sharp or pointed protrusions unless it is erected on top of a wall of not less than 2 metres in height

- (2) A person who wishes to obtain the consent of the municipality must submit an application form determined by the municipality, and the municipality may refuse or grant consent.
- (3) Should the municipality refuse permission, it must, on request, supply the applicant in writing with the reasons for the refusal.
- (4) Should the municipality grant consent, it may impose conditions, requirements or specifications according to each individual case, and subject to the provisions of SANS Code No. 1372 relating to Prefabricated Concrete Components for Fences, and the consent must be entered in Item C of the form referred to in subsection (2), and a person who has obtained consent, must at the request of an authorised official, immediately produce the consent.
- (5) A person who has obtained consent in terms of subsection (4) must ensure that the fence is maintained in a good condition.
- (6) No person may:-
- (a) without the prior written consent of the municipality demolish, interfere with or damage a fence for which consent has been granted in terms of subsection (4);
  - (b) having opened a gate in a fence, leave such gate open or unfastened;
  - (c) climb over or crawl through a fence without the permission of the owner or occupier of the land;
  - (d) erect a fence covered with -
    - (i) canvas, reeds, grass or any combustible material, except poles or split poles, or approved wood, within 4,5 metres of any street; or
    - (ii) sheet iron, corrugated galvanised iron or any other sheeting along or within 4,5 metres of any street;
  - (e) allow a fence to fall into disrepair; and
  - (f) affix to or allow to be affixed to a fence any posters, placards or similar notices, or draw or apply anything on a fence unless it is done so in terms of the Advertising By-law .
- (7) The municipality may, whenever it appears that, in the interests of safety -
- (a) a fence needs to be erected or repaired, instruct the owner or occupier on whose premises such fence needs to be erected or repaired, to undertake such steps as stipulated in the instruction; or
  - (b) the height of a wall, hedge or fence at a street corner needs to be reduced, by order in writing instruct the owner or occupier property to reduce the height of such wall, hedge or fence to a height specified in such order.
- (8) A person commits an offence if he or she contravenes a provision of subsections (1) or (6) or fails to produce consent at the request of an authorised official as contemplated in subsection (4).
- (9) Should a person fail to comply with a provision of subsection (1), with a condition, requirement or specification contemplated in subsection (4), or subsection (5) or an instruction issued in terms of subsection (7), the municipality may serve a notice of compliance or a demolition order on the person.

#### Notice of compliance and representations

5. (1) The notice of compliance must state -
- (a) the name and residential or postal address of the affected person;
  - (b) the requirement which has not been complied with;
  - (c) detailed measures required to remedy the situation;
  - (d) that the person must within a specified period take the measures to comply with the notice and to complete the measures before a specified date; and
  - (e) the right to appeal as contained in section 9.
- (2) Where a person does appeal and fails to take the measures before the date contemplated in subsection (1)(d), he or she commits an offence, and the municipality may, irrespective of any penalty which may be imposed under section 14, act in terms of subsection (3).
- (3) The municipality may take such measures as it deems necessary to remedy the situation, including the demolition of the fence, and the cost thereof must be paid to the municipality in accordance with section 7.

#### Costs

6. (1) Should a person fail to take the measures required of him or her by a notice of compliance, the municipality may, subject to subsection (3) recover, as a debt, all costs incurred as a result of it remedying the situation from that person and any or all of the following persons:
- (a) the owner of the land, building or premises; or
  - (b) the person or occupier in control of the land, building or premises or any person who has or had a right to use the land at the time when the situation came about.
- (2) The costs recovered must be reasonable and may include, without being limited to, costs relating to labour, water, equipment, administrative and overhead costs incurred by the municipality under section 5(3).
- (3) If more than one person is liable for costs incurred, the liability must be apportioned as agreed among the persons concerned according to the degree to which each was responsible for the emergency resulting from their respective failures to take the required measures.

**Demolition order**

7. (1) A person on whom a demolition order has been served must demolish the fence and remove the materials.  
 (2) Should the municipality demolish a fence, it may dispose of the whole or any part of the materials from any fence by public auction or public tender.  
 (3) The municipality may deduct from the proceeds of any materials disposed of the costs of any pulling down, removal or demolition and the costs incurred of disposal and will thereafter pay any balance to the owner of the fence removed or demolished.

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

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

**Appeal**

9. A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), to the municipal manager within 21 days of the date of the notification of the decision.

**Implementation and enforcement**

10. (1) The municipality may appoint an official to administer the implementation and enforcement of this by-law.  
 (2) A person commits an offence if he or she -  
 (a) hinders or interferes with an official in the execution of his or her official duties;  
 (b) falsely professes to be an official;  
 (c) furnishes false or misleading information when complying with a request of an official; or  
 (d) fails to comply with a request of an official.

**Saving and transitional provision**

11. An owner or occupier whose premises, at the date of commencement of this by-law, do not comply with the provisions of this by-law must, within a period of 6 months, ensure that his or her premises comply with the provisions of this by-law.

**Exemptions**

12. (1) Any person may in writing apply to the municipality for exemption from any provision of this by-law.  
 (2) The municipality may -  
 (a) grant an exemption in writing and set and determine the period for which such exemption is granted;  
 (b) alter or cancel any exemption or condition in an exemption; or  
 (c) refuse to grant an exemption.  
 (3) An exemption does not take effect before the applicant has undertaken in writing to comply with the conditions imposed by the municipality, however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.  
 (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

**Liaison forums in community**

13. (1) The municipality may establish one or more liaison forums in a community for the purposes of obtaining community participation with regard to the matters dealt with in this by-law.
- (2) A liaison forum may consist of -
- (a) a member or members of an interest group, or an affected person;
  - (b) a designated official or officials of the municipality; and
  - (c) a councillor.
- (3) (a) The municipality may, when considering an application for consent, permit or exemption in terms of this By-law, request the input of a liaison forum.
- (b) A liaison forum or any person contemplated in sub section (2) may on own initiative submit an input to the municipality for consideration.

**Penalties**

14. A person who has committed an offence in terms of this by-law is on conviction liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

**Repeal of by-laws**

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

**Short title**

16. This by-law is called the Fences and Fencing Standard By-law, 2011.

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[NO. 189 OF 2011]

**NOTICE IN TERMS OF SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: STANDARD FIRE AND EMERGENCY SERVICES 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.

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## Chapter 1

## Definitions and Interpretation

1. (1) In these By-laws unless the context otherwise indicates-
- "**above ground storage tank**" means a tank situated above ground for the storage of flammable substances as contemplated in SABS 0131 and SABS 089 Part 1 and SABS 087 Part 3;
- "**agricultural holding**" means a portion of land not less than 0.8 hectares in extent used solely or mainly for the purpose of agriculture, horticulture or for breeding or keeping domesticated animals, poultry or bees;
- "**approved**" means as approved by the Council;
- "**bund wall**" means a containment wall surrounding an above ground storage tank, constructed of an impervious material and designed to contain 110% of the contents of the tank;
- "**certificate of fitness**" means a certificate contemplated in section 20;
- "**certificate of registration**" means a certificate contemplated in section 35;
- "**Chief Fire Officer**" means the Chief Fire Officer appointed by the Council in terms of section 5 of the Fire Brigade Services Act and includes any person appointed as acting Chief Fire Officer;
- "**Chief Inspector of Explosives**" means the Chief Inspector of Explosive appointed in terms of section 2 of the Explosives Act, 15/2003;
- "**Civil Aviation Authority**" means the South African Civil Aviation Authority established in terms of section 2 of the South African Civil Aviation Authority Act, 1998 (Act No. 40 of 1998);
- "**class**" means a class of petroleum product based on the following classification:
- (a) Class O: liquefied petroleum gasses;
  - (b) Class I : liquids subdivided as follows:
    - (i) Class IA: liquids which have a closed-cap flash point below 23°C and a boiling point of 35°C; and
    - (ii) Class IB: liquids which have a closed-cap flash point below 23°C and boiling point of 38°C or above;
    - (iii) Class 1C: liquids which have a closed-cap flash point of 23°C or above but below 38°C;
  - (c) Class II: liquids have a closed-cap flash point of 38°C or above but below 60.5°C;
  - (d) Class IIIA: liquids which have a closed-cap flash point of 60.5°C or above below 93°C; and
  - (e) Class IIIB: liquids which have a closed-cap flash point of 93°C or above;
- "**combustible liquid**" means a liquid which has a dose-cap flash point of 38°C or above;
- "**competent person**" means a person who is qualified by virtue of his or her experience and training;
- "**Council**" means the Council of the Municipality referred to in Section 18(1) of the Local Government: Municipal Structures Act, 1998(Act No 117 of 1998) and includes any duly authorised political structure, political office bearer, councillor and official thereof;
- "**dangerous goods**" means any flammable gas, flammable liquid or flammable solid as contemplated in SABS 0228;
- "**dwelling house**" means a single dwelling unit situated on its own site, including any motor vehicle garage and other domestic outbuildings on that site; .
- "**dump**" means to abandon or discard any hazardous substance by depositing, discharging, spilling or releasing it;
- "**emergency**" means any incident or eventuality which seriously endangers or may endanger any person or property;
- "**emergency route**" means that part of any escape route which -
- (a) protects the occupiers of any building from fire; and
  - (b) leads to an escape door;
- "**enclosed place**" in respect of domestic animals means any kraal, cage, camp or similar enclosure where domestic animals are kept or exercised;
- "**escape door**" means any door at the end of an emergency route and includes any door providing entrance to, or exit from, a building;
- "**escape route**" means the entire path of travel, measured from an escape door to the furthest point in any room in a building;
- "**explosive**" means
- (a) a substance or a mixture of substances which is capable of producing an explosion;
  - (b) pyrotechnic substance in a solid or liquid state, or a mixture of such substances, designed to produce an effect by heat, light, sound, gas or smoke or a combination of these, as a result of self non-detonative self sustaining exothermic chemical reaction including pyrotechnic substances which do not evolve gases;
  - (c) any device or article containing one or more substances contemplated in (a)
  - (d) any plastic explosive;
  - (e) any other substance or article which the Minister may from time to time in notices in the Provincial Gazette declare to be an explosive
- "**Explosive Act**" means the Explosive Act, 2003 (Act No. 15 of 2003), and any regulations made under that Act;
- "**extinguishing stream**" means the amount of water that the Service needs in order to extinguish a fire;
- "**feeder route**" means that part of an escape route which allows travel in two different directions to the access doors of least two emergency routes;
- "**Fire Brigade Services Act**" means the Fire Brigade Service Act, 1987 (Act No. 99 of 1987), and any regulations made under that Act

- "fire damper" means an automatic damper, including its assembly, which complies with the requirements of SABS 193;
- "fire-fighting equipment" means any portable or mobile fire extinguisher, hose reel or fire hydrant;
- "fire installation" means any water installation which conveys water solely for the purposes of fire-fighting;
- "fireworks" means any pyrotechnic substance contemplated in paragraph (b) of the definition of 'explosives' as defined in Section 1 of the Explosives Act, which is-
- (a) manufactured for the purposes of amusement or entertainment, and
  - (b) divided into such classes as may be prescribed
- "fireworks display" means the use of fireworks for purposes of a public display; "flammable gas" means a gas which at 20°C and a standard pressure of 101,3 kilopascal
- (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-cap flash point of 93°C or below,
- "flammable substance" means any flammable liquid, combustible liquid or flammable gas;
- "Group I, II, III, V, VI, VII and IX hazardous substances" means Group I, II, III, V, VI, VIII and IX hazardous substances, as the case may be, as contemplated in the Hazardous Substances Act;
- "hazardous substance" means any hazardous substance contemplated in Hazardous Substance Act;
- "Hazardous Substances Act" means the Hazardous Substances Act, 1973 (Act No. 15 of 1973), and any regulations made under that Act;
- "liquefied petroleum gas" means a mixture of light hydrocarbons (predominantly propane, propane, butane, butane) that is gaseous under conditions of ambient temperature and pressure and that is maintained in a liquid state by an increase of pressure or lowering of temperature;
- "member" means a member of the Service and includes the Chief Fire Officer; "Minister" means the Minister of Police
- "Municipality" means the ..... Local Municipality established in terms of Section 12 of the Local Government: Municipal Structures, 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 and Building Standards Act" means the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), and any regulations made under that Act;
- "National Road Traffic Act" means the National Road Traffic Act, 1996 (Act No. 93 of 1996), and any regulations made under that Act;
- "Occupational Health and Safety Act" means the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993);
- "occupier" means any person who occupies or has control over any premises;
- "owner" in relation to premises, means the registered owner of the premises and includes -
- (a) any person who receives rental or profit from the premises, whether on own account or as agent;
  - (b) a body corporate in respect of any sectional title scheme contemplated under the Sectional Titles Act, 1986 (Act No. 95 of 1986); and
  - (c) an executor or curator of any deceased or insolvent estate;
- "premises" means any land, building, construction or structure or part thereof and includes any train, boat, aircraft or other vehicle;
- "prescribed fee" means a fee determined by the Council by resolution in terms of section 4 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000) or any other applicable legislation;
- "public gathering" includes any gathering by members of the public-
- (a) to view any theatrical or operatic performances, orchestral or choral recitals or cinematic-graphic screening; or
  - (b) to attend, practice or participate in any indoor sports activity, dance, physical activity or other recreational activity,
- "public place" means any path, street, walk-way, side-walk, park, place of rest or other place to which the public has authorized or unimpeded access;
- "pyrotechnist" means any appropriately qualified person responsible for fireworks at fireworks display; "registered premises" means any premises in respect of which a certificate of registration has been issued;
- "SABS" means the South African Bureau of Standards contemplated in section 2 of the Standards Act, 1993 (Act No 29 of 1993), and SABS followed by any number means a reference to a SABS code of practice, specification or standard of the corresponding number,
- "Service" means the Fire Brigade Service established and maintained by the Council as contemplated in section 95;
- "service installation" means any automatic fire-extinguishing installation, fire pump connector, fire pump, emergency power or stand-by generator, fire detection, locating or alarm system, emergency lighting or evacuation communication system, mechanical ventilation system, hoist, symbolic safety sign and smoke or fire door assembly;
- "spray" means to spray, coat, plate or epoxy-coat with any hazardous substance and "spraying" has a corresponding meaning;
- "spraying permit" means a permit contemplated in section 79; "spraying room" means a room contemplated in section 83;
- "storage vessel" means a pressure vessel as defined in the Regulations for Pressure Vessels made under the Occupational Health and Safety Act, 1993 (Act No 85 of 1993)

"underground tank" means any tank used or intended to be used for the storage of any flammable liquid and which is wholly sunk into and below the surface of the ground;

"use" in relation to fireworks means discharging, lighting or igniting; "vegetation" includes grass, weeds, leaves, shrubs and trees; and

"vehicle" includes a trailer or semi-trailer which -

(a) has at least 4 wheels with independent axles and suspension system; and

(b) can be hitched to a truck-tractor or any other motor vehicle contemplated in the National Road Traffic Act;

"water installation" means a water installation as defined in the Council's Water Services By-laws.

- (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 section 81 (2) of the Local Government: Municipal System Act, 2000( Act No 32 of 2000) or any other law been assigned to a service provider, the reference in such provision to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorized by it.

## Chapter 2

### FIRE PREVENTION AND FIRE PROTECTION

#### Part 1: Fire Prevention

##### Certain fires prohibited

2. (1) No person may make or allow any other person to make a fire that may endanger any person, animal or property.
- (2) No person may burn or allow any other person to burn any refuse or combustible material -
- (a) without the prior written permission of the Chief Fire Officer; or
- (b) unless the refuse or combustible material is burnt in an approved incinerating device.
- (3) Any person who makes a fire or allows any other person to make a fire, must take reasonable steps to ensure that the fire does not endanger any person, animal or property.
- (4) The prohibition in subsection (2) does not apply to any fire made -
- (a) in an approved and purpose-made stove, fireplace or hearth that forms an integrated part of a building or structure;
- (b) for the purpose of preparing food on private premises set aside for that purpose; or
- (c) in any device for preparing food which -
- (i) is heated by electricity or liquefied petroleum gas; and
- (ii) is so positioned that the fire does not endanger any person, animal or property.

##### Storage and accumulation of combustible material prohibited

3. (1) No person may store any combustible material or allow it to be stored, at any place or in any manner that may pose a fire hazard to any person, animal or property.
- (2) No person may allow the accumulation of dust at any place in quantities sufficient to pose a fire hazard to any person, animal or property.
- (3) No person may use or allow to be used any sawdust or similar combustible material to soak up any flammable liquid.
- (4) No person may allow soot or any other combustible material to accumulate in any chimney, flue or dust in such quantities or in any manner that may pose a fire hazard to any person or property.
- (5) No person may allow any vegetation to become overgrown at any place under that person's control that may pose a fire hazard to any person, animal or property.
- (6) If a fire hazard contemplated in subsection (5) arises, the owner or occupier of the property concerned must without delay eliminate the hazard or cause the hazard to be eliminated by-
- (a) cutting any grass, leaves or weeds associated with the fire hazard to a maximum height of 150 millimetres;
- (b) pruning, chopping down or sawing any shrub or tree; and
- (c) removing any resulting combustible residue from the property.

##### Electrical fittings, equipment and appliances

4. No person may cause or allow -
- (a) any electrical supply outlet to be overloaded; or
- (b) any electrical appliance or extension lead to be used in any manner that may pose a fire hazard to any person or property.

##### Flame-emitting devices

5. No person may use or cause or allow the use of any flame-emitting device, including but not limited to any candle, lantern or torch, in any manner that may pose a fire hazard to any person or property.

##### Safety fire-breaks required

6. (1) Every owner or occupier of an agricultural holding or farm must clear and maintain a safety fire-break along every boundary of the agricultural holding or farm that-
- (a) is at least 5 metres wide (when measured parallel from the boundary concerned); and
- (b) contains no vegetation or combustible residue.

- (2) If an obstruction occurs within the boundaries of a safety fire-break, the owner or occupier concerned must clear and maintain a 5 metre-wide safety fire-break around that obstruction.
- (3) No person may clear or maintain a safety fire-break by burning without the prior written permission of the Chief Fire Officer
- (4) Any person who intends to clear or maintain a safety fire-break by burning must -
  - (a) apply in writing to the Chief Fire Officer for permission, stipulating the property concerned and the proposed date and time of the burning; and
  - (b) unless the burning is to be performed by a person or body accredited for this purpose by the Council, request the Service to provide assistance at the burning against payment of the prescribed fee.

## Part 2: Fire Protection

### Design and construction of buildings

7. (1) Subject to the provisions of subsection (3), every owner of a building, excluding a dwelling house, must ensure that it is designed and constructed in a manner that -
  - (a) provides for-
    - (i) the effective drainage of any water that may result from fire-extinguishing activities; and
    - (ii) the discharge of that water directly into a storm water drain;
  - (b) prevents any water that may result from fire-extinguishing activities from draining -
    - (i) down any stairway or lift shaft;
    - (ii) down any electrical shaft or telecommunications service shaft;
    - (iii) down any shaft that is connected to a basement level; or
    - (iv) along any approach to a building or any vehicle access ramp leading to or from a building.
  - (c) if any water resulting from fire-extinguishing activities should spill into a basement, that water must be discharged directly into a storm water drain; and
  - (d) complies with the requirements of SABS 0400 (Parts A, K, M, O, T, V and W) insofar as it relates to fire protection.
- (2) Subject to the provisions of subsection (3), every owner of a building equipped with a transformer room must ensure that -
  - (a) the transformer room is situated on the ground level;
  - (b) access to the transformer room is from outside the building; and
  - (c) there is adequate and ready access to the transformer room for fire-fighting and maintenance activities.
- (3) Subsection (1) and (2) do not apply in respect of any building which exists at the commencement of these By-laws.

### Design and construction of dumping sites

8. (1) Every person who designs or constructs any dumping site, must ensure that it is designed and constructed in accordance with the instructions of-
  - (a) the National department responsible for Water affairs; and
  - (b) the Council.

### Design and construction of other structures and sites

9. (1) Every person who design, constructs or erects any of the following structures, must ensure that they comply with a rational design as contemplated by the National Building Regulations and Building Standards Act -
  - (a) any grain silo;
  - (b) any atrium;
  - (c) any air traffic control tower,
  - (d) any tower for telecommunications or other uses;
  - (e) any thatched structure which is larger than 20 square metres and situated within 4.5 metres of any boundary line of the property concerned;
  - (f) any tent or other temporary structure for holding a public gathering; and
  - (g) any open-plan commercial or industrial premises with a covering distance that exceeds 45 metre measured from any point in the premises to any escape or exit door.
- (2) Every person who designs or constructs any aircraft hanger or helicopter pad, must ensure that it -
  - (a) complies with a national design as contemplated by the National Building Regulations and Building Standards Act;
  - (b) provides for effective drainage of any liquid from the floor of the hanger or helicopter pad or any approach to the aircraft hanger or helicopter pad;
  - (c) provides for the effective channelling of any liquid from the floor of the hanger or helicopter pad to a drainage area connected to a separator web;
  - (d) prevents the spread of any liquid from the floor of the hanger or helicopter pad; and
  - (e) is equipped with effective earthing devices for the discharge of static electricity.

### Requirements for sprinkler systems

10. (1) If a sprinkler system is required in any building in accordance with SABS 0400, SABS 087 (Part III) or SABS 089 (Part I) or if the Council so requires, the owner of the building must ensure that the building is equipped with a sprinkler system.
- (2) Every person who designs, constructs or install a sprinkler system must ensure that it is designed, constructed and installed-
  - (i) in accordance with SABS 0287; and
  - (ii) in compliance with the requirements of SABS 0400 (Part A, K, M, O, T, V and W) insofar as it relates to fire protection.

**Requirements for extractor fan systems**

11. (1) Every person who designs, constructs or installs an extractor fan system, any related ducts or any similar chimney system and every owner of a building in which such a system is installed must ensure that -
- (a) it is designed, constructed and installed in a manner that provides for clearly demarcated, adequate and easy access for inspection, maintenance and repairs; and
  - (b) the conduit and outlet of any such system is installed in a manner that does not result in a fire hazard to any person or property.
- (2) Every owner of a building in which an extractor fan system, any related ducts or any similar chimney system has been installed must ensure that every filter, damper, screen or conduit forming an integral part of the system is residues or any other combustible residues do not accumulate.

**Requirements for emergency exits**

12. (1) Every owner of a building must ensure that any escape door in that building-
- (a) is fitted with hinges that open in the direction of escape; and
  - (b) is equipped with a secure locking device or devices that do not require a key in order to exit
- (2) Every owner of a building must ensure that any door in a feeder route -
- (a) is a double swing-type door;
  - (b) is not equipped with any locking mechanism.
- (3) Notwithstanding the provisions of subsection (2), if it is necessary that a door, in a feeder route be locked for security reasons, the owner of the building must provide an alternative means of escape approved by the Chief Fire Officer.
- (4) No person may obstruct or allow the obstruction of any escape route from any premises that may prevent or hinder the escape of any person or animal from the premises in an emergency.

**Design, identification and access for fire-fighting and rescue purposes**

13. (1) Subject to the requirements of any town planning scheme or the conditions of establishment of any township, every person who plans, designs or constructs a building, excluding a dwelling house, must ensure that the premises on which the building is situated, are planned, designed and constructed so that -
- (a) at least one elevation of the building fronts onto a street;
  - (b) if the premises do not front onto a street, an access road is provided with dimensions and carrying capacity approved in writing by the Chief Fire Officer;
  - (c) there is a climate-proof and weather-proof parking surface for parking and operating fire brigade machines and equipment in an emergency -
    - (i) of dimensions at least 10 metres wide;
    - (ii) that runs the full length of the side elevation of the building that borders the surface; and
    - (iii) with a carrying capacity of at least 70 metric tons; and
  - (d) any entrance arch to the premises provides an opening with dimensions at least 4 metres wide x 4.2 metres high, unless there is an alternative and easy access route to the premises of at least the same dimensions.
- (2) For purpose of easy identification by any member of the Service in an emergency, every owner or occupier of premises must ensure that the correct street number of the premises -
- (a) is displayed clearly on the street boundary of the premises in number at least 75 millimetres high; and
  - (b) is visible from the street; and
  - (c) is maintained in a legible condition at all times.

**Barricading of vacant buildings**

14. Every owner or person in charge of a building or portion of a building that is vacant must, at his or her own cost and to the satisfaction of the Chief Fire Officer-
- (a) remove all combustible waste and refuse from the building; and
  - (b) lock, barricade or otherwise secure all windows, doors and other openings in the building in a manner that will prevent the creation of any fire hazard caused by entering of the building by any unauthorized person.

**Part 3: Fire Fighting Equipment and Emergency Evacuation Plans****Installation and maintenance of fire-fighting equipment**

15. (1) Every owner of a building must ensure that -
- (a) all fire-fighting equipment and service installations on the premises are installed in a manner and condition ready for use in an emergency;
  - (b) all portable and mobile fire-extinguishers and all hose reels on the premises are serviced and maintained in accordance with SABS 0105 and SABS 1475;
  - (c) all fire-fighting equipment and service installations on the premises are -
    - (i) maintained in a good working condition by a competent person; inspected and serviced in accordance with manufacturer specifications; and
    - (iii) are inspected by an appropriately registered and competent person at least once every 12 months; and
  - (d) a comprehensive service record of all fire-fighting equipment and service installations on the premises is maintained and furnished to the Chief Fire Officer every 12 months.

- (2) Every person who inspects, services or repairs any fire-fighting equipment or service installation must -
  - (a) on completing the inspection, service or repairs, as the case may be-
    - (i) certify in writing that the equipment or installation concerned is fully functional; and
    - (ii) furnish that certificate to the owner of the premises; or
  - (b) if the equipment or installation cannot readily be repaired to a functional state, notify the Chief Fire Officer of this fact in writing without delay.
- (3) Except for purposes of inspection, service, repair or fire-fighting, no person may remove or interfere with any fire-fighting equipment or service installation at any premises.
- (4) No person may alter, damage, misuse or render ineffective any fire-fighting equipment or service installation at any premises.

#### **Chief Fire Officer may designate premises for emergency evacuation plans**

16. (1) The Chief Fire Officer may, by written notice, designate any premises as premises requiring an emergency evacuation plan.
- (2) The notice contemplated in subsection (1), must be served on the premises concerned and addressed to the owner or occupier.

#### **Duties of owner or occupier of designated premises**

17. (1) The owner, or with the approval of the Chief Fire Officer, the occupier, of any premises designated in terms of section 17 must-
  - (a) prepare a comprehensive emergency evacuation plan for the premises in accordance with the guideline contained in Annexure 1 and submit it to the Chief Fire Officer in triplicate within 30 days of service of the designation notice;
  - (b) establish a fire protection committee comprised of occupiers of the premises to assist the owner or occupier to organize a fire protection programme and regular and scheduled fire evacuation drills;
  - (c) ensure that the emergency evacuation plan is reviewed -
    - (i) at least every 12 months;
    - (ii) whenever the floor layout of the premises is changed; and
    - (iii) whenever the Chief Fire Officer requires revision of the plan;
  - (d) ensure that up-to-date emergency evacuation plan, any fire protection programmes, evacuation drills and any related documents are kept maintained and all times available in a control room on the premises for inspection by any member of the Service; and
  - (e) identify a place of safety off the designated premises, but in the immediate vicinity of the premises, where persons who reside or work on the premises may gather during an emergency for the purpose of compiling a list of survivors.
- (2) The Chief Fire Officer may in respect of premises designated in terms of section 17 -
  - (a) require the review of any emergency evacuation plan by the owner or occupier and may provide directions in this regard;
  - (b) instruct the owner or occupier to implement a fire protection program that the Chief Fire Officer believe is necessary to ensure the safety of persons and property on the premises; and
  - (c) require the owner or occupier to provide the Chief Fire Officer with a certified copy of the emergency evacuation plan and any associated documents at a specified time and place.

#### **Part 4: Certificates of fitness for certain buildings**

##### **Prohibition of public gatherings in certain circumstances**

18. (1) No person may hold a public gathering or allow a public gathering to be held in any building or temporary structure unless a certificate of fitness has been issued by the Chief Fire Officer in respect of that building or temporary structure, or unless a certificate of fitness previously issued in terms of this subsection, has not yet expired.
- (2) Subsection (1) does not apply in respect of a building or temporary structure which existed at the commencement of these " By-laws, unless after that date -
  - (a) the building or temporary structure is rebuilt, altered, extended or its floor layout is changed; or
  - (b) ownership or control of the building or structure changes.

##### **Application for certificate of fitness**

19. (1) Every owner of a building or temporary structure intended for the holding of a public gathering must -
  - (a) complete and submit to the Chief Fire Officer an application form for a certificate of fitness in the form and manner determined by the Council, and
  - (b) pay the prescribed fee.
- (2) An application contemplated in subsection (1) must be submitted at least 30 days before any intended public gathering.

##### **Requirements for certificate of fitness**

20. The Chief Fire Officer may not issue a certificate of fitness in respect of a building or temporary structure -
  - (a) unless the Council is in possession of an up-to-date set of building plans for the premises;
  - (b) unless the building or temporary structure complies with the requirements of these By-laws; and
  - (c) for a period of validity exceeding 12 months.

**Form and content of certificate of fitness**

21. A certificate of fitness must be in the form determined by the Council and must at least record the following information, where applicable:
- (a) the trade name and street address of each occupier of the building or temporary structure;
  - (b) a description of the type of activity carried on by each occupier of the building or structure;
  - (c) the full names and addresses of the persons who serve on the governing or similar body of each occupier;
  - (d) the maximum permissible number of people who may be admitted to the usable floor area of the building or structure;
  - (e) the number of emergency exits and their dimension; and
  - (f) the dates of issue and expiry of the certificate and its serial number.

**Duties of holder of certificate of fitness**

22. The holder of a certificate of fitness must -
- (a) comply with the provisions of the certificate of fitness;
  - (b) at all times-
    - (i) display the certificate prominently on the premises; and
    - (ii) maintain the certificate in a legible condition;
  - (c) immediately notify the Chief Fire Officer in writing of any change to the trade name, activity or governing or similar body of any occupier of the building or structure; and
  - (d) submit any application for renewal of the certificate of fitness at least 30 days before its expiry in the form and manner determined by the Council together with the prescribed fee.

**Cancellation of certificate of fitness**

23. (1) The Chief Fire Officer may cancel any certificate of fitness in respect of a building or temporary structure if he or she has reason to believe that -
- (a) the owner or occupier concerned contravenes or fails to comply with any provision of these By-laws; or
  - (b) the building or structure contravenes or does not comply with the requirements of these By-laws.
- (2) Subject to subsection (3), before the Chief Fire Officer cancels a certificate of fitness as contemplated in subsection (1), he or she must-
- (a) give the owner or occupier concerned written notice of the intention to cancel the certificate of fitness and the reasons for such cancellation;
  - (b) give the owner or occupier concerned a period of at least 20 days to make written representations regarding the matter; and
  - (c) consider any representations received.
- (3) If the Chief Fire Officer has reason to believe that the failure to cancel a certificate of fitness within the period contemplated in subsection (2) (b), may endanger any person or property, he or she may cancel a certificate of fitness without prior notice to the owner or occupier concerned.
- (4) If the Chief Fire Officer cancels a certificate of fitness in terms of subsection (3), he or she must -
- (a) furnish the owner or occupier of the building or temporary structure concerned with written notice of the cancellation;
  - (b) provide the owner or occupier a period of at least 20 days to make written representations regarding the cancellation; and
  - (c) consider any representations received.
- (5) The Chief Fire Officer may, after considering the representations contemplated in subsection (4), reverse the decision to cancel the certificate of fitness.

**Part 5: Water supply for fire-fighting purposes****Township development water supply requirements**

24. (1) Every person who develops or re-develops a township must design and develop that township with a sufficient water supply for purposes of fire-fighting by members of the Service.
- (2) Every person who develops or re-develops a township must ensure that -
- (a) the storage capacity and rate of replenishment of the reservoirs supplying water to the township are sufficient for the fire-fighting purposes contemplated in these By-laws;
  - (b) the water supply from these reservoirs is reticulated in a manner that ensure that the water supply to any area in the township can be provided from at least two directions; and
  - (a) double supply mains are installed from the water supply source to the distribution reservoirs and double pumps are installed for the delivery of the water supply.
- (3) Subsection (2) (c) is deemed to be satisfied, if-
- (a) the water is supplied to the township from more than one reservoir,
  - (b) each reservoir receives water from a separate supply main and pump; and
  - (c) the reservoirs are connected to each other.

- (4) Every person who develops or redevelops a township must ensure that -
- (a) the water distribution system is designed and equipped with control valves positioned so that it is not necessary to close off any branch or any portion of the distribution system for more than 150 metres in any high risk area or for more than 300 metres in any moderate or low risk area in the event that the system, excluding any of the branches, is damaged or requires repair; and
  - (b) if the redevelopment of any township alters the fire risk category of any area in the township as contemplated in section 28, the water reticulation system is adapted without delay so as to comply with the requirements of section 26 and 27.

**Township development fire-extinguishing stream requirements**

25. Every person who develops or redevelops a township must ensure that the water supply provides a fire-extinguishing stream that is immediately available to members of the Service in an emergency, of the following volume and duration:

Fire risk category	Minimum volume of extinguishing stream (litres per minute)	Minimum duration of extinguishing stream (hours)
High risk	11 500	6
Moderate risk	5 750	4
Low risk	2 300	2

**Township development fire hydrant requirements**

26. (1) Every person who develops or redevelops a township must ensure that fire hydrants are plotted on a plan and installed in accordance with the following minimum delivery volumes and distance frequencies:

Fire risk category	Minimum volume of extinguishing stream (litres per minute)	Minimum duration of extinguishing stream (hours)
High risk	1980	120
Moderate risk	1 150	180
Low risk	900	240

- (2) Every person who develops or redevelops a township must ensure that the position of the fire hydrants is plotted accurately on a plan that is furnished to the Chief Fire Officer for operational fire-fighting purposes.

**Fire risk categories**

27. (1) For purposes of section 26 and 27, the following areas of township must be regarded –
- (a) as high risk -
    - (i) any factory area, high density shopping area, warehouse or commercial building;
    - (ii) any plantation, timber yard or wooden building;
    - (iii) any building higher than 3 storey;
    - (iv) any building in which hazardous substances are used, handled or stored or in which hazardous processes are conducted; and
    - (v) any other area that has a high fire risk or high fire spread risk;
  - (b) as moderate risk-
    - (i) any area in which -
      - (aa) factories, commercial buildings or residential buildings are generally detached from each other and do not exceed 3 storey; and
      - (aa) the Chief Fire Officer has not declared the materials processed or stored in these buildings as highly hazardous ;
    - (ii) any area where the fire risk and spread risk of fire is moderate;
    - (iii) any area where the fire risk or risk of spread of fire is slight or insignificant



**Connections to water reticulation system**

28. (1) No person may obtain a water connection to the water reticulation system of the Council unless the fire protection plans for the premises to be connected have been approved by the Chief Fire Officer.
- (2) Every person or owner of premises who requires a water connection to the water reticulation system of the Council must -
- (a) if the premises to be connected are protected by a sprinkler installation, ensure that -
    - (i) the connection is calculated and designed for each sprinkler installation in accordance with a rational design as contemplated in the National Building Regulations and Building Standards Ad, and
    - (ii) the size, delivery pressure and flow of the water connection is calculated in advance by the responsible engineer,
  - (b) if the Chief Fire Officer requires a larger water connection for purposes of fire-fighting, provide the larger water connection;
  - (c) ensure that the size, work pressure and delivery flow, except in the case of a water connection to a sprinkler installation, is calculated and designed in accordance with SABS 0400 (Part W); and
  - (d) ensure that the water installation upon completion complies with the provisions of SABS -1:1994.

**Chapter 3**  
**CONTROL OF FIRE WORKS**

**Use of fireworks prohibited in certain circumstances**

29. (1) Unless so authorized in terms of section 33, no person may use fireworks -
- (a) within 500 metres of any explosive factory, explosives storage place, petrol depot or petrol station;
  - (b) inside any building;
  - (c) on any agricultural holding;
  - (d) at any public place; or
  - (e) at any school, old age home or hospital.
- (2) No person may light or ignite fireworks in any place where animals are present
- (3) Unless so authorized in terms of section 32, no person may light or ignite fireworks on any day or at any time except -
- (a) New Years Eve from 23h00 to 01h00 on 31 December;
  - (b) New Years Day from 19h00 to 22h00 on 1 January;
  - (c) Hindu New Year from 19h00 to 22h00;
  - (d) Lag b'omer from 19h00 to 22h00;
  - (e) Chinese New Year from 19h00 to 22h00;
  - (f) Human Rights Day from 19h00 to 22h00 on 21 March;
  - (g) Freedom Day from 19h00 to 22h00 on 27 April;
  - (h) Guy Fawkes Day from 19h00 to 22h00 on 5 November;
  - (i) Divail from 19h00 to 22h00;
  - (j) Christmas Eve from 19h00 to 22h00 on 24 December; and
  - (k) Day of Goodwill from 19h00 to 22h00 on 26 December;
- (4) No person may allow any minor under his or her control to use, light or ignite fireworks in contravention of subsection (1), (2) or (3).

**Fireworks display prohibited unless authorized**

30. No person may present a fireworks display unless -
- (a) authorized to do so by the Council as contemplated in section 33;
  - (b) authorized to do so by the Civil Aviation Authority and the Chief Inspector of Explosives; ';
  - (c) the display is at all times under that person's supervision and control;
  - (d) the Service and a suitably qualified explosive expert from the South African Police are at all times in attendance at the display;
  - (e) that person has ensured that -
    - (i) an area with a radius of at least 50 metres is clearly demarcated for the fireworks at the display; and
    - (ii) measures are in place to prevent any person who is not involved in the presentation of the display from entering this launching area; and
  - (f) a pyrotechnics is at all times present and responsible for the use of fireworks at the display.

**Application to present fireworks display**

31. (1) Any person who wishes to present a fireworks display must apply to the Chief Fire Officer for authorization by completing and submitting an application in the form and manner determined by the Council together with the prescribed fee and the following documentation:
- (a) proof of permission for the fireworks display from the Civil Aviation Authority;
  - (b) proof that an application for the fireworks display has been submitted to the Chief Inspector of Explosives;
  - (c) a letter of consent from the owner or person responsible for the property on which the fireworks display is proposed to be presented; and
  - (d) a sketch plan of the proposed venue for the fireworks display, including the demarcated area for the launching of the firework.
- (2) The application, prescribed fee and accompanying documentation must be submitted to the Chief Fire Officer at least 14 days before the date of the proposed fireworks display.

**Authority to present fireworks display**

32. (1) If the Council decides to approve an application to present a fireworks display, it must provide the applicant with written confirmation of its decision and any conditions that it may impose to safeguard persons and property.
- (2) The Council may require that the fireworks display be presented only on suitable premises designated by the Council and in under the supervision and control of an official designated by the Council.

**Dealing in fireworks**

33. (1) No person may deal in fireworks unless -
- (a) that person holds the required fireworks licence in terms of the Explosive Act; and
  - (b) has the written authority of the Chief Fire Officer
- (2) Any person who wishes to obtain the written authority of the Chief Fire Officer to deal in fireworks as contemplated in sub section (1)(b), must-
- (a) complete an application in the form and manner determined by the Council; and
  - (b) submit it to the Chief Fire Officer together with the prescribed fee at least 30 days before the authority is required by the applicant
- (3) The Chief Fire Officer may cancel any written authority to deal in fireworks if the holder of the authority contravenes or fails to comply with any provision of these By-laws or any other applicable law.

**Chapter 4****CERTIFICATE OF REGISTRATION FOR USE, HANDLING AND STORAGE OF FLAMMABLE SUBSTANCES****Use, handling and storage of flammable substances prohibited in certain circumstances**

34. (1) Subject to the provisions of subsection (3), no person may use, handle or store any flammable substance or allow such substance to be used, handled or stored on any premises unless that person is the holder of a certificate of registration issued by the Chief Fire Officer in respect of the flammable substance and the premises concerned.
- (2) A certificate of registration contemplated in subsection (1) is not required if the flammable substance concerned is of any class and does not exceed the quantity stipulated in Annexure 2.
- (3) No person may use, handle or store any flammable substance in respect of which no certificate of registration is required or allow such substance to be used, handled or stored on any premises, unless the flammable substance -
- (a) is used, handled or stored in a manner that ensures that -
    - (i) no flammable substance nor any flammable substance fumes come into contact with any source of ignition that may cause the flammable substance or fumes to ignite;
    - (ii) in the event of a fire or other emergency, the escape of any person or animal is not hindered or obstructed in any way; or
  - (b) is used, handled or stored-
    - (i) in a naturally ventilated room that prevents the accumulation of fumes or gas;
    - (ii) in a suitable place outdoors that ensure the safe disposal of fumes or gas;
  - (c) the flammable substances is stored in strong, gas-tight and labeled containers.

**Application for certificate of registration for flammable substances**

35. An application for a certificate of registration contemplated in section 35 (1) must be completed and submitted in the form and manner determined by the Council, together with the prescribed fee.

**Issue of certificate of registration**

36. (1) If the Chief Fire Officer issues a certificate of registration to any person, that Officer must endorse on the certificate -
- (a) the class and quantity of the flammable substance for which the premises have been registered;
  - (b) the number of storage tanks or storage facilities on the premises and their capacities;
  - (c) the number of flammable substance storerooms on the premises and their capacities;
  - (d) the number of liquefied petroleum gas installations, types of installations and the combined capacity of all cylinders that may be stored on the premises;
  - (e) the number of storage facilities for any other flammable substance and the volume of each such facility;
  - (f) the period of validity and expiry date of the certificate; and
  - (g) the physical address of the premises and the name and postal address of the occupant
- (2) A certificate of registration
- (a) is not transferable between premises;
  - (b) may not be issued by the Chief Fire Officer for a period exceeding 12 months;
  - (c) may be transferred to the new owner of the premises in respect of which it was issued, only if an application for such transfer is approved by the Chief Fire Officer in writing.
- (3) A certificate of registration is valid only for -
- (a) the installation for which it was issued;
  - (b) the stage of the premises at the time of issue; and
  - (c) for the quantities of flammable substance stated on the certificate.

**Availability of certificate of registration at premises**

37. The holder of a certificate of registration must ensure that the certificate is available on the premises concerned at all times, for inspection by any member of the Service.

**Fire-fighting equipment**

38. (1) Any person who holds a certificate of registration or other authorization contemplated in these By-laws must ensure that the premises to which the authorization applies, are equipped with -
- (a) subject to the provisions of subsection (6), portable fire extinguishers -
    - (i) as specified in SABS 1567 (carbon dioxide-type), SABS 810 (dry chemical-type), SABS 1573 (foam-type) and SABS 1571 (transportable-type);
    - (ii) in such numbers as is appropriate in each section of the premises in accordance with the SABS codes applicable to the flammable substance and risk concerned;
  - (b) if applicable, hose reels as specified in SABS 453 (hose reels), that are connected to a water supply -
    - (i) as contemplated in SABS 0400 (Part W); and
    - (ii) that enables each hose reel to maintain a minimum flow of 0.5 litres per second at a minimum work pressure of 300 kPa;
  - (c) if applicable, fire hydrants -
    - (i) with couplings as specified in SABS 1128 (Part II) (fire-fighting equipment - couplings); and
    - (ii) in a ratio of at 1 to every 1000 square metres or part thereof; and
  - (d) if applicable, in relation to any above-ground facility, a sprinkler system or dilute system that -
    - (i) is approved by the Chief Fire Officer; and
    - (ii) with the exception of temporary storage facilities, is installed in a position indicated in the building plans for the premises.
- (2) Notwithstanding the provisions of subsection (1), if the Chief Fire Officer believes that there is any exceptional hazard or risk in respect of the premises concerned, he or she may -
- (a) specify the type of fire extinguishers to be installed;
  - (b) require that a greater number of fire extinguishers be installed; and
  - (c) require that a fire detection or warning system be installed.
- (3) The holder of any certificate of registration or other authorization contemplated in these by-laws must ensure that all fire-fighting equipment contemplated in subsection (1) -
- (a) is inspected, maintained and serviced to the satisfaction of the Chief Fire Officer -
    - (i) by a competent, registered and appropriately qualified tradesman in accordance with the provisions of SABS 1015 and SABS 1475;
    - (ii) at least every 12 months;
  - (b) if installed outside the premises, is adequately protected from the weather; and
  - (a) is positioned prominently or where this is not possible, the position of the fire-fighting equipment is clearly indicated by a symbolic safety sign -i
    - (i) in accordance with the specifications of SABS 1186; and
    - (ii) to the satisfaction of the Chief Fire Officer.

**Amendment to certificate of registration**

39. The Chief Fire Officer may amend any certificate of registration on application by the holder.

**Cancellation of certificate of registration**

40. The provisions of section 24, read with the necessary changes, apply to any cancellation by the Chief Fire Officer of a certificate of registration.

**Renewal of certificate of registration**

41. Any application for the renewal of a certificate of registration must be submitted to the Chief Fire Officer at least 30 days prior to the expiry date of the certificate

**No authorization required for certain motor vehicle fuel tanks**

42. No certificate of registration contemplated in section 35 or any other authorization contemplated in these by-laws is required in respect of flammable liquids in a fuel tank -
- (a) of any motor vehicle; and
  - (b) of any stationary engine if the volume of the fuel tank does not exceed 1 000 liters.

**Record of certificates of registration**

43. The Chief Fire Officer must keep updated records of all premises in respect of which a certificate of registration has been issued, amended or renewed,

## Chapter 5

## GENERAL PROVISIONS REGARDING THE USE, HANDLING AND STORAGE OF FLAMMABLE SUBSTANCES

## General prohibitions regarding use, handling and storage of flammable substances

44. (1) No person who uses, handles or stores a flammable substance or allows them to be used, handled or stored on any premises may-
- (a) do anything or allow anything to be done that may result in or cause a fire or explosion;
  - (b) do anything or allow anything to be done that may obstruct the escape to safety of any person or animal during an emergency.
- (2) No person may -
- (a) dump or spill or allow the dumping or spilling of any flammable substance into any borehole, sewer, drain system or surface water;
  - (b) discard or allow the discarding of any flammable substance from any premises in any way other than by a competent person who is properly equipped and authorized to do in terms of these by-laws;
  - (c) make or bring any fire or device capable of producing an open flame or allow any other person to do so, within 5 metres of any place where flammable substance is stored;
  - (d) use or allow to be used any device in connection with a flammable substance in any basement level of a building, other than a gas welding or cutting device, used for the sole purpose of maintenance of the building;
  - (e) while any person, except the driver or any other person responsible for a bus contemplated in the National Road Traffic Act, is in or on the bus-
    - (i) fill or allow the filling of its fuel tank; or
    - (ii) transport or allow the transport of any flammable substance on the bus, except in a fuel tank; and
  - (f) deliver or supply or allow to be delivered or supplied, any flammable substance to any premises unless the owner or person in charge of the premises is in possession of a valid certificate of registration.

## Use, handling and storage of liquefied petroleum gas

45. (1) No person may use, handle or store liquefied petroleum gas in any quantity exceeding that stipulated in Schedule 2 unless -
- (a) the person is in possession of a certificate of registration contemplated in section 35; and
  - (b) the use, handling and storage of the liquefied petroleum gas complies with the requirements of SABS 087, Parts 1,3, 7 and 10.
- (2) Liquid petroleum gas may only be used, handled or stored within property boundaries and in compliance with safety distances stipulated in SABS 087, Parts 1,3,7 and 10.
- (3) Any storage of liquid petroleum gas cylinders at any service station for retail purposes must comply with SABS 087, Part 7.
- (4) No liquid petroleum gas cylinder may be used, handled or stored at any public exhibition or demonstration without the prior written permission of the Chief Fire Officer.
- (5) An application for permission contemplated in subsection (4) must be made in writing at least 14 days before the event concerned.
- (6) The Chief Fire Officer may impose any reasonable condition on the use, handling and storage of liquid petroleum gas cylinders at a public exhibition or demonstration, including but not limited to, the number of cylinders, the manner of storage, safety distances and other safety requirements.
- (7) Any person using, handling or storing any liquid petroleum gas cylinder at any public exhibition or demonstration must comply with any condition imposed in terms of subsection (6).

## Display of symbolic warning signs required

46. (1) The owner of any premises where any flammable or explosive substance is used, handled or stored must in the affected area of the premises, display symbolic signs -
- (a) prohibiting smoking and open flames;
  - (b) of a size and number determined by the Chief Fire Officer; and
  - (c) prominently in places where the signs can be clearly observed.
- (2) No person may disregard or allow to be disregarded any prohibition on a symbolic sign displayed in terms of subsection (1).

## Duties to report fires, accidents and dumping

47. If any fire, accident or dumping involving a flammable substance has caused damage to any person, animal, property or the environment on any premises, the owner or occupier of the premises must immediately report this to the Chief Fire Officer.

## Chapter 6

## STORAGE OF FLAMMABLE SUBSTANCES

## Storage of flammable substances prohibited in certain circumstances

48. No person may store or allow the storage of any flammable substance in any storeroom unless -
- (a) that person has a certificate of registration contemplated in section 35; and
  - (b) the storeroom complies with the requirements of these By-laws and any other applicable law.

**Symbolic safety signs must be displayed**

49. The holder of a certificate of registration for a storeroom to be used for any flammable substance must ensure that -
- (a) symbolic safety signs prohibiting open flames and smoking are displayed in the storeroom -
    - (i) of a number determined by the Chief Fire Officer,
    - (ii) of dimensions at least 290 millimetres by 200 millimetres; and
    - (iii) manufactured in accordance with SABS 1186;
  - (b) the groups of flammable substances and their corresponding quantities which may be stored in the storeroom are indicated on the outside of every door to the storeroom in red letters at least 75 millimetres high, against a white back ground.

**Construction of flammable substance storeroom**

50. Every storeroom must be designed and constructed according to the following criteria:
- (a) the storeroom floor must consist of concrete;
  - (b) the storeroom walls must consist of material that has a fire resistance of a least 120 minutes;
  - (c) the storeroom roof must consist of -
    - (i) reinforced concrete with a fire resistance of at least 120 minutes; or
    - (ii) any other non-combustible material, if the storeroom -
      - (aa) is not situated within 5 metres of any adjacent building or boundary of the premises; or
      - (bb) adjoins a higher wall with no opening within 10 metres above and 5 metres on either side of the storeroom.

**Requirements for storeroom doors**

51. (1) Every storeroom must be equipped with a fire rated fire door that -
- (a) is manufactured and installed in accordance with SABS 1253;
  - (b) opens to the outside;
  - (c) is equipped with a lock or locks approved by the Chief Fire Officer; and
  - (d) is at all times capable of being opened from the inside of the storeroom without the use of a key.
- (2) A storeroom must be equipped with two or more fire doors if the distance to be covered from any part in that storeroom to a door is 4 metres or more, in which case, the fire doors must be installed as far from each other as is practicable in the circumstances.
- (3) Fire doors contemplated in subsections (1) and (2) must if installed on -
- (a) external walls, be "B" class fire doors; and
  - (b) internal walls in communication within a building, be "D" class fire doors.

**Requirements for storeroom windows**

52. (1) Every storeroom window frame must -
- (a) consist of steel;
  - (b) have window panels of dimensions not exceeding 450 millimetres x 450 millimetres; and
  - (c) be fitted with wire glass of a thickness not less than 8 millimetres.
- (2) No storeroom window must be capable of being opened.
- (3) Every storeroom window must be fitted to the external wall of a building.

**Requirements for storeroom catch pits**

53. (1) Every storeroom must be designed and constructed so that its floor is recessed below the level of the doorsill to form a catch pit-
- (a) with a holding capacity at least equal to the total volume of hazardous substances capable of being stored in the storeroom, plus 10 percent; and
  - (b) if required by the Chief Fire Officer -
    - (i) covered at door sill level by a strong, stable, non-combustible and oxidation free floor grill; and
    - (ii) equipped, at its lowest level, with a non-corrosive drainage valve for cleaning purposes and product recovery
- (2) The floor grill contemplated in subsection (1) must contain a suitably positioned access hatch for cleaning purposes.

**Ventilation of storerooms**

54. (1) Every storeroom must be designed and constructed to ensure -
- (a) the effective ventilation of flammable substance fumes;
  - (b) that fumes released from the storeroom into the open air will not come into contact with any source of ignition.
- (2) If the storeroom is designed and constructed for natural ventilation, the owner or person in charge of the storeroom must ventilate the storeroom at a minimum cycle of 30 air changes per hour by installing non-combustible airbricks -
- (a) that are not less than 140 millimetres by 250 millimetres in extent with non-corrosive gauze wire with a minimum opening diameter of 0.5 millimetres;
  - (b) that are provided in at least 3 external walls of the storeroom; and
  - (c) that are positioned 100 millimetres above the level of the sill and 100 millimetres below the level of the roof and not more than 450 millimetres apart.

- (3) If the storeroom is designed and constructed for mechanical ventilation, the owner or person in charge of the storeroom must equip it with a mechanical ventilation system -
- (a) designed and installed for this purpose;
  - (a) with a flow rate of 0.5 metres / second across the store;
  - (b) with vanes that consists of a static-free material;
  - (c) that discharged through a vertical metal duct into the open air -
    - (i) not situated within 5 metre opening of a building or erf boundary; and;
    - (ii) termination at least 1 metre above roof height or at least 3.6 metres above ground level, whichever is the greater,
  - (d) equipped with ventilators that are firmly attached to the inside of the walls of the storeroom and, in the case of bottom ventilators, as close as possible to the level of the sill;
  - (e) with all ventilation or air duct openings in the external wall opposite the mechanical ventilator installed 100 millimetres above the level of the sill to ensure effective cross-ventilation; and
  - (f) equipped with ducting material that -
    - (i) is as short as possible in the circumstances and does not have sharp bends; and
    - (ii) is fitted with a fire damper of at least 120 minutes fire resistance at any point where the ducting exits the storeroom, if ducting material is installed external to the storeroom in communication with the remainder of the building.

#### Electrical equipment in storerooms

55. (1) The owner or person in charge of any storeroom must ensure that -
- (a) all as short as possible apparatus, fittings or switch gear used or installed in the storeroom are used or installed as contemplated in SABS 0108;
  - (b) no switch gear, distribution box, fuse or other electrical equipment, except electrical equipment as contemplated in SABS 0108, is situated -
    - (i) inside the storeroom; or
    - (ii) in any position where it may come into contact with any flammable substance fumes leaving the storeroom;
  - (c) any metal part, electrical fittings and device used in or in connection with the storeroom are earthed effectively to each other and to the ground;
  - (d) any mechanical ventilation system switch is situated outside the storeroom;
  - (e) any mechanical ventilation system is on at all times, except when the system is being repaired or replaced, in which case the system must be repaired or replaced without delay; and
- (2) Any electrical installation in a storeroom may be installed and certified only by an electrician who is qualified and competent by virtue of his or her training and experience.
- (3) The owner or person in charge of a storeroom must submit the certificate contemplated in subsection (2) to the Chief Fire Officer for record purposes immediately after installation contemplated in that subsection.

#### Foam inlets required for certain storeroom

56. The owner or person in charge of a storeroom that is used or intended to be used for storing more than 5000 litres of flammable substance must ensure-
- (a) that the storeroom is provided with a foam inlet consisting of a 65 millimetres male instantaneous coupling and mild steel pipe work leading to the inside thereof, and
  - (b) that the foam inlet is identified by a sign in block letters at least 100 millimetres high, displaying the words "foam inter."

#### Shelving in storerooms

57. The owner or person in charge of a storeroom must ensure that any racking of shelving erected or installed in the storeroom is of non-combustible material.

#### Unauthorized use and entry of storerooms prohibited

58. No person may -
- (a) without the authority of the owner or person in charge, enter or allow any other person to enter any storeroom;
  - (b) use any storeroom or allow it to be used for any purpose other than for the use, handling or storage of flammable substances;
  - (c) allow any person to work in a storeroom unless all the doors of the storeroom are wide open or the mechanical ventilation system is switched on; or
  - (d) place or allow to be placed any obstruction or hindrance in a passage of any storeroom or in front of any storeroom door.

#### Mixing and decanting rooms

59. The owner or person in charge of any premises where quantities of flammable liquids exceeding those stipulated in Annexure 3 are decanted or mixed, must ensure that any room where decanting or mixing takes place complies with all requirements of this Chapter applicable to storerooms.

**Temporary above ground storage of flammable substances**

60. (1) Any person who wishes to store any flammable substance on premises on a temporary basis, must apply to the Chief Fire Officer for a temporary certificate of registration.
- (2) A temporary certificate of registration may be issued by the Chief Fire Officer -
- (a) for a period not exceeding 12 months;
  - (b) if the flammable substance concerned is required -
    - (i) in respect of excavation work, construction work or road construction if the volume of the flammable substance does not exceed 9 000 litres;
    - (ii) in respect of small fleet maintenance or research purposes, if the volume of the flammable substance does not exceed 4 400 litres; and
    - (iii) the application complies with the requirements of SABS 0131 and this Chapter.
- (3) Every holder of a temporary certificate of registration contemplated in subsection (1) must ensure that -
- (a) a storage tank for the flammable substance is not erected within 3.5 metres of any erf boundary, building, excavation, road, driveway or any other flammable substances or combustible material;
  - (b) adequate provision is made for rainwater run-off retaining walls or embankments;
  - (c) no source of ignition or potential source of ignition exists within 5 metres of a storage tank;
  - (d) a symbolic sign of dimensions at least 300 millimetres by 300 millimetres prohibiting smoking and open flames is displayed on every side of a temporary storage tank; and
  - (e) at least two 9 kilogram dry chemical fire extinguishers are installed and kept in good working condition, within 10 metres of a temporary storage tank.

**Hand tools must be intrinsically safe**

61. The owner or person in charge of any flammable substance storeroom must ensure that any hand tool used in the storeroom is intrinsically safe.

**Permanently above ground storage tanks for flammable liquid**

62. (1) In addition to any other requirement of this Chapter, the owner or person in charge of an above ground storage tank for flammable liquids must ensure -
- (a) that the tank is erected or installed -
    - (i) in accordance with SABS 0131 and SABS 089, Part I; or
    - (ii) at least 3.5 metres from any erf boundary, building, excavation, road, driveway or any other flammable substance, combustible substances or combustible material;
- (2) Any electrical installation associated with the storage tank must comply with SABS 0108 and SABS 089, Part 2.

**Underground storage tanks for flammable liquids**

63. The owner or person in charge of any premises used or intended to be used for the underground storage of any flammable liquid must ensure that any underground storage tank, pump, dispenser and pipe work is erected or installed in accordance with SABS 0400, SABS 089, Part 3 and SABS 0130.

**Installation, erecting, removing and demolishing prohibited without prior notice**

64. (1) No person may, in respect of registered premises, erect, install, remove, demolish, extend or change any delivery pump, storage tank, storeroom, spraying room, gas installation, storage facility, fire protection ' arrangement or floor layout unless that person has given the Chief Fire Officer at least three working days prior written notice of the intention to do so, in the form and manner determined by the Council.
- (2) The notice in term of subsection (1) must include the intended commencement date and estimated completion date of the proposed work.
- (3) The provisions of subsection (1) do not apply to -
- (a) the temporary removal of equipment for purposes of carrying out necessary repairs;
  - (b) the necessary replacement of equipment or their parts; and
  - (c) the replacement of any storage tank with a tank of the same capacity.

**Repair and maintenance of access to storage tanks**

65. No person may enter or allow any other person to enter any storage tank that has at any time contained a flammable substance -
- (a) until such tank has been de-aerated and made free of gas and fumes as contemplated in SABS 089 (Part I); or
  - (b) unless that person -
    - (i) is wearing an affective self-supporting breathing apparatus; and
    - (ii) is attached to a rescue rope under the control of a competent and responsible person.

**Termination of storage and use of flammable substances**

66. (1) If an aboveground or underground tank installation, liquid petroleum gas installation or associated pipe work is no longer required for the storage or use of a flammable substance, the owner or person in charge of the premises on which the installation is located, must -

- (a) notify the Chief Fire Officer in writing within seven days of such storage or use ceasing;
  - (b) ensure that the flammable substance is removed from the installation and the premises are rendered safe within 30 days of the cessation;
  - (c) unless the Chief Fire Officer directs otherwise, remove the installation including any associated pipe work from the premises within 180 days of the cessation; and
  - (d) to the satisfaction of the Council, restore any public foot path or roadway that has been disturbed by the removal of the installation within a period of 7 days of completing such removal.
- (2) Notwithstanding the provisions of subsection (1) if the removal of any underground tank installation for the storage of a flammable substance will detrimentally affect the stability of the premises concerned, the owner or person in charge of the installation may, with the prior written permission of the Chief Fire Officer, fill the underground tank with liquid cement slurry.

#### Container handling and storage

67. (1) Every flammable substance container must-
- (a) be kept closed when not in use;
  - (b) be declared gas - or vapour -free by a competent person before any modification or repairs are undertaken;
  - (c) be manufactured and maintained in such condition as to be reasonably safe from damage and to prevent leakage of any flammable substance or vapour from the container.
- (2) Every flammable liquid container must be labelled and marked with words and details indicating the flammable liquid contained in the container as well as any hazard associated with the flammable liquid.
- (3) No person may extract flammable liquid from a container of a capacity exceeding 200 litres, unless the container is fitted with an adequately sealed pump or tap.
- (4) Any empty flammable liquid container must be stored in a storeroom.
- (5) Notwithstanding the provisions of subsection (4) the Chief Fire Officer may permit the storage of any empty flammable liquid container in the open air if no storeroom is available and if he or she is satisfied that-
- (a) the storage area is in a position and of sufficient size that a fire hazard or other threatening danger will not be caused;
  - (b) the storage area is well ventilated and enclosed by a wire mesh fence;
  - (c) the fence supports are of steel or reinforced concrete;
  - (d) the storage area has an outward opening gate that kept locked when not in use;
  - (e) when the floor area exceeds 10 metre square an additional escape gate is installed and fitted with a sliding bolt or other similar locking device that can be opened from the inside without the use of a key; and
  - (f) the storage area is free of vegetation and has a non-combustible, firm and level base.
- (6) When the quantity of flammable and combustible liquids to be stored is more than 100 litres of class I and/or more than 210 litres of class II and class III A combined, such flammable and combustible liquids must be stored in a store room.

### Chapter 7

#### TRANSPORT, SUPPLY AND DELIVERY OF DANGEROUS GOODS

##### Transport of dangerous goods prohibited without permits

68. The owner of any vehicle used for transporting dangerous goods, must -
- (a) be in possession of a valid transport permit issued by the Chief Fire Officer in accordance with the National Road Traffic Act; and
  - (b) ensure that the transport permit is available in the vehicle for inspection at all times.

##### Application for transport permits

69. An application for a transport permit must be completed and submitted to the Chief Fire Officer in the form and manner determined by the Council together with the prescribed fee.

##### Requirements of transport permits

70. A transport permit -
- (a) may not be issued by the Chief Fire Officer for a period of longer than 12 months; and
  - (b) must-
    - (i) indicate the date of issue and expiry;
    - (ii) identify the issuing officer and bear that officer's signature;
    - (iii) contain a serial number;
    - (iv) indicate the group and quantity of dangerous goods that may be transported under the permit; and
    - (v) contain a description of the vehicle concerned, including its registration number.

##### Cancellation of transport permit

71. The provisions of section 24, read with the necessary changes, apply to any cancellation of a transport permit by the Chief Fire Officer.

##### Exemption from transport permit

72. A transport permit contemplated in section 69 is not required for the transportation of dangerous goods of the type and not exceeding the quantities stipulated in Schedule 3.



**Design, construction, maintenance and repair of road tankers**

73. Every person who designs, constructs, maintains or repairs any road tanker for the transportation of dangerous goods must -
- (a) comply with the provisions of SABS 0189, SABS 1398, SABS 0233, SABS 087, Part 6 SABS 089, Part 1, SABS 0230 and SABS 1518, as the case may be; and
  - (b) ensure that the road tanker is labelled in a manner that complies with the provisions of SABS 0230 and any applicable law.

**Design, construction, maintenance and repair of other vehicles**

74. Every person who designs, constructs, maintains or repairs any vehicle for the transportation of dangerous goods, except a road tanker, must ensure that the vehicle -
- (a) is designed and constructed -
    - (i) to safely transport the quantity and type of dangerous goods for which the vehicle is intended to be used; and
    - (ii) with at least two independent axle systems, each with its own suspension system, excluding any trailer forming part of an articulated vehicle;
  - (b) is equipped with -
    - (i) a safety edge or safety railing -
      - (aa) at least 1 metre high when measured from the surface of the body of the vehicle; and
      - (bb) capable of securing dangerous goods containers; (ii) strong and durable straps
      - (cc) capable of fastening dangerous goods containers securely to the body of the vehicle;
      - (dd) that are anchored firmly to the bodywork of the vehicle; and
      - (ee) that are fitted with a reversible cog winch mechanism that can be locked;
    - (ii) electrical wiring that complies with SABS 314;
    - (iii) at least 2 static-free wheel blocks;
    - (iv) a power insulating switch, excluding the ignition switch, situated in close proximity to the vehicle battery and in a position readily accessible in any emergency; and
    - (v) a spark-proof and static-free tank that is designed, constructed and equipped to protect any dangerous goods consignment from shock or ignition while in transit.

**General prohibitions regarding transport of dangerous goods**

75. (1) No person may use or allow to be used, any vehicle to transport dangerous goods, unless -
- (a) the vehicle has a valid roadworthy certificate;
  - (b) if not exempt in terms of section 73, the vehicle is equipped with at least two 9 kilogram dry chemical fire extinguishers-
    - (i) designed and manufactures in accordance with SABS 810 and maintained in accordance with SABS 0105 and SABS 1475; and
    - (ii) positioned and installed so that there is at least one fire extinguisher on each side of the vehicle that can be reached quickly and easily in the event of a fire.
- (2) No person may use or allow to be used any vehicle to transport dangerous goods unless the vehicle cabin, body, cargo space, cargo tank, fuel tank, chassis and engine are effectively and permanently earthed with each other.

**Supply of dangerous goods prohibited in certain circumstances**

76. (1) No person may deliver or supply or allow to be delivered or supplied any dangerous goods of a type and in a quantity exceeding that specified in Annexure 2 to any premises that are not registered as contemplated in section 35.
- (2) No person may deliver or supply or allow to be delivered or supplied any dangerous goods to any premises in contravention of any conditions of the certificate of registration applicable to those premises.
- (3) No person may handle or allow to be handled any container containing dangerous goods in a manner that may damage that container.
- (4) Every person who delivers dangerous goods must ensure that:-
- (a) a 9 kilogram dry chemical fire-extinguisher is available at all times during the delivery;
  - (b) during any transfer of the dangerous goods, the delivery vehicle is physically earthed to the storage facility to which the dangerous goods are being transferred;
  - (c) while delivery -
    - (i) the delivery vehicle is placed in such a position that it can be moved easily and quickly in the event of an emergency;
    - (ii) the delivery vehicle is not parked on or across a pavement or a road; (Hi) no delivery hose lies on or across a pavement, road or other premises;
  - (d) no dangerous goods are transferred to a storage facility that does not comply with the requirements of Chapter 6 and the provisions of SABS 0263;
  - (e) any device connected with, or used for, the delivery of the dangerous goods -
    - (i) is designed for its purpose; and
    - (ii) is maintained in a safe and good working condition; and (a) no dangerous goods are spilled during delivery.
- (5) No person may transfer or allow to be transferred any dangerous goods to any motor vehicle, aircraft, vessel, ship or boat while its power source is in operation.
- (6) No person may transfer any dangerous goods to any aircraft unless the aircraft is earthed to the transferral device by means of an earth cable.

**Records of transport permits**

77. The Chief Fire Officer must keep updated records of all vehicles in respect of which a transport permit has been issued, amended or renewed.

**Chapter 8  
SPRAY PAINTING**

**Spraying prohibited without spraying permit**

78. (1) 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 flammable substance unless -
- (a) that person is in possession of a spraying permit contemplated in section 80;
  - (b) the spraying, coating, planting or epoxy-coating as the case may be is conducted in a spraying room approved by the Chief Fire Officer on premises registered for that purpose.

**Application for spraying permit**

79. Any person who wishes to obtain a spraying permit must -
- (a) complete and submit to the Chief Fire Officer an application form for such permit in the form and manner determined by the Council; and
  - (b) pay the prescribed fee.

**Cancellation of spraying permit**

80. The provisions of section 24, read with the necessary changes, apply to the cancellation by the Chief Fire Officer of any spraying permit.

**Duties of owner, occupier or person in charge of spraying room**

81. Every owner, occupier and person in charge of a spraying room must ensure that -
- (a) the spraying room complies with the requirements of this Chapter; and
  - (b) every other person on the premises complies with the provisions of this Chapter.

**Design and construction of spraying rooms**

82. Every spraying room must be designed and constructed according to the following criteria:
- (a) every window frame must consist of steel with window panels
    - (i) that cannot be opened;
    - (ii) that do not exceed 450 millimetres x 450 millimetres in size; and
    - (iii) that are fitted with wire glass with a thickness not less than 8 millimetres;
  - (b) if based on a brick and concrete construction -
    - (i) the floor must consist of concrete;
    - (ii) the walls must consist of brick or concrete;
    - (iii) the roof must consist of reinforced concrete; and
    - (iv) every door must consist of a Class B-type fire doors as contemplated in SABS 1253; and
  - (c) if based on a metal structure
    - (i) the framework of the structure, including door assemblies must consist of a sturdy steel profile with a minimum wall thickness of 2.5 millimetres;
    - (ii) the framework of the entire structure, including any door, must be clad on both sides with sheet metal with a minimum thickness of 1.3 millimetres;
    - (iii) the framework of the entire structure must be fume-proof, flame-proof and liquid-proof;
    - (iv) the floor must consist of concrete or metal;
    - (v) all material used must have a fire integrity grading of at least 60 minutes; and
    - (vi) the structure must be constructed, installed and finished so that all surfaces are smooth in order to prevent any furring which may hamper ventilation, washing or cleaning of the spraying room.

**Water floors for spraying rooms**

83. Every spraying room which is designed and constructed with a sunken water floor must be designed and constructed so that-
- (a) the water is covered at the level of the sill by a sturdy, stable, non-combustible and corrosion-free floor grill capable of bearing the weight of every person and object in the spraying room; and
  - (b) the water in the sunken water floor is circulated through an effective non-combustible and cleanable filtering system by a closed circuit pump circulation system consisting of non-corrosive metal pipes of suitable diameter and wall thickness.

**Electrical equipment in spraying rooms**

84. (1) Any electrical apparatus, light, fitting and switch gear installed or used in a spraying room must be installed and used in accordance with SABS 0108.
- (2) Any switch gear, distribution box, fuse and other electrical equipment, except equipment as contemplated in SABS 0108 must-
- (a) be located outside the spraying room; and

- (b) be positioned so as not to come into contact with fumes from the spraying room.
- (3) Any switch for the mechanical ventilation system of a spraying room must be situated outside the spraying room.
- (4) Any metal part and electrical fitting and any other device used in, or in connection with, the spraying room, must be earthed effectively with each other and the ground.
- (5) Every electrical installation in a spraying room may be installed only by a suitably qualified electrician who must-
  - (a) certify in writing that the installation complies with all applicable legal requirements; and
  - (b) furnish the certificate to the owner or person responsible for the premises concerned.
- (6) The owner or person responsible for the premises on which the spraying room is located must submit the certificate contemplated in subsection (5) to the Chief Fire Officer without delay.

#### Location of spraying rooms

85. (1) The owner, occupier and person in charge of a spraying room must ensure that there is an escape opening between the spraying room and any other activity, process or area on the premises concerned -
- (a) of a least 1 200 millimetres wide; and
  - (b) that must at all times be kept free of any obstruction, refuse or combustible material.
- (2) If any other activity or process which may pose a fire hazard is conducted adjacent to a spraying room on any premises, the escape opening contemplated in subsection (1), must be clearly identified by a fire partition wall-
- (a) of a height at least 300 millimetres higher than the roof of the spraying room; and
  - (b) with a fire resistance of at least 60 minutes.
- (3) No more than two sides of a spraying room contemplated in section 83 (1) (c), may border a fire partition wall.

#### Access to spraying rooms

86. In addition to any door for the access of motor vehicles or other objects to any spraying room, every spraying room must have at least two hinged doors for escape purposes that -
- (a) open to the outside of the spraying room;
  - (b) have dimension of at least 800 millimetres wide x 2000 millimetres high;
  - (c) are positioned on opposite sides of the spraying room so that the distance to be covered to any door when any object is in the spraying room for spraying does not exceed 4 metres; and
  - (d) are fitted with a locking mechanism that is at all times capable of being opened from the inside of the spraying room without the use of a key.

#### Ventilation of spraying rooms

87. Every spraying room must be equipped with a mechanical inlet and outlet ventilation system designed and installed -
- (a) so that ventilation of at least 0.5 metres per second is provided across the spraying room;
  - (b) with vanes consisting of static-free material;
  - (c) so that it releases fumes into the open air from outlets that are not located within 5 metres of any opening of a building or erf boundary;
  - (d) with ventilators that are attached firmly to the inside walls of the spraying room with bottom ventilators affixed as close as possible to the level of the sill;
  - (e) with ventilation and air duct openings installed in opposite walls, doors or the roof so as to ensure effective cross-ventilation; and
  - (f) with ducting material that is fitted with a fire damper and covering of at least 120 minutes fire resistance where the ducting material exists the spraying room, if ducting material is installed external to the spraying room in communication with the remainder of the building concerned.

#### Fire dampers, protectors and alarms in spraying rooms

88. (1) A fire damper manufactured and installed in accordance with SABS 193, must be affixed in front of any air purification filter or part of such filter on the inside of any spraying room.
- (2) The fire damper must -
- (a) be capable of closing automatically by means of a suitably located sensor that is activated by a rise of more than 10°C in the predetermined working temperature inside the spraying room;
  - (b) be installed so that it will remain in position even if the air duct distorts during a fire; and
  - (c) be equipped with an overriding fusible link
- (3) The ventilation system must be equipped with a sensor that -
- (a) is capable of turning off the ventilation system and any heating device used in connection with the spraying room, in the event of a fire or a rise of more than 10°C in the predetermined working temperature inside the spraying room; and
  - (b) activates a visual and audible alarm inside and outside the spraying room in an event contemplated in paragraph (a).

**Design and positioning of ventilation outlets for spraying rooms**

89. Every outlet opening from a spraying room must be designed and positioned to release fumes from the spraying room into the open air at least -
- (a) 1 metre above any roof on the premises;
  - (b) 4 metres above the ground level; and
  - (c) 5 metres from any opening of a building situated on or adjacent to the spraying room.

**Display of signs on spraying rooms**

90. (1) A symbolic sign prohibition open flames and smoking must be affixed to the inside and the outside of every door of a spraying room.
- (2) A symbolic sign contemplated in subsection (1), must be -
- (a) manufactured and installed in accordance with SABS 1186; and
  - (b) of dimensions at least 290 millimetres by 290 millimetres.

**Manifold installations in spraying rooms**

91. Every manifold installation of a Group II hazardous substance that forms an integral part of the heating system of any spraying room must -
- (a) comply with SABS 087 (Part 1); and
  - (b) the requirements of these By-laws.

**General prohibitions regarding spraying rooms**

92. No person may -
- (a) use any spraying room or allow any spraying room to be used unless signs prohibiting open flames and smoking are affixed to the spraying room in compliance with section 91;
  - (b) enter a spraying room or allow any other person to enter a spraying room without the authority of the owner, occupier or person in control of the spraying room;
  - (c) use any spraying room or allow any spraying room to be used for any purpose other than spray painting or related activities;
  - (d) enter any spraying room or allow any other person to enter a spraying room unless the mechanical ventilation system is operating; or
  - (e) place any obstruction of hindrance or allow any obstruction or hindrance to be placed in any escape opening or in front of any door of a spraying room.

**Fire extinguishing equipment in spraying rooms**

93. (1) Every spraying room must be equipped with -
- (a) at least one 9 kilogram dry chemical fire extinguisher installed on the inside of the spraying room; and
  - (b) at least one 9 kilogram dry chemical fire extinguisher installed on the outside of the spraying room.
- (2) Fire extinguishers contemplated in subsection (1) must be installed in positions approved by a member of the Service.
- (3) Every spraying room must be protected by at least one fire hose reel as specified in SABS 543 that is connected to a water supply as contemplated in SABS 0400 (Part W); and that enables the hose reel to maintain a flow of at least 0.5 litres per second at work pressure of at least 300 kPa.

## Chapter 9 FIRE BRIGADE SERVICES

**Establishment and maintenance of Service**

94. (1) The Council has established a Fire Brigade Service as contemplated in section 3 of the Fire Brigade Service Act (2) The Council must maintain the Service, which includes -
- (a) appointing a Chief Fire Officer and the necessary members of the Service;
  - (b) ensuring that they are properly trained; and
  - (c) acquiring and maintaining the necessary vehicles, machinery, equipment, devices and accessories to ensure that the Service is effective and able to fulfil its objects.

**Objects of Service**

95. The objects of the Service are -
- (a) to prevent the outbreak and spread of fire;
  - (b) to fight and extinguish any fire that endangers any person or property,
  - (c) to protect any person and property against any fire hazard or other danger contemplated in these By-laws; and
  - (d) to rescue any person and property from any fire or other danger contemplated in these By-laws.

**Service to other persons**

96. (1) The Service may, provide any service related to its objects to any other person against payment of the prescribed fee.
- (2) Any service contemplated in subsection (1), may be terminated without notice if the services, equipment or personnel involved in providing that service are required to deal with an emergency.

**Instructions by members of Service**

97. (1) In addition to any powers under section 8 of the Fire Brigade Services Act, a member may give any instruction to any person in order to secure compliance with these By-laws or to ensure the safety of any person or property.
- (2) An instruction may be given orally or in writing and if the instruction is given orally, the member must confirm it in writing and give it to the person concerned at the earliest opportunity.
- (3) An instruction contemplated in subsection (1) may include, but is not limited to an instruction -
- (a) for the immediate evacuation of any premises;
  - (b) to close any premises until such time as any contravention of these By-laws has been rectified;
  - (c) to cease any activity;
  - (d) to remove any immediate threat to the safety of any person or property;
  - (e) to take specified steps to comply with these By-laws, either immediately, for the owner or occupier of the premises concerned to provide the Chief Fire Officer with a written description of the steps to be taken and a timetable for the taking of these steps in order to ensure compliance with these By-laws.

**Pretending to be member of Service prohibited**

98. (1) No person may pretend to be a member.
- (2) No person who is not a member may wear any official clothing, uniform, badge or insignia of the Service.

**Certificates to identify members of Service**

99. (1) The Chief Fire Officer must provide each member with a certificate identifying that person as a member.
- (2) A member, while performing any function or exercising any power under these By-laws must -
- (a) keep the certificate provided in terms of subsection (1), on his or her person; and
  - (b) produce it for inspection on request by any person.

**Cost of analysis samples**

100. Any costs incurred by the Council in connection with the analysis of any sample taken from any premises for the purposes of these By-laws, and a report on such analysis by an institution accredited by the Chief Fire Officer for that purpose may be recovered from the owner or occupier of that premises if the owner or occupier of the premises is not in compliance with these By-laws regarding the substance concerned.

**Chapter 10**  
**MISCELLANEOUS**

**Handling of animals during emergencies**

101. (1) The owner, occupier or person in charge of any zoological garden, feedlot, stable, research institution, veterinary practice or any place of veterinary science study, must ensure the professional handling of any animal on the premises concerned during an emergency.
- (2) Notwithstanding the provisions of subsection (1), the Chief Fire Officer may, in respect of any premises, authorize a suitably qualified person to handle or put down any animal during an emergency.
- (3) If an exemption is granted in terms of subsection (2), the Council must issue a certificate of exemption to the person concerned, specifying the scope and period of the exemption and any condition imposed.
- (4) The Council may amend or withdraw a certificate of exemption at any time.
- (5) The holder of a certificate of exemption must ensure that the certificate is available on the premises concerned at all times for inspection by any member.

**Approval, authorization or permission under these by-laws**

102. Any person who requires any approval, authorization or permission contemplated in these by-laws, in respect of which no application procedure is provided, must apply for that approval, authorization or permission -
- (a) by completing and submitting an application in the form and manner determined by the Council; and
  - (b) by paying the prescribed fee.

**Cancellation of approval, authorization or permission**

103. The provisions of section 24, read with the necessary changes, apply to any approval, authorization or permission contemplated in section 104.

**By-laws bind State**

104. These by-laws bind the State and any person in the service of the State.

**Offences and penalties**

105. Any person who -
- (a) contravenes or fails to comply with any provision of these by-laws;
  - (b) fails to comply with any notice issued or displayed 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, or improperly influences or attempts to do so, any authorized representative or employee of the Council in the execution of his or her duties or performance of his or her powers or functions under 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, 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**

106. Any by-laws relating to Fire and Emergency 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.

**Short title**

107. These by-laws are called the Fire and Emergency Services By-Laws,

**Annexure 1**  
GUIDE FOR EMERGENCY EVACUATION PLANS

**Content of emergency evacuation plans**

1. Every emergency evacuation plan contemplated in section 17 must contain at least the information under the headings below:

**(1) Emergency telephone numbers**

A list of all relevant emergency telephone numbers.

**(2) General information**

- (a) the physical address of the premises;
- (b) description of the activities on the premises;
- (c) the number of persons present on the premises at any time;
- (d) an indication of any control room on the premises;
- (e) an indication of any alarm system on the premises; and
- (f) the particulars and contact details of every responsible person in the event of an emergency;

**(3) Area study**

An area study addressing the following:

- (a) a history of emergency incidents on the premises;
- (b) any important and relevant features or landmarks regarding the premises; and
- (c) any information regarding adjacent premises that may be relevant to evacuation in an emergency

**(4) Socio-economic or other threats**

Any socio-economic or other threats and their potential impact on the premises.

**(5) Details of available equipment**

Particulars and details regarding the position of the following equipment

- (a) equipment in the control room;
- (b) fire fighter and first aid equipment on the premises; and
- (c) any other equipment which may be relevant in an emergency.

**(6) The emergency team**

Particulars and details regarding the identity of members of the emergency team, including -

- (a) its management;
- (b) the continuity officers;
- (c) the fire teams; and
- (d) the first aid teams.

**(7) Duties of emergency team members**

The duties and responsibilities of members of the emergency team.

**(8) Action plans and emergency procedures**

Details of the specific action plans and emergency procedures applicable to the premises.

**(9) Building plans and maps**

The building plans of the premises and any relevant topographical map must be included in the evacuation plan.

**(10) Emergency plan register The plan must include -**

- (a) an updated register of the emergency evacuation plan;
- (b) an updated drill register for the emergency evacuation plan; and
- (c) a bomb threat questionnaire.

**Review of emergency evacuation plans**

- 2. (1) An emergency evacuation plan must be reviewed and updated by the owner or occupier of the premises concerned at least once each year and whenever a member of the management of the emergency team ceases to work at the premises.
- (2) Whenever an emergency evacuation plan is reviewed and updated, the owner or occupier of the premises concerned must ensure that all old plans on the premises or in the possession of the management of the emergency team are collected and destroyed in order to eliminate any confusion regarding the validity and accuracy of the evacuation plan.

**Emergency evacuation drills**

- 3. (1) An emergency evacuation plan should be drilled at least twice each year and involve the participation of all persons who work or reside in the building concerned.
- (2) The owner or person in charge of a building should give all persons who are to be involved in an emergency evacuation drill at least 21 days notice of the drill.

**Emergency evacuation awareness**

- 4. Every person who works or resides on premises should be aware of the emergency evacuation plan for that premises.

**Training of persons**

- 5. Every person who resides or works on premises with an emergency evacuation plan should be suitably trained in -
  - (a) first aid or fire fighting;
  - (b) emergency aid;
  - (c) emergency evacuation procedures; and
  - (d) emergency management techniques.

**Annexure 2  
EXEMPTION FROM CERTIFICATE OF REGISTRATION**

A certificate of registration is in terms of section 35 (2) not required if the flammable substances concerned are of a type and do not exceed the quantity stipulated below:

<b>GASES</b> Class 0	Liquefied petroleum gas	Flat-Total cylinder capacity may not exceed 9kg per flat
		Houses or commercial premises - Total maximum of 19kg inside and total maximum of 100kg on premises
		Industrial premises - Maximum of 19 kg per 600 m <sup>3</sup> of building space with a total maximum of 100kg

FLAMMABLE LIQUIDS AND COMBUSTIBLE LIQUIDS		
Class I	Liquids that have a closed-cap flash point of below 38°C	Total maximum of 40 litres
Class II	Liquids that have a closed-cap flash point of 38°C or above, but below 60.5°C	Total quantity of Class II and Class III A together may not exceed the maximum quantity of 210 litres
Class III A	Liquids that have a close-cap flash point of 60.5°C or above but below 93°C	

**Annexure 3**  
**EXEMPTION FROM TRANSPORT PERMIT**

A transport permit is in terms of section 73 not required for the transport of dangerous goods of the type and not exceeding the quantity stipulated below.

GROUP	DESCRIPTION	QUANTITY
<b>II</b>	<b>GASES</b>	
	Flammable gases	Total cylinder capacity may not exceed 50 kilograms
	Non-flammable gases	Total cylinder capacity may not exceed 333 kilograms
<b>III</b>	<b>FLAMMABLE LIQUIDS</b>	
	With flash points $\leq 18^{\circ}\text{C}$	Total quantity may not exceed 100 litres
	With flash points $> 18^{\circ}\text{C}$ but $\leq 23^{\circ}\text{C}$	Total quantity may not exceed 420 litres
	With flash points $> 23^{\circ}\text{C}$ but $\leq 61^{\circ}\text{C}$	Total quantity may not exceed 1 100 litres
	With flash points $> 61^{\circ}\text{C}$ but $\leq 100^{\circ}\text{C}$	Total quantity may not exceed 1 100 litres
<b>IV</b>	<b>FLAMMABLE SOLIDS</b>	
	Flammable solids	Total quantity may not exceed 250kg
<b>V</b>	<b>OXIDIZING AGENTS AND ORGANIC PEROXIDES</b>	
	Oxidizing agents	Total quantity may not exceed 200kg
	Group II organic peroxides in packets	Total quantity may not exceed 200kg



<b>VI</b>	<b>TOXIC / INFECTIVE SUBSTANCES</b>	
	Group I toxic substances in packets	Total quantity may not exceed 5kg
	Group II toxic substances in packets	Total quantity may not exceed 50kg
	Group III toxic substances in packets	Total quantity may not exceed 500kg
<b>VIII</b>	<b>CORROSIVE / CAUSTIC SUBSTANCES</b>	
	Group I acids in packets	Total quantity may not exceed 50kg
	Group II acids in packets	Total quantity may not exceed 200kg
	Group III acids in packets	Total quantity may not exceed 1000kg
	Group I alkaline substance in packets	Total quantity may not exceed 50kg
	Group II alkaline substance in packets	Total quantity may not exceed 200kg
	Group III alkaline substance in packets	Total quantity may not exceed 1000kg
<b>IX</b>	<b>MISCELLANEOUS SUBSTANCES</b>	
	Liquids	Total quantity may not exceed 210kg
	Solids	Total quantity may not exceed 210kg

**Annexure 4**

**SABS CODES OF PRACTICE AND SPECIFICATIONS**

<b>SABS Code</b>	<b>Title</b>
SABS 019	Portable metal containers for compressed gas - basic design, manufacture, use and maintenance.
SABS 087: Part 1	The handling, storage and distribution of liquefied petroleum gas in domestic, commercial and industrial installations, Part 1: Liquefied petroleum gas installations involving gas storage containers of individual water capacity not exceeding 500/ and a combined water capacity not exceeding 3000/ per installation.
SABS 087: Part 3	The handling, storage and distribution of liquefied petroleum gas in domestic, commercial and industrial installations, Part 3: Liquefied petroleum gas installations involving gas storage vessels of individual water capacity exceeding 5000/.

SABS 087: Part 4	The handling, storage and distribution of liquefied petroleum gas in domestic, commercial and industrial installations, Part 4: Transportation of liquefied petroleum gas in bulk by road.
SABS 087: Part 7	The handling, storage and distribution of liquefied petroleum gas in domestic, commercial and industrial installations, Part 7: Storage and filling sites for refillable liquefied petroleum gas (LPG) containers of capacity not exceeding 9kg.
SABS 089: Part 1	The petroleum industry, Part 1: Storage and distribution of petroleum products in above ground bulk installations.
SABS 089: Part 2	The petroleum industry, Part 2: Electrical installations in the distribution and marketing sector.
SABS 0105: Part 1	The classification, use and control of fire fighting equipment, Part 1: Portable fire extinguishers.
SABS 0108	The classification of hazardous locations and the selection of apparatus for use in such locations.
SABS 0131	The handling and storage of liquid fuel, Part 2: Large consumer premises.
SABS 0142	The wiring of premises.
SABS Code	Title
SABS 0177: Part 5	The testing of materials, components and elements used in buildings: Non-combustibility at 750°C of building materials.
SABS 193	Fire dampers
SABS 0228	The identification and classification of dangerous substances and goods.
SABS 0230	Transportation of dangerous goods: Inspection requirements of road vehicles.
SABS 0232: Part 1	Transportation of dangerous goods - Emergency information systems, Part 1: Emergency information systems for road transportation.
SABS 0263	The warehousing of dangerous goods, enclosed storage and covered and uncovered outdoor storage yards.

SABS 0400	The application of the National Building Regulations.
SABS 1186: Part 1	Symbolic safety signs, Part 1: Standard signs and general requirements.
SABS 1253	Fire doors and fire shutters.
SABS 1398	Road tank vehicles for flammable liquids.
SABS 1475: Part 1	The production of reconditioned fire fighting equipment, Part 1: Portable rechargeable fire extinguishers.
SABS 1518	Transportation of dangerous goods - Design requirements for road tankers.
SABS 1571	Transportable rechargeable fire extinguishers.
SABS 1573	Portable rechargeable fire extinguishers - Foam type extinguishers.

[NO. 190 OF 2011]

**NOTICE IN TERMS OF SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: STANDARD FRESH PRODUCE MARKETS 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**

**FRESH PRODUCE MARKETS BY-LAW**

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CHAPTER 1

1. Definitions

1. In these By-laws, any word or expression which has been defined in the Agricultural Produce Agents Act, 1992 (Act No. 12 of 1992), has that meaning and, unless the context otherwise indicates -
  - "Act" means Agricultural Produce Agents Act, 1992 (Act No. 12 of 1992);
  - "Administrative Tribunal" means any administrative tribunal charged by law or delegation of the Council to resolve disputes in terms of this by-law.
  - "approved" means approved by the Council;
  - "article" means any produce, goods, object or thing brought onto the market for any purpose whatsoever,
  - "Buyer" means any person entering the precincts of the market site for the purpose of buying any article on the market or any person who has concluded a direct sale, a direct purchase or a private treaty sale in terms of this by-law;
  - "Buyer's Card" means a card referred to in section 30 (1) issued to a buyer for the purposes of enabling such buyer to purchase produce on the market;
  - "Consignment" means any quantity of produce entrusted to the Council or a market agent for sale on behalf of any person;
  - "Constitution" means the Constitution of the Republic of South Africa, 1996;
  - "Container" means any box, carton, pallet, tray, pocket, package or other receptacle of a shape and size approved by the Council;
  - "Council" means
    - (a) the Local Municipality of .....established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), exercising its legislative and executive authority through its municipal Council;
    - (b) its successor in title;
    - (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, 2000 (Act No 32 of 2000) or any other law, as the case may be.

**"Direct sale"** means any sale of produce concluded by a market agent between a vendor and a buyer, which is in accordance with this by-law, but in respect of which delivery of produce is made directly between vendor and the buyer, which sale is recorded in Council's official trading system without the produce concerned arriving at or being placed on the market site;

**"Direct purchase"** means the sale of produce concluded between a vendor and a buyer which is in accordance with this by-law without the sale being concluded by a market agent and which sale goes through Council's official trading system on the market and takes place on the market site;

**"Loading Bay"** means any area on the market site demarcated by the Council as a "loading bay" with signs and markings laid down under the regulations made under the Road Traffic Act, 1989 (Act No. 29 of 1989);

**"Market"** means Council's National Fresh Produce Market established on the area known as ..... and includes all land, buildings, plat-forms and other property within the said area, used either wholly or partially, directly or indirectly for the purpose of conducting the market; or any other market established by the Council within its area of jurisdiction;

**"Market Agent"** means a fresh produce agent as defined in the Act, or someone who facilitates sales of any produce for the acquisition of gain for his or her own account or in a partnership or who, on behalf of any other person, buys or sells any produce on the market or negotiates in connection therewith or canvasses or undertakes or offers to canvass to a buyer or vendor therefore, or who concludes a direct sale, direct purchase or private treaty sale;

**"Market dues"** means all monies due and owing to the Council by any party to any market transaction in terms of this by-law read with the market tariffs;

**"Market tariffs"** means the tariffs determined by the Council from time to time;

**"Nuisance"** means any act, omission or conduct which is offensive to any person or which materially interferes with the orderly conduct of the market;

**"Private Treaty Sale"** means a sale negotiated and concluded between a market agent and a buyer which is recorded in Council's official trading system;

**"Procurement"** means the distribution of information with a view to gather, store, or organise the movement of or the handling of produce;

**"Produce"** means any kind of agricultural or horticultural produce, or commodity as approved by Council from time to time;

**"Produce entry document"** means a document issued to a seller by the Council prior to the entry of the vendor into the market which must contain such information as the Council may determine;

**"Sales docket"** means a document issued by the Council containing the information set out in section 30 (5);

**"Salesperson"** means a person in the employ of a market agent, who acts on behalf of such market agent in any transaction on a fresh produce market or who concludes a direct sale, direct purchase or private treaty sale and is duly authorised by the Council to be employed as a salesperson on that market and who is in possession of a valid permit issued by the Council;

**"Salesperson's Permit"** means the document issued by the Council authorising a salesperson, employed by a market agent, to operate on a fresh produce market in a specific sales section;

**"Unit"** means the quantity of any produce which forms the basis upon which the price of such produce is calculated, except where the produce is contained in an unbroken container, in which case such produce, as so contained, must constitute a unit;

**"Vendor"** means the owner of produce consigned to or brought onto a produce market for sale, or any person bringing any article onto the market for sale or any other purpose, either for himself or for any other person through a market agent, or any other person on whose behalf a market agent has concluded a direct sale, direct purchase or private treaty sale.

**"Wholesaler"** means a person on the market site who, in terms of a valid contract with the Council, has a right to procure or buy produce, be involved in a direct sale or provide produce to other vendors within an approved designated facility and within Council's official trading system.

## CHAPTER 2

### Applicability of By-Law

2. This by-law is applicable on all markets established, controlled or managed by the Council within its jurisdiction.

## CHAPTER 3

### General Regulations on Market Site

#### Business Hours

3. The market must be opened on such days and during such hours as the Council may from time to time determine.

#### Vehicles and Security

4. (1) The Council must control and regulate the volume and movement of vehicles entering the market or within the precincts of the market by way of written or oral instructions.
- (2) The Council is empowered to set aside parking spaces on the market from time to time and regulate the use of such parking spaces.
- (3) The Council must set aside loading bays to cater for the loading and off-loading of goods.
- (4) The Council may forbid any vehicle or any class of vehicle from entering or being on the market.
- (5) The Council or its authorised representative or any Peace Officer may on the market, without warrant, search any vehicle or receptacle of whatever nature and seize any article in respect of which any offence has been, or on reasonable grounds, is suspected to have been committed.

**Conduct and Control**

5. The conduct of the market is under the control of the Market Master in accordance with all relevant laws and resolutions of the Council, and all persons on the market must obey his or her lawful instructions and all such relevant laws and resolutions, including the provisions of these by-laws.

**General Conduct of Persons on the Market Site**

6. (1) The Council must take all reasonable steps as may be necessary to ensure the safety and health of all persons on the market and an appropriate environment for the conduct of a fresh produce market and to this end must control and regulate the conduct of persons entering and upon the market site by way of written or oral instructions, directives or policies as amended from time to time.
- (2) No person must enter any part of the market without the permission of the Council subject to such conditions as it may impose, and no child under the age of 16 years must at any time be admitted to any part of the market except when under the direct supervision of an adult who will be responsible and accountable for such minor.

**Registration of Porters or Carriers**

7. (1) No person must ply for hire as a porter or carrier on the market, unless in possession of a permit issued by the Market Master. Such a permit is valid for one week and may be issued to persons approved by the Market Master upon payment of a charge determined in terms of the Act.
- (2) Every person plying for hire as a porter or carrier on the market must be in possession of a permit as mentioned in subsection (1) by the Market Master.
- (3) No porter or carrier on the market must ply or canvass for hire by shouting or by persistently following a buyer or prospective buyer or fail to keep his or her person and clothing in a clean and tidy condition to the satisfaction of the Market Master.
- (4) No porter or carrier on the market must, at any time while he or she is not engaged or plying for hire be upon any portion of the market other than an enclosure or area set aside by the Market Master for such purpose.
- (5) Any porter or carrier contravening subsections (1) to (4) inclusive must be ordered off the market by the Market Master who may also cancel his or her permit, and no refund of any charge paid by such person must be made in such event.

**Market Sales**

8. (1) The Council must take all reasonable steps as may be necessary -
- (a) to ensure that the business conducted on the commission floor is transacted in accordance with the laws relating to fresh produce markets.
- (b) to ensure that all disputes relating to market transactions are resolved as expeditiously as possible.
- (2) The Council may -
- (a) satisfy itself in such manner as it may determine that a consignment is truly represented by any sample displayed or offered for sale on the market;
- (b) inspect any goods brought onto the market site;
- (c) inspect any goods purchased on the market whilst such goods are on the market site;
- (d) impound any goods which is the subject of any, dispute on the market site until such time as such dispute is resolved.
- (3) The Council may by reasonable notice on a notice board or otherwise forbid the sale of any item on the market;
- (4) If the Council reasonably suspects that any articles submitted for sale on the market are stolen property, it must refuse to allow such articles to be offered for sale or to permit them to be sold, and it must, if it so suspects only after the sale, retain the proceeds of such sale until it has been satisfied as to the ownership of such articles.
- (5) The Council may at the cost of the owner impound, reject or decline to accept any article which in its opinion is offensive, diseased, unsound, unwholesome or unfit for consumption by human beings or animals, or is contained in a container likely to contaminate it or any other article with which such a container may come into contact.
- (6) The Council may by reasonable notice on a notice board or otherwise prohibit or prescribe the use of certain containers for different classes of articles.
- (7) The Council may refuse to release any article if it has reason to believe that either a buyer, vendor, market agent or employee of a market agent has failed to comply with any condition of sale imposed by the Council or this by-law.
- (8) The Council may issue such internal directives regarding sales or purchases as it may deem necessary.

**Market Agents**

9. The Council must keep a register of all market agents in which is recorded all details of the ownership and the directorate of each market agent and of all persons employed by such market agent.

**Information**

10. (1) The Council may demand any information, for statistical or any other lawful purpose, from any person relating to any aspect of sales on the market.
- (2) The Council may post internal managerial directives relating to the market upon a notice board in a prominent position on the market site and such posting must be deemed to be sufficient notice of any such matter to all persons concerned.

**Monies and dues**

11. (1) The Council may demand, sue for and recover any amount due to or due by any person on behalf of whom or to whom any produce has been sold. If such a person fails to comply with a demand so made, the Council may set off such amount against any monies in its possession or under its control belonging to such a person.
- (2) If the Council has reason to believe that if monies in its possession are paid out to any person other than the person to whom they are lawfully due, or will not reach the person entitled to them, it may withhold payment of such monies until it is satisfied that they will reach the person entitled to them, or direct that they be paid directly to the person so entitled in a manner determined by the Council.
- (3) The Council is empowered to set off any outstanding debts owed to it against any monies in its possession belonging to the debtor.
- (4) No liability must devolve on the Council for any action taken in good faith in terms of this section.
- (5) Any person operating or trading on the market must pay to the Council such market dues as prescribed in the applicable market tariffs determined by Council from time to time.

**Disputes**

12. In the event of any dispute arising on the market site, the Council may impound and hold as sequester any property on the market belonging to any party to the dispute, of a value it considers to be sufficient to satisfy the claim of any other party, and may hold such property until such time as the dispute has been determined by the Council or a court of law,

**Sequestration of Property**

13. (1) Any article -
- (a) left on the market site which is not claimed within 24 hours by the person entitled thereto;
- (b) already sold but which remains behind at the time of the closing of sales on any day, or
- (c) impounded by the Council in terms of subsection 8 (4), 8 (5) or 12 must be sequestered to the Council and the Council may:-
- (i) sell the articles referred to in subsection (1) (a) forthwith;
- (ii) re-sell the articles referred to in subsection (1) (b) on the following day, or
- (iii) sell the articles referred to in section 12 on the determination of the dispute.

**Market Management Board**

14. (1) The Council may appoint a Market Management Board in terms of the Council's Delegation of Operation and Decision Making Powers as amended by the Council from time to time or such other document issued by the Council.
- (2) The Market Management Board must have an advisory function and must assist the Council in resolving disputes relating to the market and must provide the Council with proposals regarding internal managerial, financial and operational matters on request.
- (3) The Constitution and the functions of the Market Management Board are those contained in Council's Delegation of Operation and Decision-making Powers.

**CHAPTER 4****The Business of Market Agents and their Sales Personnel****Register of Market Agents**

15. (1) Market agents are entitled to operate on the market after being approved by Council according to the procedure which is in place at the time.
- (2) No person must carry on the trade or business of a market agent on the market unless he or she is in possession of a valid market agent's licence.
- (3) Every market agent must, prior to any change in directorship, ownership or change of personnel, obtain the written approval of the Council.
- (4) No market agent must be involved in or trade in any other agency registered with the Council or trade in or be involved in any sub-agencies.
- (5) Every market agent so applying must satisfy the Council that -
- (a) he or she is a fit and proper person to carry on the trade or business as a market agent; and
- (b) he or she is qualified to conduct the business of a market agent;
- (6) The Council is empowered to refuse to issue, suspend or renew a licence if the market agent concerned -
- (a) has an interest, either directly or indirectly, or involved in any other business established for the production, sale, purchase or dealing in, produce or articles of any kind usually sold on the market; or
- (b) has been found guilty of the contravention of any law, by-law or regulation relating to the market;
- (c) is not a fit or proper person to be trading on or employed at the market;
- (d) has acted in any way prejudicial to the interest of the market.
- (7) Refusal by the Council to issue, suspend or renew a licence must not debar an applicant from again applying for a licence within a reasonable time from his application being refused.
- (8) Every licence must be valid from its date of issue until cancelled or withdrawn by the Council.

**Permits**

16. (1) No salesperson must be employed as a salesperson until a valid salesperson's permit has been issued by the Council.  
 (2) All applications for permits must be submitted to the Council on the prescribed form.  
 (3) Every salesperson so applying must satisfy the Council that -  
 (a) he or she is a fit and proper person to carry on the trade or business of a salesperson;  
 (b) he or she is legally qualified to conduct the business of a salesperson;  
 (4) The Council is empowered to refuse to issue, suspend or renew a permit if the salesperson concerned -  
 (a) has an interest, either directly or indirectly, or involved in any other business establishment for the production, sale, purchase or dealing in, produce or articles of any kind usually sold on the market: or  
 (b) have been found guilty of the contravention of any law, by-law or regulation relating to the market;  
 (c) is not a fit or proper person to be trading on or employed at the market; or  
 (d) has acted in any way prejudicial to the interest of the market.  
 (5) Any refusal by the Council to issue, suspend or renew a permit, must not debar an applicant from again applying for a permit within a reason time from his application being refused.  
 (6) Every permit must be valid from its date of issue until cancelled or withdrawn by the Council.

**Employees**

17. (1) Every market agent must be responsible for the conduct of all persons in his or her employ, and is personally liable for any damage done to any property on the market by himself or herself or any of his or her employees.  
 (2) No market agent may -  
 (a) fail to terminate the services of any employee convicted of a criminal offence of any law, by-law or regulation relating to the market, or  
 (b) engage or re-engage within the market any person whose services have been terminated in terms of paragraph (a).  
 (3) Every employee of any person operating on the market site must be in possession of a valid permit issued by Council in terms of internal directives issued by Council from time to time.

**Business Principles**

18. (1) No market agent must conduct his or her business other than in accordance with the provisions of the Act, the Rules made under section 22(1) of the Act or this by-law.  
 (2) No market agent must, when conducting private treaty sales, show preference to any person in any way whatsoever.  
 (3) No market agent or employee of a market agent must purchase produce on the market except for private use and at a price not lower than the price at which similar produce was sold on the market on the same day.

**CHAPTER 5****General Practices on the Market Site****Delivery Notes and Waybills**

19. (1) Every person bringing or causing to be brought onto the market any produce must, immediately on its entry on the market premises, register such produce with the Council and the relevant part to whom the article is consigned.  
 (2) The Council may obtain from the transporting organisation a copy of every delivery, note or waybill issued by the organisation and any other particulars required by him or her in respect of every article delivered to the market by the said organisation.  
 (3) The Council must issue a goods received note based on the waybill or delivery note presented by the vendor or transporter showing -  
 (a) the date of arrival;  
 (b) the full name and address of the vendor,  
 (c) the description of the article;  
 (d) the description of the container.  
 (e) the mass or quantity;  
 (f) the variety or quality;  
 (g) the name or code mark of the market agent or party to whom such article is sent;  
 (h) the registration number of the vehicle, if any, and  
 (i) any other particulars that may from time to time be required by the Council.  
 and every vendor is obliged to furnish the council with the full and correct information.

**Containers**

20. (1) Every container must have the name and address of the consignor and market agent clearly and legibly marked in capital letters on such container or on a label securely attached to it.  
 (2) All other names, addresses or marks, except the name of the consignee, must be obliterated.

**Passage of Risk**

21. Every article brought onto the market must at all times be at the sole risk of the market agent or party to whom it is consigned until it is sold, where after the risk must pass to the new owner.



**The Vendor**

22. (1) Any vendor who wishes to remove from the market any article brought onto the market site by him or her must first obtain the prior written consent of the Council before removing such article.
- (2) No person must bring onto the market or display, any produce which is packed in such a manner that the produce at the top or sides of the container is of better quality or larger size than the produce in any other part of the container.
- (3) No person other than a person who is a registered market agent may be a vendor on the market sales floors.

**Implied Conditions of Agency**

23. Every market agent must account promptly, correctly and in full to the vendor for the proceeds of any sale after receiving payment from the Council and must pay the vendor the amount owing to him or her after deducting from such monies or any amount which he or she is legally entitled to do.

**CHAPTER 6**

**Sales Practice**

**General**

24. (1) No-one must canvass on the sales floor or anywhere on the market, directly or indirectly or by any means whatsoever, with a view to secure direct dealings with potential buyers.
- (2) No articles must be sold except according to quality, mass, number or otherwise required by law or as determined by the Council.

**Direct Sales**

25. (1) No person must conduct a direct sale unless -
  - (a) he or she has obtained prior written approval from the Council.
  - (b) such details of such sale and such relevant documents and information required for consignment auditing purposes in relation to such sale have been furnished to the Council upon request:
- (2) Council may from time to time publish commodity lists of products which it deems fit to prohibit direct sales.

**Direct Purchases**

26. (1) No person must enter into any direct purchase arrangement with a vendor unless -
  - (a) he or she has obtained prior written approval from the Council;
  - (b) the full details of such purchase are declared at the entry gates and the original copy of the waybill(s) is handed in at such control gates;
  - (c) such details of such purchase and such relevant documents and information required for consignment auditing purposes in relation to such purchase have been furnished to the Council upon request;
- (2) No delivery of a declared direct purchase may be received on any part of the market except at the approved trading facility allocated to the recipient.
- (3) No produce received as a direct purchase must be stored in the Council's own cold-storage facilities or market agency owned cold-storage facilities unless specific prior written approval from the Council has been acquired.
- (4) Council may from time to time publish commodity lists of products which it deems fit to prohibit for direct purchases.

**Procurement**

27. (1) No person must co-ordinate, store, serve as broker, trade by computer, or negotiate the movement, storage, trading, assembling or procuring of any produce or consignment thereof on or off the market sales floor or market site, without having obtained prior written approval from the Council.
- (2) No person must in whatsoever way serve as a middle-man, communicator, exporter or importer unless prior approval has been granted by the Council.

**Market Agents**

28. (1) It is the responsibility of the market agent concerned to ensure that articles which are required to be sold by mass are arranged in units, the mass of which must comply with any legal requirements, before such articles are displayed for sale, offered for sale or sold and such mass must be clearly and legibly marked on such articles and their containers.
- (2) No articles must be displayed for sale, offered for sale or sold unless the container is marked in the manner described in section 20.
- (3) No article required by law to be graded, must be offered for sale or sold on the market unless it has been submitted by the market agent concerned for inspection and has been inspected as prescribed by law and the grade assigned to it as a result of such inspection has been clearly marked on it by such market agent
- (4) No article required by law to be offered for sale or sold by mass, or to be packed, marked or graded in a prescribed manner must be offered for sale or sold or removed from the market agent unless it complies in every respect with the requirements of such law, provided that the Council may, in its discretion, direct that any article be sold if it deems it expedient to do so.
- (5) All sales by market agents must be conducted by private treaty, unless otherwise directed by the Council.

- (6) No market agent must offer for sale or sell any article by private treaty unless he or she is in a position to deliver the article concerned as soon as the purchase price has been paid by the buyer, except in the case of a direct sale when delivery may be effected directly between buyer and vendor.
- (7) No market agent must conclude a direct sale between a vendor and a buyer and fail to obtain prior authority from the Council, omit or neglect to advise the Council in advance of the details of such direct sale.

#### Wholesalers

- 29. (1) No wholesaler or his or her personnel may trade on the sale floors or any other area other than the area designated to him by the Council.
- (2) No wholesaler or his or her personnel may be involved in retail trading unless Council's prior written approval has been obtained.
- (3) No wholesaler or his or her personnel may introduce business practices that will result in such wholesaler or his or her personnel competing with the trade on the commission sales floor.

#### Purchases and Payment

- 30. (1) All buyers must obtain from the Council a buyer's card which must be issued by the Council in the prescribed manner.
- (2) In the case of all sales, whether by private treaty, direct sale or by public auction, the buyer must immediately upon a sale being concluded present his or her buyer's card to the market agent concerned who must record the details of such sale in the prescribed manner.
- (3) No market agent or his or her employees must receive or handle cash in respect of any purchase on the trading floor except as prescribed by internal directives issued by Council from time to time.
- (4) No buyer may remove any produce from the market site unless he or she is in possession of a valid sales docket
- (5) Every sales docket referred to in subsection (4) must be clearly and legibly completed and must contain the following information
  - (a) the date of transaction;
  - (b) the market agent's name;
  - (c) in the case of a credit buyer, his or her full code, name and number;
  - (d) a description of the article sold;
  - (e) a description of the type of container used;
  - (f) the quality of the article sold;
  - (g) the mass, quantity or number of units, as the case may be of the article sold;
  - (h) the price per unit;
  - (i) the full purchase price; and
  - (j) such other information as may be required by the Council from time to time.
- (6) In the event of a direct sale, the market agent or vendor must for the purpose of obtaining the consent of the Council, provide the Council with the purchase price relating to such a sale, a sales docket and a delivery note showing -
  - (a) the date;
  - (b) the name, code and address of the vendor;
  - (c) the name and address of the buyer;
  - (d) the commodity;
  - (e) the quantity and quality of the article sold;
  - (f) the price per unit; and
  - (g) any other information that the Council must reasonably require in respect of such sale.

#### Implied Conditions of Sale

- 31. The market agent is responsible for delivering to the buyer the correct quantity, mass, quality, grade and variety of the purchased article in its proper container.

#### Accounting

- 32. (1) The Council must keep a correct account of all articles sold and monies handled.
- (2) All accounts of the Council and all books, records and documentation relating thereto must at all times be open to inspection by any person as may from time to time be appointed by the Council or the Auditor-General to carry out such inspection.
- (3) The Council must pay the proceeds of the sale of any article consigned to a market agent and sold on the market, or sold by means of a direct sale, to such market agent's Trust account after deducting there from the market dues, levies, duties or charges payable in respect of such sale: Provided that in the case of a direct sale the Council may withhold such proceeds pending written certification by the market agent that the sale has been completed and delivery effected to the satisfaction of both vendor and buyer.

## CHAPTER 7

## Procedures

33. (1) All persons must -
- (a) on arrival, register any article brought to the market for sale thereon with the Council in the prescribed manner;
  - (b) pay, at a time specified by the Council on the produce entry document an ad valorem tariff of the value of the produce brought onto the market as prescribed by the market tariffs and assessed by the Council;
  - (c) refrain from conducting business in any manner otherwise than in accordance with this by-law;
  - (d) keep any vehicle, basket or container brought onto the market site clean and tidy to the satisfaction of the Council;
  - (e) refrain from selling, offering, introducing, hawking or carrying about for sale any produce on the market without the prior permission of the Council;
  - (f) refrain from placing or causing to be placed any objectionable matter in any refuse receptacle;
  - (g) only enter the market if he or she has lawful business thereon.
- (2) Without the scope of the powers vested in the Council being limited in any way, no person must, on the market -
- (a) smoke in any part where a notice prohibiting smoking is displayed;
  - (b) light a fire, save at such times and in such places as have been authorised by the Council;
  - (c) stand, sit or lie upon or against any produce or container;
  - (d) throw anything at any person or object;
  - (e) without lawful reason tamper with or remove or cause to be removed any produce, container or pallet exposed for sale, or any label on such produce or container,
  - (f) without the written permission of the Council erect any fence or building or convert existing buildings or erect partitions or install wiring or electrical installations or fillings or extend existing wiring or electrical installations or fittings or make any other changes of a like to such premises on the market;
  - (g) introduce or cause or allow to be introduced into or enter any drain, gully or storm water drain any matter likely to cause blockage or damage any sewerage, oil, foul water or other objectionable substance;
  - (h) without the permission of the Council wash, sort, grade or clean fruit, vegetables, any vehicle or other article;
  - (i) interfere with or molest any person or interfere with the proper carrying on of any business;
  - (j) save with the permission of the Council enter or remain or cause any article, animal or other thing to enter or remain on any pan thereof on days or at times when the market is closed;
  - (k) fail or refuse to depart or to remove any vehicle, animal or other thing when lawfully instructed by the Council to do so;
  - (l) spit, loiter, use any threatening, obscene, abusive, violent, offensive or disgusting language, make any loud or unseemly noise or cause a disturbance;
  - (m) touch, taste, handle or move any produce exposed for sale in such a way as to render it liable to contamination;
  - (n) wilfully damage or deface any property;
  - (o) discard or deposit in any place other than receptacles provided for the purpose of any fruit-peel, vegetable leaves or other refuse of any kind whatsoever;
  - (p) drive, propel, or ride any vehicle, trolley, handcart or mechanical handling equipment in such a way as to endanger persons or damage property; or
  - (q) disobey any signs or directions within its roadways.
- (3) No person must offer for sale or sell any produce on the market before the commencement of sales or after the closing of sales.
- (4) No person must -
- (a) take any vehicle onto the market site without first obtaining the permission of the Council -
  - (b) neglect or refuse to place any vehicle under his or her control in the position assigned to such vehicle by the Council or to comply with any lawful direction given to him or her by the Council for the purposes of section 4;
  - (c) being in charge of any vehicle, park such vehicle in any place within the market site other than in a space set aside in terms of section 4 (3) hereof, unless he or she is otherwise directed by the Council;
  - (d) take or cause or permit to be taken onto the market site any class of vehicle forbidden by the Council in terms of section 4 (4);
- (5) No person in charge of any vehicle must -
- (a) except by reason of a cause beyond his or her control, allow such a vehicle to remain stationary in a loading bay for any purpose other than for the loading or off-loading of goods;
  - (b) permit any vehicle to remain in a loading bay for a period longer than is absolutely necessary for the loading or off-loading of goods; or
  - (c) drive, propel or ride any vehicle within the precincts of the market in such a way as to endanger persons or property.
- (6) No person must -
- (a) place any article or thing anywhere on the market site so as to cause inconvenience or obstruction or as to prevent the proper sweeping, washing or cleaning of the market site;
  - (b) ignore an instruction from the Council to immediately remove any article or thing from the market site or from one part of the market site to another when instructed to do so by the Council; or

- (c) install any article without the prior consent of the Council, subject to the provisions of this by-law, before storing any article on the market site.
- (7) No person must -
  - (a) bring or convey any intoxicating liquor onto the market site, or have intoxicating liquor in his or her possession whilst on the market site, or enter or remain upon the market site while under the influence of intoxicating liquor without the prior consent of the Council;
  - (b) damage, ruin or tamper with any article brought to the market, or any building or property belonging to the Council on the market site;
  - (c) bring onto the market site any refuse, garbage or vegetable matter for the purpose of discarding such refuse, garbage or vegetable matter within the precincts of the market site;
  - (d) cook food or make tea or any other beverage in any part of the market site other than in such places as may have been set aside for the purpose: Provided that the Council may allow tea or any other beverage to be made in premises set aside for market business subject to such premises being kept neat and clean to the satisfaction of the Council;
  - (e) be on the market site when suffering from any contagious or infectious disease;
  - (f) take onto the market site any pets.
- (8) All persons offering for hire as a porter or earner on the Market site must -
  - (a) be in possession of a porter's permit referred to in section 5;
  - (b) wear such identification as may be directed by the Council.
- (9) No porter or carrier on the market site must;
  - (a) at any time while he or she is not engaged or plying for hire, be upon any portion of the market other than an enclosure or other area set aside by the Council for such purpose;
  - (b) ply or canvass for hire by shouting or by persistently following a purchaser or prospective purchaser, or
  - (c) have his or her person and clothing in an untidy, unhygienic or unseemly condition.
- (10) No person must sell, expose or offer for sale -
  - (a) any item precluded for sale by the Council in terms of section 8 (3); or
  - (b) any articles in containers which fail to comply with the prescriptions or specifications of the Council as prescribed under section 8 (6).
- (11) No person, other than the Council must organise or conduct or attempt to organise or conduct any auction sale on the market site.
- (12) No Council official must directly or indirectly be allowed to trade or purchase articles on the market, either for his or her own account or for commission, except such articles as he or she bona fide requires for his or her own private consumption, which articles must not be given to such Council official as a gift or for any price below the normal market value of such articles as traded in the day in question.
- (13) Every market agent must -
  - (a) supply to his or her employees such protective clothing as may be required by law and prescribed by the Council;
  - (b) ensure that the clothing referred to in paragraph (a) is -
    - (i) distinctly marked as prescribed by the Council;
    - (ii) at all times kept clean and in good repair, to the satisfaction of the Council.
  - (c) ensure that his or her employees on the market are wearing clothing of the kind prescribed in paragraph (a);
  - (d) remove and effectively separate from any produce in his or her custody for sale on the market, any article which at any time is or shows signs of being deteriorated or damaged; or
- (14) Any person concerned with marketing or the handling of produce -
  - (a) must wear clothing of the kind referred to in subsection (13 (a)) whilst performing their duties when required to do so by the Council;
  - (b) must undergo an X-ray or other medical examination for tuberculosis at his or her own expense whenever it is deemed necessary by the Council; and
  - (c) must submit the results of any examination referred to in subsection (b) to the Council.
- (15) All vendors must ensure that their produce is free from pesticide and other chemical residue.
- (16) All vendors must ensure that containers must indicate whether produce has been radiated or chemically treated.

## CHAPTER 8

### General

- 34. (1) The Council is not liable for any loss, damage or injury to any property or any injury or death of any person on the market, howsoever arising, except where such loss, damage, injury or death is proved to be due to the wilful misconduct or gross negligence of the Council or of its employees acting in the course and scope of their employment.
- (2) Any person committing a breach of this by-law must pay to the Council the amount of the damage done, as well as the civil penalty imposed for the breach of the by-law concerned as prescribed in the Market Tariffs.
- (3) No claim referred to in section 13 must be recognised after the expiry of 90 days from the date of sale, and in such case all the proceeds of such sale must revert to the market as income.

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- (4) Every person is presumed to know the provisions of this by-law and of every instruction of the Council published on the notice board on the market site.
- (5) A certificate issued by a duly authorised Council Official indicating the amount which any person owes to Council constitutes prima facie proof of such person's indebtedness to the Council as at the date of such certificate.

#### CHAPTER 9

##### Penalties

35. (1) Any person who -
- (a) contravenes any provisions of this by-law;
  - (b) contravenes any condition imposed upon the granting of any application, consent, approval, concession, relaxation, permit or authority in terms of this by-law;
  - (c) fails to comply with the terms of any notice served on him or her in terms of this by-law; or
  - (d) fails to comply with any lawful instruction of the Council,
- is guilty- of an offence and liable, upon conviction, to a maximum penalty of six months imprisonment or to a fine as prescribed for the offence under the Adjustments of Fines, Act, 1991 (Act No. 101 of 1991).
- (2) Failure to comply with the terms of any condition or notice referred to in subsections 35 (1) (b) or (c) constitutes a continuing offence and a person failing to comply with the terms of such condition or notice is guilty of a separate offence for each day during which he or she fails to comply with such terms.

#### CHAPTER 10

##### Determination of Market disputes

- 36 (1) In the event of any dispute arising on the market site relating to the sale of any article on the market and not involving the Council as a party, or any direct sale, or any matter incidental thereto, the Council may decide the issue and, subject to an appeal to the Administrative Tribunal concerned, such decision is final and binding on the parties.
- (2) Subject to the provisions of Section 34 of the Constitution, in the event of any dispute arising on the market site, relating to the sale of any article on the market and involving the Council as a party, the Administrative Tribunal concerned, may decide the issue, and such decision is final and binding on the parties.

##### Repeal

37. Any by-laws relating to fresh produce markets adopted by the municipality or any municipality now comprising an administrative unit of the Council is repealed from the date of promulgation of these by-laws.

##### Short title

38. These By-laws are called the By-laws relating to Fresh Produce Markets, 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:

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

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PRICE PER COPY	R 11.10
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Stamps are not accepted

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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.

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**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.

*Printed and published by the Free State Provincial Government*

**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.

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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.

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**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.

*Gedruk en uitgegee deur die Vrystaatse Provinsiale Regering*