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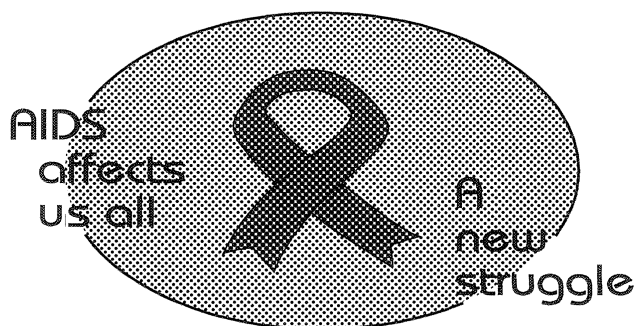
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We all have the power to prevent AIDS



**AIDS
HELPLINE**

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DEPARTMENT OF HEALTH

Prevention is the cure

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PART 1 OF 2



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LOCAL AUTHORITY NOTICE

LOCAL AUTHORITY NOTICE 14

THEMBISILE HANI LOCAL MUNICIPALITY

ANIMALS BY-LAWS

Under the provisions of section 156 of the Constitutional of the Republic of South Africa, 1996 (Act 108 of 1996), the Thembisile Hani Local Municipality, enacts as follows:

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GENERAL PROVISIONS RELATING TO KEEPING, IMPOUNDING AND DESTRUCTION OF ANIMALS

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1. Interpretation

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

- “Animals”** means any equine, bovine, sheep, goat, pig, fowl, camel, dog, cat, or other domestic animal or bird, or any wild animal or reptile which is in capacity or under the control of a person, or an insect such as, but not limited to, a bee which is used or controlled by a person;
- “Animal disease”** means an impairment or disturbance of the normal function of any organ or the, body of any animal that is caused by any organism, protozoon, Bacterium, virus, bird or fungus, rickettsia, parasite, other organism or substances;
- “Animal waste”** means the faeces, manure, dropping, shed hair or feathers of an animal;
- “Appurtenance”** means a container, apparatus, equipment, tool, or appliance used in connection with the keeping of an animal;
- “Bird”** means a pigeon, peafowl, pheasant, partridge, canary, budgerigar, Ostrich and any other domesticated bird or wild bird kept in captivity;
- “Council”** means the Thembisile Hani Local Municipality Council;
- “Dangerous”,** in relation to an animal, means an animal which has an inherent propensity to attack human beings or other animal, or the

keeping of which is likely to become a public nuisance or is fraught with danger to any person or animal;

“Dog”

includes a neutered male dog and spayed bitch;

“Dog kennel”

means an accommodation establishment which, for gain, caters for the accommodation of dogs;

“Livestock”

means a head of cattle, goat, sheep, pig, horse, donkey, mule, ostrich and camel;

“NSPCA”

means the National Council of societies for the Prevention of Cruelty to Animal as established by section 2(1) of the Societies for the Prevention of Cruelty to Animals Act, 1993 (Act No.169 of 1993);

“Owner” in relation to-

(a) animals or things conveyances and other movable property, means the person in whom ownership is vested and includes a person who is responsible for the control or management thereof or a person who has such animal or thing, conveyance or movable property in his or her possession, but in the case of game or animals that are not branded in terms of the Animal Identification Act, 2002 (Act No.6 of 2002), or of which the ownership cannot readily be established, the user of

the land on which such game or animal are present is deemed to be the owner; and

(b) land-

(i) means the person in whose name that land is registered;

(ii) that has been purchased by a person but has not yet been registered in his or her name, means such purchaser;

(iii) that is subject to a usufruct, means the usufructuary; and

(iv) of which the owner or purchaser is a minor, mentally disabled person, insolvent or is otherwise incompetent in law to administer his or her estate, or is deceased, or is a body corporate under judicial management or liquidation, means the agent or legal representative of such owner or purchaser or another person authorized by law to administer his or her affairs or, in the case of a body corporate, the judicial manager or liquidator concerned;

“Parasite”

means any organism that is detrimental to the health of any animal, or which is capable of causing or spreading any animal disease;

“Pest”

means a noxious organism inhabiting or associated with animals such as, but not limited to, internal or external insects or parasites such as parasitic worms , fleas, flies, cockroaches, lice, and ticks;

“Pet”

means a an animal which is kept for companionship or pleasure;

“Poultry” means a fowl such as a chicken, turkey, goose, duck, muscovy-duck, bantam-fowl and guinea fowl, whether domesticated or not, including the young of such poultry;

“Premises” means –

(a) land or a portion of land, whether or not a building or structure has been Constructed or erected on the land or portion of land; or

(b) a building or structure and the land on which it is situated;

“Public nuisance” means an occurrence specified in section 8;

“User” in relation to land, means-

(a) any person who has a personal or real right in respect of land in his or her capacity as fiduciary, fideicommissary, servitude holder, possessor, lessee or occupier, irrespective of whether or not he or she resides thereon;

(b) any other person who is generally recognized as having a right of tenure on the land concerned;

“Veterinarian” means a veterinarian as defined in section 1 of the Veterinary and Para-Veterinary Professions Act, 1982 (Act No. 19 of 1982), and any other word or expression to which a meaning has been assigned in the Animal Protection Act, 1962 (Act No.71 of 1962),

the Health Act, 1977 (Act No. 63 of 1977), and the Animal Health Act, 2002 (Act No. 7 of 2002), carries that meaning.

2. Principles and objectives

1. The Thembisile Hani Council, acting within the framework of Provincial and National Legislation in its functions under these By-laws, and-
 - a) taking into considerations the inequalities of the past which may have had an adverse impact on all residents of the Municipality regarding the keeping of animals;
 - b) striving within its boundaries-
 - i. to protect all animals, birds, reptiles and insects;
 - ii. to encourage its citizens to protect all animals, birds, reptiles and insects;
 - iii. to encourage its citizens, to ensure the health of all animals; and
 - iv. to minimize the adverse effects of negligence to all animals, birds, reptiles and insects by the residents; and
 - c) acknowledging that everyone has the right to have the environment protected, for the benefit of present and future generations, through reasonable legislation and other methods that-
 - i. eliminate where possible any source of a public nuisance, and
 - ii. prevent any infestation by pets or vermin, strives within its capacity, financial and otherwise, to ensure that a safe and comfortable environment for all the residents are promoted and developed.
2. The Council, in order to-

- a) protect, by application of these by-laws, the residents from the effect of public nuisances that may arise from the keeping of animals.
- b) ensure good decision-making which would have a significant effect on the keeping and welfare of animals thus to reduce the risk of public nuisances;
- c) ensure that residents receive considerate and adequate information regarding decisions that can affect the keeping of animals;
- d) ensure that all officials are thoroughly trained in the identification and prevention of public nuisance and the humane handling of animals; and
- e) to encourage good ownership skills in the management of animals amongst residents thus to prevent public nuisances, and the maltreatment of animals; for these reasons, and in accordance with the principles set out in subsection(1)-
 - i. adopts a framework whereby good management of the keeping of animals is developed and whereby public participation in enforcing Animals laws by authorized officials, residents and non-residents is encouraged; and
 - ii. in these By-laws establishes and strives to ensure that policies and procedures are implemented to facilitate in the minimization and prevention of nuisances and handling of animals

3. Application of By-laws

These By-laws apply to any owner who keeps an animal, for whatever purpose, on land of which he or she is the owner or user within the jurisdiction of the Thembisile Hani Council, but does not apply to-

- a) a veterinary surgeon in respect of an animal left in his or her care for treatment; and;
- b) a license holder or licensee under the Performing Animals Protection Act,1935(Act No. 24 of 1935).

1. Appointment of pound keeper

The Municipality must, in terms of its human resource policy, appoint a suitably skilled and experienced person as a pound keeper, unless the pound is established and operated in terms of a service level agreement contemplated in section 3(a).

2. Trespassing or straying animals may be impounded

(1) The owner of land upon which any animal is found trespassing may seize such animal : Provided that such animal may not be removed to a pound before notice is given to the owner in writing no less than 48 (forty-eight) hours prior to the removal to the pound.

(2) Any animal found straying untended upon any public road or public place may be seized for impounding by -

- (a) a member of the South African Police Service;
- (b) a member of the South African National Defence Force;
- (c) a member of the KwaZulu-Natal Road Traffic Inspectorate;
- (d) a member of the municipal police or protection services; or
- (e) the owner of any land through or alongside which such road passes or

Which abuts on such public place.

(3) A person may not keep an animal, seized for purposes of impounding in terms of in subsections (1) and (2), for a period longer than 6 (six) hours without supplying such animal with adequate food and water.

3. Release of animals before removal to pound

(1) The owner of an animal, seized in terms of section 5(1) may apply to the owner of land contemplated in section 5(1) for the release of such animal prior to its removal to the pound.

(2) The owner of land referred to in section 5(1) -

- (a) May release such animal forthwith; or
- (b) May refuse the release of the animal, whereupon he or she may apply to Court for authority to impound the animal or to claim any damages he or she may have suffered, in which event the Court may make any order, including an order as to costs that the Court deems just and equitable.

(3) The owner of an animal seized in terms of section 5(2) may apply to the relevant person referred to in section 5(2) for the release of such animal prior to its removal to the pound, in which event that person must release such animal forthwith.

4. Care of trespassing animals

(1) A person may not work, use or ill-treat an animal found trespassing on any land or whilst it is in the process of being removed to a pound.

5. Pound to which animals must be taken

(1) An animal seized for the purposes of impounding as contemplated in section 5, must be removed to the nearest accessible pound, by the shortest practical route, and within the shortest practical time : Provided that animals of different species must be separated at all times according to their species.

6. Information to be supplied to pound keeper

1. A person sending animals to the pound must advise the pound keeper in writing of -

- (a) The number and descriptions of the animals;
- (b) The land upon which they were found trespassing; and
- (c) The distance in kilometers, by the shortest practical route, between the place on such land where they were seized and the pound.

7. Acceptance at pound of animals to be impounded

1. The pound keeper may not refuse to accept an animal for impounding.

8. Pound register

(1) The pound keeper must -

- (a) maintain a pound register containing the information contemplated in Schedule 2, which must be available for public inspection at all reasonable times; and
- (b) complete the pound register immediately upon the acceptance into the pound of any animal.

(2) If the pound keeper -

- (a) neglects or refuses to comply with any of the provisions of subsection (1);
- (b) knowingly makes a false entry in the pound register;
- (c) fraudulently destroys or erases any previous entry in the pound register; or
- (d) willfully delivers a false copy or extract from the pound register to any person,

he or she is guilty of an offence.

9. Notice to owners of animals

The owner of an animal contemplated in section 5(1), must be notified by -

- (a) addressing a written notice to him or her; or
- (b) placing a copy of the notice to the owner on the municipal notice board; and
- (c) publishing a copy of the notice on at least two consecutive days in a newspaper of general circulation in the Municipality.

10. Fees and costs payable

1. The pound keeper must -

- (a) charge the owner of an impounded animal the fees as set by the Municipality from time to time as contemplated in section 75A of the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000); and
- (b) recover from the owner the cost of any dipping, medical treatment, inoculation or other treatment that may be necessary or required in terms of these by-laws or in accordance with any other law.

11. Public nuisance

- 1) An owner of an animal or the owner or user of land creates a public nuisance if any of the following occurs or arise on premises on which an animal is kept:
 - a) A water pool, ditch, gutter, dung pit or heap is so foul or in such a state or so situated or constructed to be offensive;
 - b) an accumulation of animal waste or other matter which is offensive;
 - c) a building, structure, enclosure or runway on the premises is-
 - i. so constructed, situated, used or kept as to be offensive;
 - ii. not kept in a clean state and free from offensive or obnoxious smells or effluvia there from;
 - iii. kept or permitted to remain in an unsanitary state as to be offensive; or
 - iv. infested with pests or vermin or in a state that is conducive to the Breeding of pests or vermin;
 - v. insufferable noise emanates from premises on which an animal is kept, or

- vi. any organic matter is being used or kept in a manner that attracts vermin and pests

10. Destruction of animal

- 1) The Council may order the destruction of an animal which is-
 - a) dangerous or ferocious;
 - b) found at large in a public place and-
 - c)
 - i. appears to be ownerless or abandoned by its owner;
 - ii. in respect of which the owner of the animal refuses or fails to pay tax due or obtain a permit in terms of these By-laws; or
 - d) injured or diseased to such an extent that it would be humane to do so.

The Council may order the removal and burial of the carcass of an animal destroyed in terms of subsection (1)

AREAS FOR KEEPING OF ANIMALS

COLUMN 1	COLUMN 2	COLUMN 3
AREA	SPECIES	NUMBER
(Section 6(1)(a))	(Section 6(1)(b))	(Section 6(1)(c))
of the Animal By-laws,	of the Animals By-laws,	of the Animals By-laws,
2004	2004	2004
1. Residential area		
Poultry	0	
Swine	0	
Goats	0	
Sheep	0	
Rabbits	0	
Head of Cattle	0	
Horses	0	
Mules	0	
Donkeys	0	
Ostriches	0	
2. Smallholding (up to hectares in size)	Horses	2
Poultry	20	
Swine	2	
Goats	2	
Sheep	10	

Rabbits	10
Mules	5
Donkeys	5
Head of cattle	5
Ostriches	5

3. Farms, Smallholding(greater Poultry than 2 hectares in size) Swine

Goats

Sheep

Rabbits

Head of Cattle

Horses

Mules

Donkeys

Dogs

Cats

Ostriches

PRESCRIBED FEES

1. Section 8 (6)(b)

Smallholdings (up to hectares in size)	Horses	RXX, xx
Every horse in excess of determined number	RXX, xx Poultry(per head)	RXX, xx

Every head of poultry in excess of determined number	RXX, xx
Swine	RXX, xx
Every swine in excess of determined number	RXX, xx
Goats	RXX, xx
Every goat in excess of determined number	RXX, xx
Sheep	RXX, xx
Every sheep in excess of determined number	RXX, xx
Rabbits	RXX, xx
Every rabbit in excess of determined number	RXX, xx
Ostriches	RXX, xx
Every ostrich in excess of determined number	RXX, xx

Farms, Smallholdings(greater Poultry than 2 hectares in size) Swine

Goats

Sheep

Rabbits

Head of Cattle

Horses,

Mules

Donkeys

Ostriches

2. Section 23 (2)(b)

Residential areas	Dog (male, unsterilized)	RXX, xx	
Bitch (unsterilized)		RXX, xx	
Dog (male, unsterilized)		RXX,xx	
Bitch (sterilized)		RXX,xx	
Every dog or bitch (unsterilized) in excess of determined		RXX, xx	
Every dog or Birth (sterilized) in excess of determined number		RXX, xx	Smallholding(up to
2 hectares in size)	Dog (male, unsterilized)	RXX, xx	
Bitch (unsterilized)	RXX, xx Dog (male, sterilized)	RXX, xx	
Bitch (sterilized)			RXX, xx
Every dog or bitch (unsterilized) in excess of determined		RXX, xx	
Every dog or bitch (sterilized) in excess of determined		RXX, xx	
Farms and smallholding (greater than 2 hectares in size)	Dog (male, unsterilized)	RXX,	
x			
Bitch (unsterilized)	RXX, xx		
Dog (male, sterilized)	RXX, xx		
Bitch (sterilized)	RXX, xx		
Every dog or bitch (unsterilized) in excess of determined		RXX, xx	
Every dog or bitch (sterilized) in excess of determined number		RXX, xx	

**THEMBISILE HANI LOCAL MUNICIPALITY
BARBERS, HAIRDRESSERS AND BEAUTICIANS BY-LAWS**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Thembisile Hani Local Municipality, enacts as follows:-

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1. Interpretation

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

- “Barber”** means a person who carries on the business of barber, which business comprises any one or more of the services or activities contemplated in section 4;
- “Beautician”** means a person who carries on the business of beautician, which business comprises any one or more of the services or activities contemplated in section 4;
- “Council”** means Thembisile Hani Municipality Council;
- “Hairdresser”** means a person who carries on the business of hairdresser, which business comprises any one or more of the services or activities contemplated in section 4;
- “Salon”** means a place where any one or more of the services or activities Contemplated in section 4 are normally carried on.

2. Principles and objectives

The Thembisile Hani Municipality Council, aware of its duty to ensure the health, safety and well-being of all residents in which visitors to the municipal area, adopts these By-laws with the aim of regulating the business of the barber, hairdresser and beautician.

3. Permit by Council

- a) No person may, for gain, carry on the business of barber, hairdresser or beautician without being in possession of a permit which has been issued by the Council.
- b) A person who wishes to obtain a permit must apply to the Council and submit to the Council a contemplated form similar to the form contained in schedule 1, which schedule refers.
- c) The following particulars must be included in the application:

- i. The nature of the business to be carried on;
 - ii. the nature of the material to be dealt with;
 - iii. the process to be carried on the premises;
 - iv. the products of the process;
 - v. the volume, composition, and nature of production wastes that require disposal;
 - vi. the means proposed to be adopted for the disposal of, and to prevent nuisance arising from, atmospheric pollutants, waste material, noise or vibrations; and
 - vii. any circumstance which could cause a hazard to employees or the public.
- d) The Council may require the submission of further particulars, plans or drawing.
 - e) The Council may refuse to issue a permit, or may issue a permit on a form similar to the form in Schedule 2, which schedule refers, on such conditions and for such a period as the Council deems necessary, against payment of the prescribed fee, and should the permit be issued for a specified period, it may be renewed from time to time on application before expiry of the permit.
 - f) The granting of a permit is condition on the effective prevention of any nuisance or danger to the health of the employees of the business or the public in general.
 - g) If, at any time after the issue of the permit the Council is satisfied that a condition or restriction is not being properly complied with, the Council may serve a notice of compliance contemplated in section 7 on the permit holder or the owner, occupier or person in charge of the premises upon which the business is carried on, and should the permit holder fail to comply with the compliance notice, the Council may immediately withdraw the permit.
 - h) A person who contravenes a provision of subsection (1) commits an offence.

4. Services and activities

The business of barber, hairdresser or beautician as contemplated in section (3) whether carried on in a salon or another place, comprises any one or more of the following or similar services or activities, or a combination thereof, which are applied to the male or female human body:

- a) Cutting, shaving, singeing, shaping, shampooing, cleansing, conditioning, treating, chemical reforming (such as but not limited to permanent waving) relaxing, straightening and colouring, whether by permanent or rinses, shampoos, gels or mousses, and lightening by means of tints, bleaches, highlights or high lifting tints or tones) of the hair on the human head;
- b) other than by a process contemplated in paragraph(a), removing hair by means of, but not limited to, waxing, chemical compounds (such as but not limited to depilatories), electrical or mechanical means, whether or not heat or an appliance or apparatus is used in any of these activities;
- c) treating hair by means of a trichological process or method;
- d) adding to hair of natural or artificial hair by means of, but not limited to an extension, board work, or a wig;
- e) shaping, shaving, plucking, treating or tinting an eyebrow or eyelashes or applying an artificial eyebrow or eyelashes;
- f) skin care of the face, including but not limited to the application of cosmetics;
- g) applying nail technology, such as but not limited to manicuring, Pedi curing, or applying false nails or extensions;
- h) piercing of the skin ("body piercing") or tattooing;
- i) massaging;
- j) bronzing such as by means of, but not limited to ultraviolet radiation; and
- k) contouring, such as but not limited to, slimming.

5. Heath requirements

- 1) No person may use the premises of the salon for a purpose other than or the carrying on of the business of barber, hairdresser or beautician.
- 2) A person who carries on the business of barber, hairdresser or beautician, in a salon or another place, must-
 - a) at all times keep a first aid kit on the premises, and treat an injury or wound which may occur on the premises;

- b) install or available in the salon an appliance or other means whereby an instrument that have come into contact with human skin, hair or bodily fluid, such as, but not limited to, blood, may be sterilized or disinfected;
- c) after each use of an instrument which was used for the piercing of the skin or for tattooing, sterilize the instrument;
- d) after each use of a blade, razor, pair of scissors, comb, brush, roller, nail file, clippers, or other instrument which was applied to the human hair, nail or skin, disinfect the instrument;
- e) wear new disposal gloves when he or she implants hair, pieces or tattoos skin, or uses a chemical or chemical compound in an activity;
- f) disinfect his or her hands before and after rendering any service to a client;
- g) directly after treatment of the client, clean and disinfect a surface that has been contaminated by body fluid; and
- h) dispose of any disposable glove or other disposable material after each use;
- i) at least once a day wash, with a disinfectant, all clothing such as aprons and caps, all surfaces such as, but not limited to, wall, floor, counters and chairs;
- j) dispose of all waste water, sharp instruments, bloodied and otherwise contaminated disposable towels and paper in an approved manner;
- k) store sharp instrument such as, but not limited to, a razor, blade or needle in a separate container;
- l) after each use, wash and clean all plastic and cloth towels;
- m) generally keep the premises, tools, equipment and clothing in a hygienic condition at all times;
- n) after every service, collect waste such as, but not limited to, hair clipping and toweling paper, and store or dispose of such waste in accordance with the Waste Management By-laws, 2005;
- o) ensure that no animal, excluding a guide dog accompanying a blind person, enters the premises; and

p) provide his or her employees with protective clothing, train any person working on the premises, and ensure that the employee complies with the provisions of these by-laws.

3) A person who contravenes a provisions of subsection(1) or (2) commits an offence

6. Requirement for premises

1) A person who carries on the business of barber, hairdresser or beautician, in a salon or another place, must ensure that the premises comply with the following:

- a) Basins, with a supply of potable water, must be available for the washing of hair and hands;
- b) lighting, ventilation, water and toilet facilities as prescribed in the National Building and Regulations and Building Standards Act, 1977 (Act No. 103 of 1977) must be provided;
- c) shelves, counters, table tops or other fixtures on which instruments are placed must be constructed of impervious material that is easy to clean;
- d) adequate facilities for the storage of cloths, instruments and appliances must be provided;
- e) Facilities for the disposal of waste water must be provided;
- f) the walls and floors must be constructed of materials that are
- g) easy to clean; and
- h) unless separated by a wall, the premises may not be used for the storage and preparation of food, or for sleeping.

2) Should the permit holder or the owner, occupier or person in charge of the premises upon which the business is carried on fail to comply with a provision in subsection (1), the Council may serve a notice of compliance contemplated in section 7 on the person.

7. Notice of compliance and representatives

1) A notice of compliance must state-

- a) the name or residential or postal address of the affected person;
- b) the condition contemplated in section 3(5) or (6) which has not been complied with or the provision of section 6(1) which has not been not been complied with;
- c) in detail the measures required to remedy the situation;
- d) that the person must within a specific period take the measures to comply with the notice and to complete the measures before a specific date; and
- e) that the person may within 14 days make written representations in the form of sworn statement or affirmation to the Council at a specified place.

2) The Council, when considering any measure or period envisaged in subsection (1) (c) or (d), must have regard to the principles and objectives of these By-laws, the nature of the non-compliance, and other relevant factors.

3) Where a person does not make representations in terms of subsection (1)(e), and the person fails to take the measures before the date contemplated in subsection (1)(d), he or she commits an offence, and the Council may, irrespective of any fines which may be imposed under section 11, act in terms of subsection (5).

4)

- a) Representations not lodge within the time contemplated in subsection (1) (e) will not be considered, except where the person has shown good cause and the Council condones the late lodging of the representations.
- b) The Council must consider the timely representations and any response thereto by an authorized official.
- c) The Council may, on its own volition, conduct any further investigations to verify the facts if necessary, and the results of the investigation must be made available to the permit holder, who must be given an opportunity of making a further response if he or she so wishes, and the Council must also consider the further response.
- d) The Council must, after consideration of the representations and any response and further response make an order in writing and serve a copy of it on the person, which order must confirm, in whole or in part, alter, or set aside the notice of compliance, and where the notice of compliance, and where the notice of notice of compliance is confirmed, in whole or in part, or altered, the Council must

inform the person that he or she must, within the period specified in the order, discharge the obligations set out in the order and that failure to do so constitutes an offence.

- e) Where a person fails to discharge the obligations contemplated in subsection (4)(d), he or she commits an offence and the Council may, irrespective of any fines which may be imposed under section 11, act in terms of subsection (5).

- 5) The Council may take such measures as it deems necessary to remedy the situation, and the cost thereof must be paid to the Council in accordance with section 8.

8. Costs

- 1) Should a person fail to take the measures required of him or her by a notice of compliance contemplated in section 7, the Council may, subject to subsection (3) recover, as a debt, all costs incurred as a result of it acting in terms of section 7(5) 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 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 Council under section 7(5)
- 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.

9. Authentication and service of notices and other documents

- 1) A notice issued by the Council in terms of these By-laws is deemed to be duly issued if it is signed by the officer authorized by the Council.

- 2) Any notice or other document that is served on a person in terms of these By-laws is regarded as having been duly served-
 - a) when it has delivered to that person personally;
 - b) when it has been left at that person's place 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 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.

10. Appeal

- 1) A person whose rights are affected by a decision of an official of the Council acting in terms of these By-laws may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the notification of the decision.
- 2) The appeal authority contemplated in subsection (3) must consider the appeal, and confirm, vary or revoke the decision, but no such variation or

revocation of a decision may detract from any rights that may have occurred as a result of the decision.

- 3) When the appeal is against a decision taken by-
 - a) a staff member other than the Municipal Manger, the Municipal Manager is the appeal authority;
 - b) the Municipal Manager, the Executive Mayor is the appeal authority; or
 - c) a political structure or political office bearer, or a Councilor. The Council is the appeal authority.

- 4) The appeal authority must commence with an appeal within six weeks of receipt of the notice of appeal and decide the appeal within a reasonable time.

11. Penalties

- 1) A person who has committed an offence in terms of these by-laws is, on conviction, and subject to penalties prescribed in any other law, 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.

12. Saving and transitional provision

A person who, at the date of commencement of these By-laws, carries on the business as barber, hairdresser or beautician without being in possession of a permit as contemplated in section 3(1) must, within a period of six months, comply with the provisions of these By-laws

13. Short title and commencement

These By-laws are called the Thembisile Hani Barbers, Hairdressers and Beauticians
By-laws, 2012

SCHEDULE 1
(Section 3(2))

APPLICATION FOR PERMIT FORM

A. PERSONAL PARTICULARS

Name: _____

Address: _____

Telephone number: _____

B. BUSINESS PARTICULARS

Address of business premises: _____

Type of business (e.g. hairdresser, barber): _____

Nature of activity or service that will be carried on: _____

Nature of the materials to be dealt with: _____

Process to be carried on premises: _____

Products of the process: _____

Nature and composition of waste: _____

Estimated volume of waste: _____

Briefly explain how the waste will be disposed of: _____

Signature applicant: _____ Date: _____

SCHEDULE 2

(Section 3(5))

**THEMBISILE HANI LOCAL MUNICIPALITY COUNCIL
PERMIT TO CARRY ON THE BUSINESS OF BARBER,
HAIRDRESSER OR BEAUTICIAN**

This serves to confirm that _____ (Name of Persons) of
_____ (Address of
person) is permitted to carry on the business of Barber/ Hairdresser / Beautician within
the Thembisile Municipality Area at the following address: _____ -
_____ (Address of
business premises) for the period _____ to _____

The following conditions apply to the carrying on of the business: _____

Signed: _____

Date: _____

OFFICIAL CAPACITY

THEMBISILE HANI LOCAL MUNICIPALITY**CREDIT CONTROL AND DEBT COLLECTION BY-LAWS****PREAMBLE**

In terms of Section 13 of the Local Government Systems Act 32 of 2000, the Thembisile Hani Local Municipality (“the Municipality”) hereby publishes the Credit Control and Debt Collection By-Laws set forth hereinafter, which have been made by the Municipality in terms of Section 98 of the Local Government: Municipal Systems Act 32 of 2000

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1. DEFINITIONS

1. For the purpose of this By-law, any word or expression to which a meaning has been assigned on the Local Government: Municipal Systems Act No. 32 of 2000 shall bear the meaning so assigned to it and, unless the context indicates otherwise:

“Act” means the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000), as amended from time to time;

“**account**” means any account rendered for municipal services provided;

“**agreement**” means the contract relationship between the municipality or its authorized agent and a customer, whether written or deemed;

“**applicable charges**” means the rate, charge, tariff, flat rate, or subsidy determined by the municipal council;

“**arrears**” means any amount due, owing and payable by a customer in respect of municipal services not paid on the due date;

“**authorized agent**” means any employee, agent, sub-contractor, or representative of a Municipality or any person duly authorized by a Municipality to perform any function under this By-law;

“**charges**” means surcharges on fees, penalties, property rates, taxes, levies, and duties;

“**customer**” means a person with whom the municipality or its authorized agent has concluded an agreement for the provision of - municipal services;

“**debtor**” means a person owing an amount of money to the municipality for a reason other than through the provision of municipal services;

“defaulter” means a customer who owes arrears;

“due date” means the date on which the amount payable in respect of an account

“household” means a total number of people who occupy a property for residential purposes whether permanently or on a temporary basis, but excludes persons employed by the household;

“household customer” means a customer that occupies a dwelling, structure or property primarily for residential purposes;

“illegal connection” means a connection to any system through which municipal services are provided that is not authorized or approved by the municipality or its authorized agent;

“indigent customer” means a household customer qualifying and registered with the municipality as an indigent in accordance with these by-laws;

“municipality” means Thembisile Hani Local Municipality, a municipality established in terms of the Local Government: Municipal Structures Act 117 of 1998;

“municipal services” means for purposes of these policy, services provided by the municipality or its authorized agent, including refuse removal, water supply, sanitation, electricity services and rates or any one of the above;

“occupier” in relation to any premises means-

- a) any person in actual occupation of the land or premises without regard to the title under which he occupies;
- b) a person indicated as such in the service agreement;
- c) any person legally entitled to occupy such premises;

d) in the case of premises sub-divided and let lodgers or various tenants, shall include the person receiving the rent payable by the lodgers or tenants whether for his own account or as an agent for any person entitled thereto or interested therein;

e) any person appearing as such on the records of the Municipality.

“owner” means

(1) the person in who from time to time is vested the legal title to premises;

(2) in a case where the person in whom the legal title to premises is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, Liquidator or other legal representative;

(3) in any case where the municipality or its authorized agent is unable to determine the identity of such , person, a person who is entitled to the benefit of the use of such premises or a building or buildings thereon;

(4) in the case of premises for which a lease agreement of 30 years or longer has been entered into, the lessee thereof;

(5) in relation to -

(i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, A 1986 (Act No. 95 of 1986), the developer or the body corporate in respect of the common property, or

(ii) a section as defined in the Sectional Titles Act, 1986 (Act No. 95 of 1986), the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person, or

(6) a person occupying land under a register held by a - tribal authority;

“person” means any natural person, local government body or like authority, a company or close corporation incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

“rateable property” means property on which the Municipality holds the right to impose rates;

“supply zone” means an area, determined by the municipality or its authorized agent, within which all customers are provided with services from the same bulk supply connection;

“unauthorized services” means receipt, use or consumption of any municipal service which is not in terms of an agreement, or authorized or approved by the municipality or its authorized agent;

2. PURPOSE OF BY-LAW

The purpose of this By-law is to -

- 2.1 ensure that all money due and payable to the Municipality in respect of rates, fees for services, surcharges on such fees, charges, tariffs, interest which has accrued on any amounts due and payable in respect of the foregoing and any collection charges are collected efficiently and promptly;
- 2.2 provide for credit control procedures and mechanisms and debt collection procedures and mechanisms;
- 2.3 make provision for the handling of indigent debtors;
- 2.4 ensure that the targets set are realistic and consistent with generally recognised practices and collection ratios as well as the income estimated in the annual budget of the Municipality, less a reasonable provision for bad debts;
- 2.5 provide for interest on overdue amounts;
- 2.6 provide for the imposition of collection charges on the payment of any overdue amount;
- 2.7 allow for the extension of time, where necessary, for the payment of overdue amounts;
- 2.8 provide for the termination of services or for restrictions on the provision of services when payments are overdue;
- 2.9 provide for matters, legal and otherwise, relating to the unauthorised consumption of services, theft and damages.

3. COMMUNITY PARTICIPATION IN BUDGETARY PROCESS

- 3.1 The Municipality through its Financial Committee, shall hold an annual budget meeting during January (to be called the first budget meeting) where budget priorities, principles and a budget framework will be considered.
- 3.2 Before the end of February of each year, at least one public meeting shall be held where the local community and interest groups will be able to participate in the discussion and debating of budget priorities, budget principles and a budget framework.
- 3.3 At least 14 days notice shall be given of such public by posting it on the designated notice board at the Municipal offices and by publication thereof at least once in two local newspapers.
- 3.4 Before the end of March of each year, a workshop shall be held in each ward I order to:
- 3.4.1 Identify the needs of each ward;
- 3.4.2 Involve the community in prioritizing those needs;
- 3.4.3 Provide information regarding the budgetary process, levels of payment and non-payment and to devise strategies regarding non-payment;
- 3.5 Before the end of April;
- 3.5.1 A Council workshop shall be held to reconcile the results of the first budget meeting, the public meeting and the ward workshops with Council's integrated development plan;

3.5.2 Council's Mayoral Committee shall create a draft budget;

3.6 Before the end of May of each year the draft budget shall be discussed at a second round of at least one public meeting, to be held and convened in the same manner as the first round of public meetings;

3.7 Council shall approve the final budget before end of June each year;

3.8

a. Council shall levy the fees, charges and tariffs in respect of Services and Charges by way of Council Resolution.

b. The tariffs and charges so payable and the date of its implementation shall be published as prescribed in the Local Government: Municipal Systems Act No. 32 of 2000.

c. Such tariffs and charges may differentiate between different categories of customers, services and service standards as well as geographical areas.

3.9 The dates and procedure mentioned in this Section are indicative only and are further subject to the financial and administrative capacity of the Municipality.

4. SERVICE AGREEMENTS

(1) No municipal services shall be provided to any property unless a written agreement governing the supply and cost thereof has been entered into with a The Municipality subject to its administrative, logistical and financial capability.

(2) Such agreement shall be entered onto by both the owner and occupier, where applicable. The owner shall bind himself/herself as surety and co-principal debtor in favour of

- the Municipality for the fulfilment of the obligations of the occupier towards the Municipality;
- (3) The owner and occupier shall be jointly and severally liable for payment of all municipal services and charges.
- (4) It is the duty of the owner to ensure that at all times the occupiers of the premises are not on arrears with payments, but the Municipality shall, where it is the Municipality, and within financial and human resource constraints, endeavour to inform the owner of the performance by the occupier in terms of the agreement.
- (5) A Municipality may require that service applications for business entities, including but not limited to Trusts, Companies and Close Corporations, Partnerships, Sole Proprietors and Voluntary Associations be accompanied by one or more or all of the following:
- a) A resolution whereby authority to enter into the agreement is delegated to the signatory;
 - b) The business entity's registration number or IT number, if applicable;
 - c) The names, addresses and all relevant contact particulars of all the businesses' Directors or Members or Trustees or Proprietors or Partners or Executive Members;
 - d) That any one or more or all Partners / Members / Directors / Trustees must sign as surety and co-principal debtor for the full fulfilment of all the obligations of the business entity;
 - e) That the signatory to the agreement warrants that he / she is duly authorised to do so, that all information supplied is true and correct and shall further warrant that the business is not trading in

insolvent circumstances

- (6) Upon application for Municipal Services, and if so required by the Municipality, customers emanating from other Municipalities shall submit the particulars of the Municipal account of such Municipality and shall agree in writing that such other Municipality may indicate whether all amounts due in respect of Municipal Services, surcharges on fees, property rates and other Municipal taxes, levies and duties have been paid by the customer.
- The Municipality may refuse to render any Municipal services to such customer in the event of the previous account not being fully paid up or arrangements with such other Municipality have been made for the payment hereof.
- (7) In the agreement, customers shall warrant that all information supplied is correct and that liability is accepted for all Municipal services and charges, costs of collection and interests on overdue accounts in the event of accounts being in arrears;
- (8) The address furnished in the services agreement shall constitute the domicilium citandi et executandi of the customer for the purpose of service of any process, notice, document and account;
- (9) The Municipality shall provide a customer with a copy of the service agreement upon signature thereof by the Municipality;
- (10) The applicant services may be referred for a service agreement upon signature thereof by the

service provider;

5. SCREENING

- a. If required by the Municipality, an application for service agreements shall be accompanied banking details, previous Municipal Account, particulars of trade creditors and an applicant shall give in the application for services permission and authority to the Municipality to verify such information in order to assess the credit risk of the applicant;
- b. Apart from the above, the Municipality may also make the necessary enquiries with credit bureaus and similar institutions in order to assess the credit risk.

6. DEPOSITS

- a. Prior to signature of the agreement, a security deposit shall be paid by the customer;
- b. Such security deposit shall be paid either in cash or any other means of payment acceptable to the Municipality;
- c. Security deposits may vary according to the credit risk of the customer as assessed by the Municipality;
- d. The Municipality shall from time to time by resolution determine the criteria for the categories in terms whereof customers shall be graded as well as the amount of the deposit payable in each risk category, where the Municipality is the service provider;
- e. The Municipality shall only after consultation with the community periodically increase or decrease the deposits payable and date of implementation thereof, where it is the service provider;
- f. Upon termination of the service agreement the amounts of the deposits less any outstanding amounts due will be refunded to

the customer;

- g. No interest shall be payable to the customer on deposits held by the Municipality.

7. ACCOUNTS AND NOTIFICATION OF ADDRESS

- A. In the absence of an agreement to the contrary, a Service Provider shall, within its administrative capacity and subject thereto, endeavour to render monthly accounts to the customer in respect to Municipal services, and in the case of the Municipality, of charges.
- B. Such accounts shall be posted to the address appearing in the records of the Municipality as that of the customer, as the case may be.
- C. It is the duty of the customer to ensure that accounts are received and payment effected notwithstanding the fact that it may not have been received. It shall be presumed unless proven otherwise that any such account has been timeously received by the customer.
- D. In the absence to an agreement to the contrary, accounts shall be nearly as practically possible to a [period of 30 days, shall be produced in accordance with the meter reading cycle and due date shall be linked to the statement date.
- E. Payment of an account shall be effected within 7 days of the statement date, but where the Municipality is the Service Provider, and in the event of monthly payment of charges, payment must be made on or before the 7th day of each month.
- F. Where an account is not settled in full, any lesser amount tendered and accepted shall not be deemed to be in full and final settlement of such an account, even where the customer is in dispute with the Municipality regarding the amount due.

- G. A customer shall inform a Municipality in writing of any change of his / her postal and physical address within 7 days of date thereof, failure of which shall render the customer liable for all tracing costs incurred as a result of such failure.
- H. Every owner of property shall, within 60 (sixty) days after date of promulgation of this By-Law, inform the Municipality in writing of his/her postal and physical address and furthermore of any change thereof within 7 (seven) days of such change and every purchaser of property shall within 7 days after the date of registration of that property into his/her name, inform the Municipality in writing of such fact and of his/her postal and physical address.
Failure to do any of the above shall constitute an offence and such owner shall furthermore be liable.
- I. The Municipality shall, with its administrative capacity and subject thereto, where it is the Service Provider, ensure that all customers shall receive an understandable and accurate account consolidated with all Municipal service costs and charges for the property, where applicable.
- J. The Municipality, if administratively possible, issues a duplicate account to a customer on request, against payment of the prescribed fee.
- K. A Municipality may allocate all payments received to any debit entry on the account and the customer who has overdue debt may not specify that the payment is for a specific portion of the account or for a specific service or charge;
- L. A Municipality may, with the consent of a customer, approach an employer to deduct an agreed amount from the employee's weekly or monthly wage/salary to pay towards arrear Municipal accounts.
- M. The use by the customer of agents to effect payment to the

Municipality is at the sole risk of the customer. The customer shall be liable for payment of all additional costs which are levied by the customer's agent.

8. METERING

- a) The Municipality shall provide, shall to practical and financial constraints, meters to all premises, for all meter able services;
- b) In the absence of an agreement to the contrary, and subject to practical and financial constraints all meters will be read monthly. Where a meter has not been read, the Municipality must average the consumption by debiting the account with the average monthly reading for the preceding three months, if the history of the account is available. Where no such history exists, the customer shall pay an estimate provided by the Municipality;
- c) When a meter is replaced, the customer shall be informed thereof in writing;
- d) In the event of a service being metered but cannot be read due to practical, financial or human resource constraints or circumstances out of the control of the Municipality, and the customer is then charged for an average consumption, the account following the reading of the meter consumption shall articulate the difference between the actual consumption and the average consumption and the resulting credit or debit adjustment;
- e) Every customer shall give an authorized representative of the Municipality access at all reasonable hours to the property in order to read, inspect, install, repair or replace any meter or service connection for reticulation, or in order to disconnect, stop, restrict, or reconnect the provision of any service;
- f) In the event of access not being reasonably possible the Municipality may relocate a meter and the customer shall be responsible for payment of the costs of such relocation;
- g) In the event of reasonable access not possible the Municipality may:
 - i. By written notice require the customer to restore access at his/her own cost within a specified period; or

- ii. Restore the access without prior notice and recover costs thereof from the customer

9. COMPLAINTS AND APPEALS

(1) The Municipality shall, within practical and financial constraints establish:

- i. A central complaints feedback office;
 - ii. A centralised database in order to enhance co-ordination of complaints and the resolution thereof as well as effective communication with customers;
- a) A customer may lodge a written request with the Municipality for recalculation of an account, or testing of a meter if such a customer is of the opinion that the account rendered is inaccurate or such meter is defective.
- b) Such a request must contain full personal and/or business particulars of the customer, the relevant account number, direct contact number, address and any other particulars required by the Municipality;
- c) Pending the outcome of the request, the customer must pay an amount equal to the average of the monthly total of the preceding 3 months' accounts where history of such an account is available. Where no such history is available, the customer shall pay an estimate provided by the Municipality, not later than the date due for the payment thereof;
- d) Failure to make payment as contemplated herein will render the customer liable for disconnection of the services.
- e) Upon receipt of the request, the relevant Municipality shall be given a written acknowledgment thereof, investigate the matter and inform the customer of the outcome of such investigation and shall give reasons for its decision.

- f) Any adjustment to the customer's account as a result of the investigation shall be made within one month.
- g) Upon receipt of the decision of the Municipality, the customer may lodge an appeal against the decision by furnishing it, together with reasons, within 21 days after communication of the decision to the Municipality, and in the case of the Municipality, to the Municipal Manager. The Municipality or the Municipal Manager, as the case may be, shall commence with the appeal within 6 weeks and shall decide the appeal within a reasonable period. The decision of the Municipality shall be final and it may proceed with Credit Control and Debt Collection measures provided for in this By-Law after the customer has been notified of the outcome of the appeal;
- h) No dispute, enquiry or complaint will be reconsidered after the outcome thereafter has been communicated to the customer.
- i) If the customer is not satisfied or complaint will be reconsidered after the outcome thereof has been communicated to the customer.
- j) Under no circumstances may the payment of any amount be withheld as a result of any dispute amount be withheld as result of any dispute or perceived dispute and the Service Provider may such an event proceed with debt collection mechanisms as provided for in this By-Laws.

10. CUSTOMER ASSISTANCE

1) INCENTIVES

The Municipality may from time to time implement incentives to promote prompt payment of accounts.

2) RATE REBATE

Properties used exclusively for residential purposes may qualify for a property rate rebate as determined annually by the Municipality by resolution subject to the following:

- a) Only customers receiving old age pensions or state

disability grants are eligible for a rebate;

- b) Application for a rebate must be made in writing annually to reach the Chief Financial Officer on/before 30 June;
- c) The applicant must be the registered owner of and residing on the property;
- d) The subletting of any portion of the premises, the taking in of boarders or tenants or any children or family members being employed and living on the property shall disqualify the applicant for a rebate;
- e) The applicant should not own any other immovable property;
- f) The property must be readily accessible to Municipal staff for purpose of carrying of inspections during reasonable hours.

11. SETTLEMENT ARRANGEMENTS

- A. Notwithstanding any arrangement for payment as contemplated herein, a Municipality may be restrict and/or discontinue the provision of services as provider for in this By-Law.
- B. A Municipality may enter into an agreement with a customer if such customer is unable to, on good cause shown, to pay his/her account, and may require that the customer shall:
 - a) Sign an acknowledgement of debt;
 - b) Sign consent to civil judgment;

- c) Consent to a garnishee order/emolument order (if he/she is in employment);
 - d) Acknowledge that interest will be charged at the prescribed rate and in a manner determined by the Municipality from time to time;
 - e) Not fall into arrears with payment of the current portion of the account;
 - f) Sign an acknowledgement that, if the arrangement is defaulted on, the full outstanding balance will then become immediately due and payable, that no further arrangements will be entered into and that disconnection of water and/or electricity will continue and that legal proceedings will be instituted for recovery of all arrear amounts and;
 - g) The owner or his/her agent consents to such agreement in writing.
- C. In the event of a customer being in arrears pertaining to an account and seeking an arrangement for the payment thereof, the Municipality may in its discretion convert the electricity meter to a prepayment meter and the cost of such conversion together with such arrears, shall be paid off either by:
- a) Adding it to the arrears account and repaying it over the period agreed upon; or
 - b) Adding it as a surcharge to the prepaid electricity costs and repaying it within the agreed period with each purchase of services until the debt is liquidated.
- D. The Municipality may raise the security deposit payable in the

event of an arrangement being sought or where a customer is in default in terms of such an agreement;

- E. The customer must prove levels of income, if the Municipality requests same, and all arrangements shall be made subject to periodic review.

12. INSTALLMENTS

Customers and property developers will be given the opportunity to pay property rates and service contributions and instalments, as determined by the Municipality from time to time subject thereto that such period shall not exceed 12 months.

13. INDIGENT SUPPORT

- a. The Municipality shall render support to indigent owners of property, who, due to a number of socio-economic factors are unable to make a full monetary contribution towards services provided by the Municipality;
- b. For an owner to qualify to be indigent, such owner must comply with the following requirements:
 - i. The applicant must be over 18 years of age;
 - ii. The total household income of all occupants must be less than an amount determined by the Municipality, which amount shall be annually adjusted by the Municipality;
 - iii. The applicant must have an active account with the Municipality;
 - iv. The applicant may not own more than one immovable property;
 - v. The applicant must reside on the property

-
- c. The applicant must apply on the prescribed application form only at service centres designated as such and situated within his/her respective area, together with the following documentary proof:
- a) The applicant's identity document;
 - b) Latest Municipal account and proof of ownership;
 - c) Documentary proof of total monthly income of the household to the satisfaction of the Municipality, including, but not limited to UIF card, salary advice, letter from an employer and bank statements.
 - d) An affidavit to the effect that all the information supplied is true and correct and that the total income of the household from all sources has been declared;
 - e) Recommendation by the applicant's ward councillor.
- f) The Municipality may appoint inspectors who shall be entitled to visit the applicant's premises in order to verify the correctness of the information provided in the application form, to record any changes in circumstances and make recommendations for approval, disapproval or disqualification of an application;
1. The application together with the inspector's recommendation shall be submitted to an indigent committee. Such indigent committee shall be a sub-committee of the finance committee of the Municipality;
 2. The indigent committee shall approve, disprove or disqualify the application and in the event of an application being approved, determine the subsidy amount to be granted;
 3. The indigent committee's decision shall be final and binding;

4. An applicant must apply for indigent support on an annual basis;
5. The reapplication for indigent support shall not be approved if the account pertaining to the use of water and/or electricity in excess of the free water and electricity consumption.
6. The Municipality shall inform all applicants in writing about the outcome of the application. In the event of the application being approved, the applicant shall be informed of the date of commencement and date of termination of the subsidy with no guarantee of renewal;
7. An owner who receives indigent support shall immediately request the cession of the subsidy if his/her circumstances have changed to the extent that he/she no longer complies with the requirements for indigent support;
8. Subsidies shall only be granted in respect of property rates and refuse removal. Water, sanitation and electricity consumption shall not be subsidised.
9. Indigent customers may be required to revert to prepayment meters. In such an event the Municipality may, in its sole discretion decide that the cost thereof shall be met either by:
 - a) A surcharge on the coupon cost;
 - b) Cash payment of the indigent customer; or
 - c) Be regarded as part of the subsidy grant.
10. The Municipality may differentiate between the amount of subsidies granted and may categorise indigent customers into various categories, but may not unfairly discriminate against customers.
11. If an indigent customer's consumption or use of Municipal service is

less than the subsidised service or free basic service the unused portion may not be accrued by the customer and the customer shall not be entitled to cash or rebate in respect of the unused portion.

12. Indigent support shall automatically terminate:

- a) Upon the death of the indigent customer;
- b) When the indigent customer disposes of his/her immovable property;
- c) When the indigent customer's circumstances change or indigent criteria for approval changes to the extent that the indigent customer no longer qualifies for indigent support;
- d) When the indigent customer no longer resides on the property;
- e) If an indigent customer fails to pay the account in excess of the subsidy service pertaining to water and/or electricity or fails to honour any arrangements made by him/her for payment of the outstanding account; and
- f) It is discovered that the information supplied by the indigent customer was false; I which event all subsidies granted to the indigent customer shall be reversed retrospectively.

11. ENFORCEMENT MECHANISMS

1. WATER / ELECTRICTY AND OTHER SERVICES

- i. If the Municipal account is not paid on the due date shown on the account, and unless permission for deferment of a payment has been granted, a written warning of possible disconnection of water and/or electricity supply will be forwarded to the customer and in which notice the date of such disconnection shall be stipulated, which date shall not

be less than 14 days, calculated from date of receipt of such notice.

- ii. If a customer is deemed to have received such notice on the same day if delivered by hand, email or telefax transmission, on the 3rd day after the date of posting, if posted by registered mail.
- iii. A Municipality shall be entitled to disconnect or restrict the supply of water and/or electricity without any further notice if payment in full had not been made on the date stipulated in the notice.

Upon disconnection of the supply of water and/or electricity, the Municipality shall post a notice in a conspicuous place on the property wherein the customer is informed that the supply has been disconnected, that all electric points should be considered live and that all water outlets should be closed. The said notice shall also advise that the supply will only be reconnected upon payment of the total amount specified in the notice together with the prescribed reconnection fee. Such notice shall also warn the customer of the consequences of unauthorised connection or use.

- iv. Business entities shall have the option to make arrangements for deferred payment but shall be obliged to [pay all arrears and prescribed fees before services will be restored.
- v. The Municipality shall restore services within a reasonable time after submission of proof of payment of the required amount, subject to logistical capacity. Services shall only be restored during official business hours except in instances deemed to be emergencies, and an additional

after-hours fee shall then be charged;

- vi. In the event of a customer being in arrears with property rates or any other Municipal charges, the Municipality shall have the right to deny or to restrict the sale and supply of electricity or water, where the Municipality is the Service Provider.

2. RATES, CHARGES AND LEVIES

It shall constitute an offence if charges are not paid on due date as stipulated on the account.

2.1 ANNUAL RATES AND OTHER LEVIES

- i. If the account is not paid by the due date as indicated on the account, a letter of demand shall be forwarded to the customer showing the total amount owed to the Municipality and requesting the customer to pay the full amount owing within a prescribed period which shall not be less than 14 days after the date of receipt of the notice.
- ii. The customer will be deemed to have received such notice on the same day if delivered by hand, email, and telefax transmission, on the 3rd day after the date of posting if posted by ordinary mail and on the 4th day after the date of posting if posted by registered mail.
- iii. If such notice is posted, it shall constitute due notice if forwarded to the postal address supplied by the customer in the service agreement.

- iv. If the account has not been settled or acceptable agreements have been made on or the date mentioned in the letter of demand, the Municipality may issue summons and in due legal process as contemplated herein shall be followed.
- v. Where the arrear rate is in respect of a Municipal property sold by the Municipality in terms of a suspensive sale agreement or lease agreement, the collection thereof may be done in terms of the deed of sale, lease agreement or any subsequent applicable written agreement between the Municipality and the customer.

2.2 MONTHLY RATES

- i. Interest will be charged on overdue accounts at an interest rate that shall be determined by the Municipality from time to time by resolution;

If the customer's account is in arrears for a period of 30 days or more, a letter of demand shall be forwarded to a customer, demanding payment of the arrear amount, and in which notice the amount is stipulated and the date

- ii. for payment thereof is indicated, which date shall not be less than 14 days after date of dispatch of the said notice;
- iii. The customer shall be deemed to have received the notice on the same day if delivered by hand, email, and telefax transmission, on the 3rd day after the date of posting if posted by ordinary

mail and on the 4th day after the date of posting if posted by registered mail.

- iv. If such notice is posted, it shall constitute due notice if forwarded to the postal address supplied to the customer in the service agreement.
- v. Should a customer fail to pay the arrears on the due date stipulated in the notice, the full outstanding balance of the annual rates shall immediately become due and payable and the Municipality shall then be entitled to institute legal action for the recovery thereof.

(v1) The provisions of Section 26 (2.1) (v) shall mutatis mutandis be applicable to this par (2.2)

3. SUNDRY AND HOUSING ACCOUNTS

- i. If a debtor's account is in arrears for a period of 30 days or more, a letter of demand shall be forwarded to a debtor, demanding payment of the arrear amount, and in which notice the amount is stipulated and the date for payment thereof is indicated, which date shall not be less than 14 days after date of dispatch of the said notice;
- ii. The debtor will be deemed to have received a notice on the same day if delivered by hand, email, and telefax transmission, on the 3rd day after the date of posting if posted by ordinary mail and on the 4th day after the date of posting if posted by registered mail.

iii. The Municipality may thereafter institute legal action for recovery of the amount owing.

iv. Property purchased from the Municipality sold by suspensive sale agreement shall be repossessed in terms of the written agreement between the debtor and the Municipality if payment of the purchase price is in arrears for more than 30 days.

4. INTEREST ON OVERDUE ACCOUNTS

Interest will be charged on all accounts not paid by due date in accordance with applicable legislation and as determined by the Municipality from time to time. Such interest will be levied and capitalised monthly in arrears on the monthly outstanding balance from due date and will be calculated for a full month irrespective of when payment is made. Such interest charged shall appear on the following month's account.

5. LEGAL PROCESS

- i. Where the services of outside parties are utilised for debt collection, inclusive of debt collection agencies and/or attorneys, such entities shall comply with such code of conduct as may be prescribed by their respective professional bodies.
- ii. The Municipality may release the credit information regarding a customer's account to credit bureaus or any other statutory institution as may be lawfully entitled to it. Apart from the

above, such information shall remain confidential and may be released or divulged to any person or entity without prior written consent of the customer,

- iii. A customer's particulars shall only be removed from an adverse credit listing after payment of the full account outstanding together with interest and penalties as prescribed have been paid by means of cash or a bank guaranteed cheque.
- iv. In the case of default judgments entered into against a customer or debtor, such customer or debtor shall at his/her own cost appoint an attorney to rescind the judgment and the Municipality shall not oppose the same, on condition that the full outstanding balance of the account together with interests and other charges as prescribed have been paid.

6. THEFT, FRAUD AND TEMPERING

- 1) No person shall in any manner or for any reason whatsoever tamper or interfere with any apparatus;
- 2) The Municipality shall have the right to immediately terminate the supply of services of a customer where prima facie evidence of tampering, theft or wilful damage to any apparatus, without prior notice to the customer;
- 3) In cases where the tampering has resulted in the meter recording less than the true consumption, the Municipality shall have the right to recover the full cost of his/her estimated consumption

- 4) The total amount owing, including interest charges, assessment of the unauthorised consumption, damages and discontinuation and reconnection fees as well as increased deposits as determined by the Municipality, if applicable, shall be due and payable before any service shall be reconnected.
- 5) No person shall fail to provide information reasonably required regarding investigation into or inquiries in connection with tampering, theft or wilful damage to property of a Municipality or used in connection with the provision of services or provide false information in connection therewith;
- 6) The Municipality may, where prima facie evidence exists regarding the withholding of information or provision of false information, immediately and without notice to the customer disconnect or restrict services and the provision of this paragraph regarding the reconnection of services shall mutatis mutandis apply;

7. COST OF COLLECTION

All costs and charges, interest, administration and collection costs, all penalties, surcharges, damages, service discontinuation and reconnection costs, assessment costs and all legal costs, fees and disbursements incurred in the collection of a debt shall be for the account of the customer or debtor as the case may be and the customer or debtor as the case may be shall be liable to pay legal costs on an attorney and client basis.

8. MAGISTRATE COURT JURISDICTION

The Magistrate Court shall have jurisdiction to adjudicate any action, notice of motion or application in terms of this By-Law, notwithstanding the amount involved.

9. IRRECOVERABLE DEBT

- 1) The Municipality, in the case of charges due or where it is the Service Provider, shall only abandon recovery of a debt owed to it in one or more of the following circumstances;
 - i. Insolvency or demise of the customer or debtor as the case may be, if proven that his or her estate has insufficient funds to make payment;
 - ii. A balance being too small to recover the reasons considering the costs of recovery;
 - iii. Where the claim has become prescribed;
 - iv. When the customer or debtor as the case may be relocates and tracing agents are unable to trace the current whereabouts of such person;
 - v. All reasonable notifications and

cost-effective legal avenues to recover the outstanding amount have been exhausted;

- vi. The amount outstanding is the residue of the payment of a dividend from an insolvent estate or where there is a danger of contribution in proving a claim against the insolvent estate.
- vii. If the debt outstanding cannot be proved;
- viii. The outstanding amount is due to an administrative error by the Municipality;
- ix. By Council resolution on good cause shown.

(2) Notwithstanding the above the Municipality shall be under no obligation to write off any particular debt.

10. OFFENCES

Any person who:

- a) Fails to give access required by the council or its authorized agent in terms of the By-Laws;
- b) Obstructs or hinders the Council or its authorized agent in the exercising of the powers or performance of functions or duties under these By-Laws;
- c) supply equipment and reticulation network or consumption of

services rendered;

- d) Fails or refuses to give the Council or its authorized agent such information as may be reasonably required for the purposes of exercising the powers or functions under these By-Laws or gives such Council or its authorized agent false or misleading information, knowing it to be false or misleading;
- e) Contravenes or fails to comply with a provision of these By-Laws;
- f) Fails to comply with the terms of a notice served upon him/her in terms of these By-Laws; shall be guilty of an offence and liable upon conviction to a period not exceeding six months imprisonment or community service or a fine not exceeding R6 000.00 or a combination of the aforementioned, subject to prior discussion with the Chief Magistrate.

11. SHORT TITLE

This By-law is the Credit Control and Debt Collection By-law of the Thembisile Hani Local Municipality, 2012.

12. COMMENCEMENT DATE

This By-Law takes effect on the date of proclamation in the Provincial Gazette.

ANNEXURE A

Physical Address		
Period of service		
Credit References		
1. Name of Company		Account No
Address		Tel No
2. Name of Company		Account No
Address		Tel No

Particulars of Owner (if not Applicant)			
Name of corporate entity			
Registration number of corporate entity			
Surname		Initials	
ID Number			
Occupation			
Tel No.			
Cell No.			
Physical Address		Postal Address	
Property to which Municipal services must be provided			
Suburb			
Zone			
Stand No			
Street Name			
Street Number			
Number of persons over the age of 18 years living on the property			
Type of Municipal services to be provided			
Water Supply Services			
Sanitation Services			
Electricity Services			

Refuse Removal Services	
Date on which provision of services should commence	

Payment Details	
Cash (Including cheque and Credit Card)	
Debit Order	
Stop Order	
Other method of electronic transfer	
Bank Details	Branch
	Account Number

A CERTIFIED COPY OF THE APPLICANT'S IDENTITY DOCUMENT / POWER OF ATTORNEY MUST BE ATTACHED TO THE APPLICATION

I / We hereby –

- a) Apply for the provision of Municipal services to be provided to the above property;
- b) Accept the conditions applicable to the provision of Municipal Services as set out on the Municipality's By-Laws and the Conditions of Supply of any service provider of the Municipality ;
- c) Declare that I / We was / were informed that the documents referred to in (b) are available for inspection at the offices of the Municipality during office hours;
- d) Declare that this application forms and implications thereof was explained were explained to me / us;
- e) Declare that all payments due and payable by me / us in pursuance of this application shall promptly be paid by me / us on the due date; and
- f) Declare that the information provided in this application form is true and correct.

Applicant

Municipality / Authorized agent

Date

Date

Signature of owner (if not Applicant)

Date

CERTIFICATION BY MUNICIPALITY

The consequences of the above declaration made by the Owner / Applicant were explained to him/her/it and that he/her/it indicated that the contents of the application were understood

Municipality / Authorized Agent

Date

FOR OFFICIAL USE ONLY

Deposit paid	Date
	Amount
	Receipt Number
Account Number	
Commencement date of services	
Area Code	

**ANNEXURE B: APPLICATION FOR REGISTRATION AS
AN INDIGENT CUSTOMER**

THEMBISILE HANI MUNICIPALITY

APPLICATION FOR REGISTRATION AS AN INDIGENT CUSTOMER

Note: an application for Municipal Services must be completed on submission of this application.

Particulars of Applicant			
Surname		Initials	
ID Number			
Marital Status			
If married: In/Out of Community of Property			
Occupation			
Tel No.			
Cell No.			
Physical Address		Postal Address	
Number of properties owned by applicant and all members of the household			
Details of properties, if applicable			
Property 1	Physical Address		
	Name of Owner		
	Name of bondholder		
	Account Number		
	Deed Registration Number		
	Type of Structure		

Property 2	Physical Address
	Name of Owner
	Name of bondholder
	Account Number
	Deed Registration Number
	Type of Structure

Is property/properties of a portion thereof leased to a third person? YES/NO			
If leased, rent received			
Number of all members in household			
Combined gross income of all members of the household per month			
Details of all members of the household over the age of 18 years resident at the property			
1. Surname			2. Surname
Full name			Full name
ID Number			ID Number
Employed (Y/N)			Employed (Y/N)
Salary including benefits (if relevant)			Salary including benefits (if relevant)
3. Surname			4. Surname
Full name			Full name
ID Number			ID Number
Employed (Y/N)			Employed (Y/N)
Salary including benefits (if relevant)			Salary including benefits (if relevant)
5. Surname			6. Surname
Full name			Full name
ID Number			ID Number
Employed (Y/N)			Employed (Y/N)
Salary including benefits (if relevant)			Salary including benefits (if relevant)
Details of any other income received by household (i.e. such as old age pension, disability pension, welfare etc)			
1. Type of income			2. Type of income
Institution			Institution
Amount			Amount
Reference no			Reference no
3. Type of income			4. Type of income
Institution			Institution
Amount			Amount
Reference no			Reference no

5. Type of income			6. Type of income
Institution			Institution
Amount			Amount
Reference no			Reference no
Details of monthly expenses of household			
1. Groceries			2. School fees
3.			4.
5.			6.
7.			8.
9.			10.

Details of current debts of household			
1. Institution			2. Institution
Account Number			Account Number
Amount owing			Amount owing
3. Institution			4. Institution
Account Number			Account Number
Amount owing			Amount owing
5. Institution			6. Institution
Account Number			Account Number
Amount owing			Amount owing

Details in respect of legal or other actions taken against me/us in respect of current expenses/debts of the household: (i.e. Administration orders, sequestrations, other court order, listed with the Credit Agency, etc)			
1. Institution			2. Institution
Type of action			Account Number
Case No			Amount owing
Amount owing			
3. Institution			4. Institution
Account Number			Account Number
Amount owing			Amount owing
5. Institution			6. Institution
Account Number			Account Number
Amount owing			Amount owing

The following documents must be attached:-

- 1. Documentary proof of income (such as letter from the customer's employer, a salary advice, a pension card, unemployment fund card, etc.)**

; or

2. **An affidavit declaring unemployment or income; and**
3. **Latest Municipal Account in the possession of the customer; and**
4. **A certified copy of the applicant's Identity Document**

A. I hereby –

1. Apply for registration as an indigent customer for a period of one year;
2. Accept the conditions applicable to this application as set out in the Municipality's policy, by-laws and the Conditions of Supply of any service provider of the Municipality;
3. Declare that I/We was/were informed that the document referred to in (2) above are available for inspection at the offices of the Municipality during office hours;
4. Declare that this application form and the implications thereof were explained to me/us;
5. Declare that all payments due and payable by me/us in pursuance of this application shall be paid by me/us on the due date; and
6. Declare that the information provided I this application form is true and correct.

B. I/We further declare and accept that the following specific conditions shall apply to this application:

1. The Municipality or its authorized agent may send authorized representatives to the premises of households applying for registration as indigent customer to conduct an on-site audit of information provided prior to the approval of an application of any time thereafter.
- 2 An application shall be approved for a period of twelve (12) months only.
- 3 The Municipality or its authorized agent may on approval of an application or any time thereafter –
 - 3.1 install a pre-payment electricity meter for the indigent customer where electricity is provided by the Municipality or its authorized agent; and
 - 3.2 limit the water supply services of an indigent customer to a basic supply of not Less than 6 (six) kilolitres per month.
- 4 An indigent customer must annually re-apply for registration as an indigent customer, failing which the assistance will cease automatically;
- 5 The Municipality or its authorized agent gives no guarantee of renewal;
- 6 The Municipal Council may annual budgetary process determine the Municipal Services and levels thereof that will be subsidized in respect of indigent customers in accordance with national policy, but subject to principles of sustainability and affordability.
- 7 Any other Municipal Services rendered by The Municipality or its authorized agent /Municipal services consumed in excess of the quantities specified in 6 above shall be charged and the indigent customer shall be liable for the payment of such charges levied in the excess consumption.
- 8 Arrears accumulated in respect of the Municipal accounts of customers prior to registration as indigent customers will be suspended, without interest accumulating in respect to such arrears, for a period that the customer remains registered as an indigent customer.
- 9 Suspended arrears shall become due and payable by the customer in monthly Instalments as determined by the Municipality or its authorized agent, on De-registration.
- 10 Arrears suspended for a period of two(2) years or longer shall not be recovered From a customer on de-registration;
- 11 The Municipality or its authorized agent may undertake regular random audits to:
 - 11.1 verify the information given by indigent customers;
 - 11.2 record any changes in the circumstances of indigent customers; and
 - 11.3 make recommendations on the de-registration of the indigent customer
- 12 Any customer who provides or provided false information on the application form or any other documentation and information in connection with the application-
 - 12.1 Shall automatically, without notice be de-registered as an indigent customer from the date on which the Municipality or its authorized agent became aware that such information is false; and
 - 12.2 Shall be held liable for the payment of all services received;
 - 12.3 In addition to any other legal actions, the Municipality or its authorized agent May take against such customer.
- 13 An indigent customer must immediately request de-registration by the Municipality or its authorized agent if his or her circumstances have changed to the extent that he or she no longer meets the qualifications set out in the by-laws.
- 14 An indigent customer shall automatically be de-registered if an annual application is not made or if such application is not approved.
- 15 An indigent customer shall automatically be de-registered if an audit or verification

concludes that the financial circumstances of the indigent customer have changed to the extent that he or she no longer meets the qualifications set out in the by-laws.

16 An indigent customer may at any time request the de-registration

Applicant

Municipality / Authorized agent

Date

Date

**THEMBISILE HANI LOCAL MUNICIPALITY
ENCROACHMENT ON MUNICIPAL PROPERTY BY-LAWS**

Under the provisions of section 156 of the Constitutional of the Republic of South Africa, 1996 (Act 108 of 1996), the Thembisile Hani Local Municipality, enacts as follows:-

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1. Interpretation

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

- “Council”** means the Thembisile Hani Local Municipality Council, or an official of the Council to whom an instruction has been given or a power, function or duty has been delegated or sub-delegated, or a service provider to whom a power, function or duty of the Council has been assigned;
- “Encroachment”** means a physical object which intrudes on municipal property;
- “Municipal property”** means property which the Council has control over, or property in respect of which servitude of other property right has been registered in favour of the Council;
- “Prescribed fee”** means a fee determined by the Council by resolution in terms of section 6;
- “Public road”** means a road, street or thoroughfare or place which is commonly used by the public or section of the public or to which the public or section of the public has a right of access, and includes-
- a) the verge of such road, street or thoroughfare;
 - b) a bridge, ferry or drift traversed by such road, street or thoroughfare; and
 - c) work or an object which forms part of or which is connected with or which belongs to such road, street or thoroughfare, and any word or expression that has been defined in the National Building Regulation and building Standards Act, 1977 (Act 103 of 1977), has that meaning.

2. Principles and objectives

The Council, aware of its duty to safeguard safety of all person within the area under jurisdiction or control of the Council, and being obliged, by the laws of the country, to create and maintain an aesthetically pleasing and safe environment, adopts these by-laws with the aim of regulating a controlling encroachments on municipal property.

3. Application of by-laws

These by-laws apply to a person who intrudes, or intends to intrude on municipal property by means of an encroachment in a manner specified in these By-laws.

4. Permit and application

(1) Subject to subsection (4) and (5), no person may, without a permit issued by the Council-

- a) construct, erect or allow a projection, structure or thing such as, but not limited to-
 - i. a building,
 - ii. a platform;
 - iii. a step
 - iv. a ramp;
 - v. a balcony;
 - vi. a veranda;
 - vii. a sign;
 - viii. a colonnade
 - ix. a bay window;
 - x. a pavement light;
 - xi. a showcase;
 - xii. a cat-crane or lifting crane;a window on a ground storey level, if the window opens over a public place and the window is at any point lower than 2,3 m measured vertically from the surface of the level of the public place; a gate or door which open outwards thus projecting over or across a portion of a public place;
- b) alter an existing building or structure; or
- c) allow a branch of a plant such as, but not limited to a tree or shrub, growing on his or her premises,

so as to encroach, hang over suspend or intrude in whatever manner, from his or her premises on, into, over, or under municipal property, such as, but not limited to encroachment beyond the street line into a public place or over a part of a public road or pavement opening in or under a public road, and a permit issued by the Council includes approval by the Council of the design, arrangement and construction of an encroachment over a public road, as well as the paving, kerb and gutter thereof, and should a person fail to obtain a permit, the Council may issued a demolition order, as contemplated in section 8, on the person.

(2) A person who wishes to obtain a permit must submit to the Council for consideration a complete form similar to the form contained in Schedule 1 refers, which schedule refers, and the Council may require, for its consideration, drawings, plans or other information as it may deem fit.

(3) The Council may refuse to grant a permit, or may grant a permit, similar to the permit in schedule 4, which schedule refers, and should the Council grant a permit it may do so unconditionally, subject to the provisions of subsection (4) or upon such conditions as the Council may deem fit, and subject to the payment of the prescribed fee, as contemplated in section 6, for each encroachment.

(4) In the instance where the Council grants a permit contemplated in subsection; (3), a particular encroachment must comply with the requirement set out in schedule 5, which schedule refers.

(5) The Council may, instead of issuing a permit or demolition order as contemplated In subsection (1), require the owner of the premises contemplated in subsection (1) to enter into a lease with the Council over the portion of the municipal property into which the encroachment encroaches.

(6) A permit is not required in the instances where-

- a) an owner has alienated to the Council an area reserve for road purposes in terms of a scheme and has retained a right to project a portion of a building under or over such area; and
- b) a flagpole is erected and used for the sole display of the national flag of a country on a building that is wholly or partly occupied by the consulate or embassy of that country.

5. Tenant at will

- 1) The owner of land and the person who has erected or constructed an encroachment on, into, under or over municipal property is a tenant at will in respect of the encroachment.
- 2) The owner of the building in connection with which any encroachment exists must allow the Council to erect on, or attach to the encroachment anything required in connection with electrical or other services.
- 3) Where an encroachment has been erected or constructed in front of a building which adjoins a footway or building, the owner must at his or her expense, and in accordance with the provisions set out in Schedule 6, which schedule refers-
 - a) pave the footway or pavement under the encroachment or in front of the building for the full width of the footway or pavement; and
 - b) lay the street kerbing and guttering in front of the building for the full width of the footway or pavement.

6. Prescribed fee

- 1) The prescribed fee contemplated in section 4(3), as determined by the Council, is payable in advance at the beginning of each year which is calculated from date of approval or the period determined by the Council, and the owner of the encroachment is liable for the payment of the prescribed fee as specified in schedule 3, which schedule refers.
- 2) Where a person-
 - a) requires a special service from the Council;
 - b) requests the Council to attend at a building to give advice as to the effect of these by-laws on proposals put forward by architects, builders or owners; or
 - c) has been ordered by the Council have the Council attend at a building to give advice as to the effect of these By-laws on proposals put forward by architects, builders or owners, he or she must pay the prescribed fee before such special service is rendered or before the Council attends at a building
- 3) The Council, in determining the fee to be prescribed, may distinguish and differentiate between type and dimensions of encroachment and the nature of the municipal property.

7. Maintenance of encroachment

The owner of an encroachment must maintain the encroachment in proper repair and outward appearance, and where an encroachment is not being maintained in such state, the Council may act in terms of section 9.

8. Demolition order

- 1) A person on whom a demolition order as been served in terms of section 4(1) or 14, must demolish so much of the encroachment as is encroaching in, into, under, over or on municipal property, and remove the materials and restore the surface of municipal property to its former condition.
- 2) The Council may dispose of the whole or any part of the materials from any building, whether wholly or partly removed or demolished, by public auction or public tender.
- 3) The exercise of any powers set forth in subsection (2) and (3) shall not prejudice or diminish the rights of the Municipal to recover in terms of other provisions of this code.

9. Notice of compliance and representations

- 1) Where a person fails to comply with the provisions of section 7, the Council may serve a notice of compliance on the person, which notice must state-
 - a) the name and residential or postal address of the affected person;
 - b) the measures required to restore the encroachment the state contemplated in section 7;
 - c) 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
 - d) that the person may within 14 days make written representations in the form of a sworn statement or affirmation to the Council at a specified place.
- 2) The council, when considering any measure or period envisaged in subsection (1) (b) or (c), must have regard to the principles and objectives of these By-laws, the nature of the non-compliance, and other relevant factors.
- 3) Where a person does not make representations in terms of subsection (1)(d), and the person fails to take the measures before the date contemplated in subsection (1)(c), he or she commits an offence, and the Council may, irrespective of any fines which may be imposed under section 13, act in terms of subsection (5).
- 4)
 - a) Representations not lodged within the time contemplated in subsection (1) (d) will not be considered, except where the person has shown good cause and the Council condones the late lodging of the representations.
 - b) The Council must consider the timely representations and any response thereto by an authorized official.
 - c) The Council may, on its own volition, conduct any further investigations to verify the facts if necessary, and the results of the investigation must be made available to the permit holder, who must be given an opportunity of making a further response if he or she so wishes, and the Council must also consider the further response.
 - d) The Council must, after consideration of the representations and may response and further response make an order in writing and serve a copy of it on the person, which order must confirm, in whole or in part, alter, or set aside the notice of compliance, and where the notice of compliance, and where the notice of compliance is confirmed, in whole or in part, or altered, the Council must inform the person that he or she must, within the period specified in the order and that failure to do so constitutes an offence.
 - e) Where a person fails to discharge the obligations contemplated in subsection (4)(d), he or she commits an offence and the Council may, irrespective of any fines which may be imposed under section 13, act in terms of subsection (5).

- 5) The Council may take such measures as it deems necessary to remedy the situation, and the cost thereof must be paid to the Council in accordance with section 10.

10. Costs

- 1) Should a person fail to take the measures required of him or her by a notice of Compliance contemplated in section 9, the Council may, subject to subsection (3) recover, as a debt, all costs incurred as a result of it acting in terms of section 9(5) from that person and any or all 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 Council under section 9(5).
- 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 in their respective failures to take the required measures.
- 4) The owner of the building in connection with which any encroachment exists must defray any cost incurred in connection with wires or property of the Council.

11. Authentication and service of notices and other documents

- 1) A Notice issued by the Council in terms of these By-laws is deemed to be duly issued if it is signed by an officer authorized by the Council.
- 2) Any notice or other document that is served on a person in terms of these By-laws 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 acknowledgement 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.

12. Appeal

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

13. Penalties

A person who has committed an offence in terms of these By-laws is, on conviction, and subject to penalties prescribed in any other law, liable to a fine or in default of payment, to imprisonment for a period not exceeding 3 months, or a fine of R1000.00 or to such imprisonment without the option of a fine, or to both such fine and 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, imprisonment for a period not exceeding 3 months.

14. Saving and transitional provisions

The owner of an encroachment in existence at the date of commencement of these By-laws and for which the council has not previously issued a permit must, within 12 (twelve) months after the date of commencement of these By-laws, notify the Council and for this purpose must complete and submit to the Council a form similar to the form similar in

Schedule 2 which schedule refers, of the existence of the encroachment and must provide the particulars of the encroachment as specified in the form, and should the owner fail to comply with the provisions of this section, the Council may issue a demolition order as contemplated in section 8.

15. Short title and commencement

These By-laws are called the Thembisile Hani Local Municipality Encroachment on Municipal Property By-laws, and commence on a date determined by the Council.

**SCHEDULE 1
(Section 4(2))**

PERMIT APPLICATION

A. PERSONAL PARTICULARS

Name: _____

Address: _____

Telephone number: _____

B. ENCROACHMENT PARTICULARS

Address of premises from which encroaches encroaches:

Municipal property on, into, over or under which encroachment encroaches:

Dimension of encroachment (specify* size, height, width, length, etc.):

Reasons why encroachment is necessary:

* The horizontal dimension of the encroachment must be measured parallel to the Road boundary on or over which the encroachment exists

Signature applicant:

Date

**SCHEDULE 2
(Section 14)**

NOTICE OF EXISTENCE OF ENCROACHMENT

A. PERSONAL PARTICULARS

Name:

Address:

Telephone numbers:

B. ENCROACHMENT PARTICULARS

Address of premises from which encroachment encroaches:
.....

Municipal property on, into, over or under which encroachment encroaches:
.....

Dimensions of encroachment (specify* size, height, width, length, etc.):
.....

Reasons of existence of encroachment:
.....

* The horizontal dimension of the encroachment must be measured parallel to the road boundary on or over which the encroachment exists

Signature applicant:

Date:

**SCHEDULE 3
(Section 4(3))**

ENCROACHMENT PERMIT

This serves to confirm that (Name of person)
of

..... (Address of person) is permitted to
encroach by means of

.....
within theMunicipal Area at the following addresses:

..... (Address of premises).

The following conditions apply to the carrying on of the business:

.....
.....
.....

Signed:

Date:

OFFICIAL CAPACITY

SCHEDULE 4 **(Section 4(4))**

REQUIREMENTS

1. Specific requirements relating to columns

- 1) A person may not place a veranda column-
 - a) Over a pavement where the pavement is less than 2,6 m wide;
 - b) More than 3 m from the building line measured to the outside of the column or less than 3 m center to center;
 - c) Over any pavement at the corner of a public street that is beyond the alignment of the building lines;
- 2) A person may not place a portion of a veranda column at a distance lesser than 600 mm back from the front edge of any kerb.
- 3) A person may not place a twin or double veranda column over a public street or pavement.
- 4) Where a veranda is supposed on columns-
 - a) the column may not have a square arris;
 - b) no base may project more than 50 mm beyond the bottom diameter of the column; and
 - c) the maximum horizontal axial dimensions of a base may not exceed 350 mm.
- 5) Where the form of a column is classic in character, the shaft must have suitable entasis, and the cap and base must be in due proportions.
- 6) A column, including cap and base, may not be less than 3 m or more than 3,6 m in height and not more than 4,5 m including plinth.
- 7) No person may place a column on a public street where the footway or sidewalk is, or is likely to be occupied by a cable, pipe or other municipal services.
- 8) The minimum height from the footway or sidewalk to the underside of each cantilever or fascia girder is 3 m.
- 9) Plain piping or tubing may not be used for a column over or on a public street veranda and balcony unless architecturally treated for aesthetic purposes.
- 10) 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.

- 11) The corner of the Council is not required for the erection and use of a party column common to two adjoining verandas if the column stands partly on the extended boundary line of two properties or adjoins the same.
- 12) If all the other provisions of these By-laws are observed, the consent of the Council is not required where, in the case of adjoining verandas, the placement of any column upon a plinth if this is necessary for alignment.

2. Specific requirements relating to balconies and bay windows

- 1) A balcony or bay window may not overhang a public street if it is at a height less than 3 m above the pavement, and must be constructed of fire-resisting material and supported by cantilevers of reinforced concrete or by masonry or steel.
- 2) A balcony may not encroach more than 1,35 m over a public street.
- 3) A bay window may not encroach more than 900 mm over a public street.
- 4) The aggregate horizontal length of a bay window at any level over a public street may not exceed one-third of the length of the building frontage to that street.
- 5) No part of any window in any bay shall be less than 900 mm from any party wall of the building to which it belong nor from any boundary separating stands in separate ownership or any extension of the boundary.
- 6) A balcony superimposed upon a veranda must be set back at least 1,2 m from the line of the veranda.
- 7) No part of a balcony that is attached to a veranda, may be carried up to a height Greater than two storeys above the pavement level, however, where 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.
- 8) A dividing wall across a balcony over a public street may not exceed 1 m in height or 225 mm in thickness.
- 9) A balcony over a public street may not be the sole means of access to any room or apartment.
- 10) No erection of any kind is allowed on a balcony, except balustrades and light columns not exceeding 150 mm in diameter, of good architectural design and supporting the roof and the upper balcony sufficiently.

- 11) A person may not place or permit or cause to be place an article upon a balcony an over a public street, except an ornamental plant, table, chair, canvas blind or awning that is not used as a sign or advertisement.
- 12) Where a floor of a building is used solely for the parking of a motor vehicle, a bay window at the level of the floor may not project over a public street for more than 1,35 m for the full building frontage to that street.

3. Specific requirements relating to plinths, pilasters, corbels and cornices

- 1) No plinth or pilaster beyond building lines carried up from ground level are permitted to encroach on a public street.
- 2) A pilaster, cornice, corbel or similar architectural feature that is at least 3 m above the ground may not exceed the following encroachment over a public street:
 - a) A pilaster: 450 mm: The total aggregate frontage length of the pilaster may not exceed one-fifth of the building frontage and bay windows in the same storey must be included in the calculation of the maximum aggregate length for bay windows;
 - b) a fire-resisting ornament 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; and
 - c) a cornice: 1,05 m where 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.

4. Specific requirements relating to verandas around corners

- 1) A pavement opening, pavement light, wall and basement wall must be made and kept water-tight by the owner.
- 2) No pavement opening may be the sole means of access to any vault or cellar.
- 3) Every such opening must be formed of thick glass and set in front of reinforced concrete frames flush with the sidewalk and no single piece of such glass may exceed 160 cm² in area.
- 4) No pavement opening on any public street may extend more than 1,2 m beyond the building line.
- 5) Where flaps are permitted in pavement opening each flap may not exceed 0,75 square meters in area and must open upwards and while open, must be provided with stout iron guard rails and stanchions.

- 6) 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.
- 7) The front wall or wall parallel to the kerb in every opening must be built with a suitable batter to the satisfaction of the Council.
- 8) No pavement opening may be covered with metal bar grating or with metal plates or with wood.

5. Cat-cranes, lifting cranes and platforms

- 1) A cat-head, lifting crane, platform and other such other contrivance may not overhang a sidewalk or street.
- 2) In the instance where the Council granted a permit, the contrivance contemplated in sub item (1) may be situated under a balcony and above first floor level, but the contrivance must be capable of being housed in the building to which it belong, and may only lift goods from outside the line or kerb.

SCHEDULE 5 **(Section 5(3))**

SLAB FOOTWAYS OR PAVEMENTS

- 1) Paving must be of pre-cast slabs, 450 mm by 450 mm in size with a minimum thickness of 50 mm.
- 2) The shape of all slabs must be rectangular, and the slabs must be laid with joints parallel and at right angle to kerbing.
- 3) The backing of the slabs must be 40 mm thick and composed of concrete, of which three volumes must be 6 mm stone, one volume 3 mm stone, free from dust, two volumes drift sand and one volume Portland cement, The topping must be 12 mm thick composed of one and a half volumes of granite chipping which pass through a 6 mm screen but are retained by a 3 mm screen, and one volume Portland cement, The proportion of any coloring matter introduced into slabs must be such as not to impair the strength of the mixture.
- 4) Slabs must be laid to the grade, line and cross-fall pointed out by the Council and must conform to the following further requirements:
 - a) For ordinary slabs the minimum cross-fall must be 1:100 and the maximum cross-fall 1:25.
 - b) Non-skid slabs of a type to be approved by the Council must be used for cross-falls between 1:25 and 1:15, provided that the maximum cross-fall may not exceed 1:15.
 - c) Longitudinal grades may not be steeper than 1:20 ordinary slabs and Non-skid slabs must be used for longitudinal grades between 1:15 and 1:20, provided that when the longitudinal grade is steeper than 1:15, asphaltic concrete must be used.
 - d) Prior notice of at least three working days must be given to the Council of the intention to lay slabs or asphaltic concrete on any footway or Pavement.
- 5) When carriage opening are formed in kerbs and across footways or pavement, such opening must be paved with similar slabs to those hereinbefore described, but such slabs must be of sizes 300 mm by 150 mm in thickness. All such slabs must be solidly bedded in suitable material and joints between the slabs must be formed in lime mortar consisting of at least one volume lime to three volumes sand, provided that such joints may not exceed 20 mm nor be less than 6 mm in width.
- 6) Should any person desire to lay slabs, he or she must submit a sample to the council for testing and approval in writing before any such materials are deposited upon a public footway or pavement. Should the materials be approved, all the provision of this schedule in regard to shape, size and laying must be observed as far as applicable.

- 7) No person may lay or fix any cement concrete bedding under such paving slabs nor cause any joint thereof to be of cement mortar.
- 8) No person shall lay asphalt, tar macadam, concrete or granolithic in situ in any pavement or any street or sidewalk or footway unless especially permitted in writing by the council to do so.
- 9) No person may lay slabs of any other kind, colour, size or shape, or in any manner other than as specified in this schedule, unless duly authorized thereto by the Council.

THEMBISILE HANI MUNICIPALITY

FIXED ASSETS BY-LAWS

Under section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Thembisile Hani Municipality, enacts as follows:-

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1. Definitions

“chief financial officer” means the person designated by the chief accounting officer of the municipality in terms of section 80(2) (a) of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003);

“Council” means the Council of Thembisile Municipality;

“depreciation” means the monetary quantification of the extent to which a fixed asset is

used or consumed in the provision of economic benefits or the delivery of services;
“**fixed asset**” means a tangible item of property, plant or equipment which meet the criteria contemplated in section 12, and which is under the control of the Thembisile municipality for use in the production or supply of goods or services, for rental to others, or for administrative purposes, and which is expected to be used during more than one financial year, and includes an asset held under a finance lease;

“**housing developments**” means developments financed and managed by the municipality itself, with the sole purpose of selling or letting such houses for profit;

“**IAS**” means the International Accounting Standards issued by the International Accounting Standards Board;

“**municipal manager**” means the person appointed by the Council under section 82 of the Local Government: Municipal Structure Act, 1998 (Act 117 of 1998).

2. Responsible officers

(1) The municipal manager, as accounting officer of the municipality, is the principal custodian of all the municipality’s fixed assets, and is responsible for implementing these By-laws.

(2) The chief financial officer is the fixed asset registrar of the municipality, and must ensure that the fixed asset register, as contemplated in section 3, is maintained.

3. Fixed asset register

(1) The fixed asset register must be-

- (a) complete;
- (b) accurate
- (c) up-to-date;
- (d) contained in an electronic database;
- (e) maintained in a format determined by the chief financial officer, which format must comply with the requirements of-
 - (i) generally recognized accounting practice;
 - (ii) generally accepted municipal accounting practice; and
 - (iii) any other accounting requirements which may be prescribed by the control or by law.

(2) No amendments, deletions or additions to be fixed asset register may be made other than by the chief financial officer or by an official acting under the written instruction of the chief financial officer.

(3) The following information must be reflected in the fixed asset register:

- (a) A description of each asset;
- (b) the date on which an asset was acquired or brought into use;
- (c) the location of the asset;
- (d) the department or vote within which the asset is used;
- (e) in the case of fixed property-
 - (i) the title deed number; and
 - (ii) the stand number;
- (f) where applicable, the identification number, as contemplated in 10;
- (g) the original cost, or the revalued amount contemplated in section 23;
- (h) the last revaluation date of the fixed asset subject to revaluation, and the

- revalued value of such fixed asset;
 - (i) the name of the person who did the last revaluation;
 - (j) accumulated depreciation to date;
 - (k) the depreciation charge for the current financial year;
 - (l) the carrying value of the asset;
 - (m) the method and rate of depreciation;
 - (n) impairment losses incurred during the financial year and, where applicable, the reversal of such losses;
 - (o) the source of financing;
 - (p) the current insurance arrangements;
 - (q) whether the asset is required to perform basic municipal services;
 - (r) whether the asset has been used to secure any debt, and where this is the case, the nature and duration of such security arrangements;
 - (s) the date on which the asset is disposed of;
 - (t) the disposal price;
 - (u) the date on which the asset is retired from use, if not disposed of;
 - (v) investment assets contemplated in section 5(3);
 - (w) inventories contemplated in section 6(2);
 - (x) heritage assets contemplated in section 7(1);
 - (y) donated asset contemplated in section 8; and
 - (z) revalued land and building contemplated in section 23(7).
- (4) A head of department under whose control a fixed asset falls must promptly provide the chief financial officer in writing with any information required by the chief financial officer to compile the fixed asset register, and must promptly advise the chief financial officer in writing of any material change which may occur in respect of such information.
- (5) A fixed asset must be recorded in the fixed assets register, as soon as it is acquired, however, if the asset is constructed over a period of time, it must be recorded as work-in-progress until it is available for use, where after it must be recorded as a fixed asset in the fixed assets register.
- (6) A fixed asset remains in the fixed assets register for as long as it is in physical existence, and where a fixed asset has been fully depreciated, this is not in itself a reason for writing-off such an asset.

4. Classification of fixed assets

- (1) In compliance with the requirement of the National Treasury, the chief financial officer must ensure that all fixed assets are classified under the following headings in the fixed assets register, and heads of departments must in writing provide the chief financial officer with such information or assistance as is required to compile a proper classification:
- (a) Property, plant and equipment, which class consists of-
 - (i) land not held as investment assets;
 - (ii) infrastructure assets, which assets are part of a network of similar Assets;
 - (iii) community assets, which are resources contributing to the

- general well-being of the community;
 - (iv) heritage assets which are culturally significant resources; and
 - (v) other assets, which are ordinary operational resources;
 - (b) inventory, which class consists of housing, which are rental stock or housing stock not held for capital gain; and
 - (c) investment property, which class consists of investment assets which are resources held for capital or operational gain.
- (2) The chief financial officer must adhere to the class of assets set out in Column 1 to the Schedule to these By-laws, which Schedule refers, and the life in years of assets set out in Column 2 of the Schedule, and in the instance where a fixed asset does not appear in the Schedule, he or she must use the classification that applies to the asset most closely comparable to the asset which does not so appear.

5. Investment assets

- (1) Investment assets must-
- (a) be accounted for in terms of IAS 40; and
 - (b) not be classified as property, plant and equipment for purposes of preparing the municipality's statement of position.
- (2) Investment assets comprise land, buildings or parts of buildings, and both land and buildings held by the municipality as owner or as lessee under a finance lease, to earn rental revenues or for capital appreciation or both.
- (3) Investment assets must be recorded in the fixed assets register in the same manner as other fixed assets, but a separate section of the fixed assets register must be maintained for this purpose.
- (4) (a) Investment assets may not be depreciated, but must be valued annually on balance sheet date to determine their fair market value, and must be
- (b) Adjustments to the previous year's recorded fair value must be accounted for as either gains (revenues) or losses (expenses) in the accounting records of the department or service controlling the assets concerned.
- (c) An expert value must undertake such valuations.
- (5) If the Council resolves to construct or develop a property for future use as an investment property, such property must in every respect be accounted for as an ordinary fixed asset until it is ready for its use, where after it must be reclassified as an investment asset.

6. Fixed assets treated as inventory

- (1) Any land or building owned or acquired by the municipality with the intention of-
- (a) selling such property in the ordinary course of business; or
 - (b) developing such property for the purpose of selling it in the ordinary course of business,
- must be accounted for as inventory, and must not be included in either property, plant and equipment, or investment property in the municipality's statement of position.
- (2) Such inventories must be recorded in the fixed assets register in the same manner

as other fixed assets, but a separate section of the assets, but a separate section of the fixed assets, but a separate section of the fixed assets register must be maintained for this purpose.

7. Heritage assets

- (1) If no original costs or fair values are available in the case of one or more or all heritage assets, the chief financial officer may, if the determination of a fair value for the assets in question will be a laborious or expensive undertaking, record such assets or assets in the fixed asset register without an indication of the costs or fair value concerned.
- (2) For balance sheet purposes, the existence of such heritage assets must be disclosed by means of an appropriate note.

8. Donated assets

Where a fixed asset is donated to the municipality or a fixed asset is acquired by means of an exchange of assets between the municipality and one or more other parties, the asset concerned must be recorded in the fixed asset register at its value, as determined by the chief financial officer.

9. Safekeeping of assets

- (1) A head of department is directly responsible for the physical safekeeping of any fixed asset controlled or used by the department in question.
- (2) In exercising the responsibility contemplated in subsection (1), a head of department must adhere to any written directives, in regard to the control of or safekeeping of the municipality's fixed assets, issued by the municipal manager to the head's department, or generally to all department.

10. Identification of fixed assets

- (1) The municipal manager must ensure that the municipality maintains a fixed asset identification system which is operated in conjunction with its computerized fixed asset register.
- (2) The identification system must-
 - (a) be determined by the municipal manager, acting in consultation with the chief financial officer and other heads of departments, and must comply with any legal prescriptions as well as any recommendations of the Auditor-General as indicated in the municipal's audit reports; and
 - (b) decide upon within the context of the municipality's budgetary and human resources.
- (3) A head of department must ensure that the asset identification system approved for the municipality is scrupulously applied in respect of all fixed assets controlled or used by his or her department in question.

11. Procedure in case of loss, theft, destruction or impairment of fixed assets

A head of department must ensure that any incident of loss, theft, destruction or material impairment of any fixed assets controlled or used by his or her department is promptly reported in writing to the-

- (a) chief financial officer;
- (b) internal auditor; and
- (c) in cases of suspected theft or malicious damage, to the South African Police Service.

12. Capitalisation criteria

(1) The following apply in respect capitalization criteria (material value):

- (a) No item with an initial cost or fair value of less than R5 000, or such other amount as the Council may, on the recommendation of the municipal manager, from time to time determine, may be recognized as a fixed asset, and if the item has a cost or fair value lower than this capitalization benchmark, it must be treated as an ordinary operating expense.
- (b) A head of department must ensure that any item with a value in excess of R250 and estimated useful life of more than one year, is recorded on a stock-sheet.

© A head of department must ensure that the existence of terms recorded on the stocksheets is verified from time to time, and least once in every financial year, and any amendments which are made to such stocksheets pursuant to such stock verifications, must be retained for audit purposes.

(2) In respect to capitalization criteria (intangible item), no intangible item may be recognized as a fixed asset, except that the chief financial officer acting in strict compliance with the criteria set out in IAS 38 may recommend to the Council that specific development costs be recognized as fixed assets.

(3) The following apply in respect of capitalization criteria (reinstatement, maintenance and other expenses):

- (a) Only expenses incurred in the enhancement of a fixed asset (in the form of improved or increased services or benefits flowing from the use of such assets) or in the material extension of the useful opening life of a fixed asset must be capitalised.
- (b) Expenses incurred in the maintenance or reinstatement of a fixed asset must of a fixed asset must be considered as operating expenses incurred in ensuring that the useful operating life of the asset concerned is attained, and may not be capitalised, irrespective of the quantum of the expenses concerned.
- (c) Expenses which are reasonably ancillary to the bringing into operation of a fixed asset may be capitalised as part of such fixed asset and such expenses may include but need not be limited to import duties, forward cover costs, transportation costs, installation, assembly and communication costs.

13. Maintenance plans in respect of new infrastructure asset

- (1) A head of department must ensure that a maintenance plan in respect of every new infrastructure asset with a value of R100 000 or more is promptly prepared and submitted to the Council for approval.
- (2) If so directed by the municipal manager, the maintenance plan must be submitted to the Council before any approval is granted for the acquisition or construction of the infrastructure asset concern.
- (3) The head of department controlling of using the infrastructure asset in question, must annually, not later than in July, report to the Council-
 - (a) of the extent to which the relevant maintenance plan has been complied with.;
and
 - (b) of the likely effect which any non-compliance may have on the useful operation life of the asset concerned.

14. Deferred maintenance

- (1) If there is material variation between the actual maintenance expenses incurred and the expenses reasonably envisaged in the approved maintenance plan for any infrastructure asset as contemplated in section 13, the chief financial offer must disclose the possible implications of such deferred maintenance in an appropriate note to the financial statements, which note must also indicate any plans which the Council has approved in order to redress such deferral of the maintenance requirements concerned.
- (2) If no plan has been formulated as contemplated in suction 13 or is likely to be implemented, the chief financial offer must determine the useful operating life of the fixed asset in question, if necessary in consultation with the head of department controlling or using such asset, and must recalculate the annual depreciation expenses accordingly.

15. General maintenance of fixed assets

Subject to section 9, a head of department is directly responsible for ensuring that all assets (other than infrastructure assets which are dealt with in section 13 and 14) are properly maintained and in a manner which will ensure that such assets attain their useful operating lives.

16. Depreciation of fixed assets

- (1) All fixed assets, except land and heritage assets, must be depreciated, and all intangible assets must be amortised.
- (2)
 - (a) Depreciation generally takes the form of an expense both calculated and debited on a monthly basis against the appropriate line item in the department or vote in which the asset is used or consumed.
 - (b) Depreciation must initially be calculated from the day following the day in which a fixed asset is acquired or, in the case of construction works and plant and machinery, the day following the day in which the fixed asset is

brought into use, until the end of the calendar month concerned, and thereafter, depreciation charges must be calculated monthly.

(3) Each head of department, acting in consulting with the chief financial officer, must ensure that reasonable budgetary provision is made annually for the depreciation of all applicable fixed assets controlled or used by his or her department or expected to be so controlled or used during the ensuing financial year.

(4) The procedures to be followed in accounting and budgeting for the amortization of intangible assets must be identical to those applying to the depreciation of other fixed asset

17. Rate of depreciation

(1) In the case of a fixed asset recording on the fixed asset register, the chief financial officer must assign a useful operating life, the chief financial officer must adhere to the useful lives set out in the Schedule to these By-Laws.

(2) In the case of a fixed asset which is not listed in the Schedule to these By-laws, the chief financial officer must determine a useful operating life, if necessary in consultation with the head of department who shall control or use the fixed asset in question, and must be guided in determining such useful operating life by the likely pattern in which the asset's economic benefits or service potential will be consumed.

18. Method of depreciation

Except in those cases specifically identified in section 20, the chief financial officer must depreciate all depreciable assets on the straight-line method of depreciation over the assigned useful operating life of the asset in question.

19. Amendment of asset lives and diminution in value of fixed assets

(1) Only the chief financial officer may amend amendment occurs the chief financial officer must inform the Council of such amendment.

(2) The chief financial officer must amend the useful operating life assigned to any fixed asset if-

(a) it becomes known that such asset has been materially impaired or improperly maintained to such an extent that its useful operating life will not be attained; or

(b) any other event has occurred which materially affects the pattern in which the asset's economic benefits or service potential will be consumed.

(3) If the value of a fixed asset has been diminished to such an extent that has no or a negligible further useful operating life or value, such fixed asset must be fully depreciated in the financial year in which such diminution in value occurs.

(4) If a fixed asset has been lost, stolen or damaged beyond repair, it must be fully depreciated in the financial year in which such event occurs, and if the fixed asset has physically ceased to exist, it must be written off the fixed asset register.

(5) In the instances contemplated in subsections (2) to (4), the additional depreciation expenses must be debited to the department or vote controlling or using the depreciation expenses must be debit to the department or vote controlling or using the fixed asset in question.

(6) If, in the case of a normally non-depreciable fixed asset which as been capitalised at a value other than a purely nominal value, any event contemplated in subsection (2) to (4) arises, such fixed asset must be partially or fully depreciated, as the case may be, as though it were an ordinary depreciable asset, and the department or vote controlling or using the fixed asset in question must bear the full depreciation expenses concerned.

20. Alternative method of depreciation in specific instances

(1) In the case of fixed assets which are physically wasted in providing economic benefits or delivering services, the chief financial officer may employ the sum-of unit's method of depreciation, but only if the head department controlling or using the fixed asset in question gives a written undertaking to the municipal manager to provide-

(a) estimates of statistical information required by the chief financial officer to Prepare estimates of depreciation expenses for each financial year; and

(b) actual statistical information for each financial year at the specific times stipulated by the chief financial officer,

(2) Where the chief financial officer decides to employ the method contemplated in subsection (1), and the requirements set out in the subsection (1) have been complied with, the chief financial officer must inform the Council of his or her decision.

21. Creation of non-distributable reserve for future depreciation

NOTE: This section has been prepared on the assumption that these reserves are allowed.

(1) The chief financial officer must ensure that in respect of all fixed assets financed from the municipality's asset financing reserve, or from grants or subsidies or contributions received from other spheres of government or from the public at large, as well as in respect of fixed assets donated to the municipality, a non-distributable reserve for future depreciation is created equal in value to the capitalised value of each fixed asset is question.

(2) (a) The financial officer must, after the taking of the action contemplates in subsection (1); ensure that in the case of depreciable fixed asset an amount equal to the monthly depreciation expenses of the fixed asset concerned is transferred each month from such non-distributable reserve to the municipality's appropriation account.

(b) Where there is difference between the budgeted monthly depreciation expenses and the actual total depreciation expenses for each financial year, the year, the chief financial officer must appropriately adjust the aggregate transfer from the non-distributable reserve for the year concerned.

22. Carrying values of fixed assets

All fixed assets must be carried in the fixed assets register, and appropriately recorded in the annual financial statement, at their original cost or fair value less any accumulated depreciation, except-

- (a) revalued assets as contemplated in section 23; and
- (b) heritage assets contemplated in section 7 in respect of which no value is recorded in the fixed asset register.

23. Revaluation of fixed assets

(1) All land and building recorded in the fixed asset register must be revalued with the adoption by the Council of each new valuation roll or, where the land and buildings concerned fall within the boundary of another municipality, with the adoption by such municipality of each new valuation roll.

(2) The chief financial officer must adjust the carrying value of the land and building concerned to reflect in each instance the value of the fixed asset as recorded in the valuation roll, however, the chief financial officer must be satisfied that such value reflects the fair value of the fixed asset concerned.

(3) The chief financial officer, where applicable, create a revaluation reserve for each such asset equal to the difference between the value as recorded in the valuation roll and the carrying value of the fixed asset before the adjustment in question.

(4) The fixed asset concerned must, in the case of buildings, thereafter be depreciated increased depreciation expenses must be budgeted for and debited against the appropriate line item in the department or vote controlling or using the fixed asset in question.

(5) The chief financial officer must ensure that an amount equal to the difference between the new (enhanced) monthly depreciation expense and the depreciation expenses determined in respect of such fixed asset before the revaluation in question, is transferred each month from the revaluation reserve to the municipality's appropriation account, and must make an adjustment of the aggregate transfer at the end of each financial year, if necessary.

(6) (a) If the amount recorded on the valuation roll is less than the carrying value of the fixed asset recorded in the fixed asset register, the chief financial officer must adjust the carrying value of such asset by increasing the accumulated depreciation of the fixed asset in question by an amount sufficient to adjust the carrying value to the value as recorded in the valuation roll.

(b) Such additional depreciation expenses forms a charge, in the first instance, against the balance in any revaluation reserve previously created for such asset, and to the extent that such balance is insufficient to bear the charge concerned, an immediate additional charge against the department or vote controlling or using the asset in question.

(7) Revalued land and buildings must be carried in the fixed asset register, and recorded in the annual financial statements at their revalued amount less, in the instance of buildings, accumulated depreciation.

24. Verification of fixed assets

A head of department must-

- (a) at least once during every financial, as closely as possible to the end of each financial year, undertake and complete a comprehensive verification of all fixed assets controlled or used by his or her department, and
- (b) promptly and fully report in writing to the officer, in the format determined by the chief financial officer, all relevant results of such fixed asset verification, which report must be submitted to the chief financial officer not later than 30 June of the year in question.

25. Alienation of fixed assets

NOTE: *The reference to the financing reserve below is based on the assumption that the reserve is allowed.*

- (1) The transfer of ownership of any fixed asset must be fair, equitable, transparent, competitive and consistent with the municipality's Supply Chain Management By-laws, 2005.
- (2)
 - (a) A head of department must report in writing to the chief financial officer on 31 October and 30 April of each financial year on all fixed asset controlled or used by his or her department which he or she wishes to alienate by public auction or public tender.
 - (b) The chief financial officer must consolidate the requests received from the various departments and must promptly report such consolidated information to the Council or the municipal manager, as the case may be, recommending the process or the alienation to be adopted.
- (3) The Council must delegate to the municipal manager the authority to approve the alienation of any fixed asset with a carrying value less than R5 000.
- (4) The Council must ensure that the alienation of any fixed asset with a carrying value equal to or in excess of R5000 takes place in compliance with Section 14 of the Municipal Finance Management Act, 2004.
- (5) Once the fixed assets are alienated, the chief financial officer must delete the relevant records from the fixed asset register.
- (6)
 - (a) If the proceeds of the alienation are less than the carrying value recorded in the fixed asset register, such difference must be recognized as a loss in the income statement of the department or vote concerned.
 - (b) If the proceeds of the alienation are more than the carrying value of the fixed asset concerned, the difference must be recognized as a gain in the income statement of the department or vote concerned.
- (7)
 - (a) Subject to the provisions of paragraph (c), all gains realized on the alienation of fixed assets must be appropriated annually to the municipality's asset financing reserve.
 - (b) All losses on the alienation of fixed assets remain as expenses on the income statement of the department or vote concerned.
 - (c) If both gains and losses arise in any one financial year in respect of the alienation of the fixed assets of any department or vote, only the net gain,

if any, on the alienation of such fixed assets may be appropriate.

(8) Transfer of fixed assets to other municipalities, municipal entities, whether or not such municipal entities are under the municipal's sole or partial control, or other organs of the state, must take place in accordance with the above procedures, except that the process of alienation must be private treaty.

26. Other write-offs of fixed assets

- (1) A fixed asset, even though fully depreciated, may be written off only-
 - (a) on the recommendation of the head of department controlling or using the asset concerned; and
 - (b) with the approval of the Council of the municipality.
- (2)
 - (a) A head of department must report to the chief financial on 31 October and 30 April of each financial year on any fixed assets which he or she wishes to have written off, stating in full the reason for such recommendation.
 - (b) The chief financial officer must consolidate all such reports, and must promptly submit a recommendation to the Council on the fixed assets to be written off.
- (3) The only reason for writing off fixed assets, other than the alienation of such fixed assets, are the loss, theft, destruction or material impairment of the fixed asset in question.
- (4) In every instance where a not fully depreciated fixed asset is written off, the chief financial officer must immediately debit to department or vote controlling or using the asset, as additional depreciation expenses, the full carrying value of the asset concerned.

27. Replacement norms

- (1) The municipal manager, in consultation with the chief financial officer and other heads of departments, must formulate and incorporate into a formal policy, norms and standards for the replacement of all normal operational fixed assets.
- (2) The formal policy contemplated in subsection (1) must-
 - (a) be submitted to the Council for approval;
 - (b) cover the replacement of-
 - (i) motor vehicle;
 - (ii) furniture and fitting;
 - (iii) computer equipment; and
 - (iv) any other appropriate operational items; and

28. Insurance of fixed assets

- (1) The municipal manager must ensure that all movable fixed assets are insured at least against fire and theft, and that all municipal buildings are insured at least against fire and allied perils.
- (2) If the municipality operates a self-insurance reserve (assuming such reserve to be allowed), the chief financial officer must annually determine the premiums payable by the departments or votes after having received a list of the fixed assets and insurable values of all relevant fixed assets from the heads of departments concerned.

- (3) The municipal manager must-
- (a) after consulting with the chief financial officer; and
 - (b) taking due cognizance of the budgetary resources of the municipality,
- recommend to the Council the basis of the insurance to be applied to each type of fixed asset, which basis is either the carrying value or the replacement value of the fixed assets concerned.
- (4) The chief financial officer must annually submit to the Council a report on any reinsurance cover which is deemed necessary to procure for the municipality's self-insurance reserve.

29. Biological assets

- (1) Accounting for biological assets must take place in accordance with the requirement of LAS 41.
- (2) The chief financial officer, in consultation with the heads of department concerned, must ensure that all biological assets, such as livestock and crops, are valued at 30 June each year at fair value less estimated point-of-sales costs, which valuation is undertaken by a recognized valuer in the line of the biological assets concerned.
- (3) Any losses on such valuation must be debited to the department or vote concerned as an operating expense, and any increase in the valuation must be credited to the department or vote concerned as an operating revenue.
- (4) If any biological assets are lost, stolen or destroyed, the matter, if material, must be reported in writing by the head of department concerned in exactly the same manner as though the asset were an ordinary fixed asset.
- (5) Records of the details of biological assets must be kept in a separate section of the fixed assets register or in a separate accounting record altogether, and such details must reflect the information which the financial officer, in consultation with the head of department concerned and the internal auditor, deems necessary for accounting and control purposes.
- (6) The chief financial officer, in consultation with the heads of department concerned, must, if the Council considers such insurance desirable and affordable, annually insure the municipal's biological assets.

30. Short title and commencement

These By-laws may be cited as the Thembisile Fixed Assets By-laws, 2012, and commence on a date determined by the Council.

SCHEDULE**(Sections 4(2), 17(1), 17(2))****COLUMN 1****Class of assets****COLUMN 2****Life in years of assets****1. Infrastructure assets**

(1)	Electricity	
	(a) Power stations	30
	(b) Cooling towers	30
	(c) Transformer kiosks	30
	(d) Meters	20
	(e) Load control equipment	20
	(f) Switchgear	20
	(g) Supply and reticulation networks	20
	(h) Mains	20
(2)	Roads	
	(a) Motorways	15
	(b) Other roads	10
	(c) Traffic islands	10
	(d) Traffic lights	20
	(e) Street lights	25
	(f) Overhead bridges	30
	(g) Storm water drains	20
	(h) Bridges, subways and culverts	30
	(i) Car parks	20
	(j) Bus terminals	20
(3)	Water	
	(a) Mains	20
	(b) Supply and reticulation networks	20
	(c) Reservoirs and storage tanks	20
	(d) Meters	15
	(e) Rights that is, the right to draw water from a particular source belonging to another party	20
(4)	Gas	
	(a) Supply and reticulation networks	20
	(b) Storage tanks	20
	(c) Mains	20
	(d) Meters	20
(5)	Sewerage	
	(a) Sewer mains	20
	(b) Outfall sewers	20
	(c) Sewerage purification works	20
	(d) Sewerage pumps	15
	(e) Sludge machines	15

(6)	Pedestrian malls	
	(a) Footways	20
	(b) Kerbing	20
	(c) Paving	20
(7)	Airports	
	(a) Runways	20
	(b) Aprons	20
	(c) Taxiways	20
	(d) Airport and radio beacons	20
(8)	Security measures	
	(a) Access control system	5
	(b) Security systems	5
	(c) Security fencing	5
2.	Community assets	
(1)	Building and other assets	
	(a) Ambulance stations	30
	(b) Aquariums	30
	(c) Beach developments	30
	(d) Care centers	30
	(e) Cemeteries	30
	(f) Civic theatres	30
	(g) Clinics and hospitals	30
	(h) Community centers	30
	(i) Fire stations	30
	(j) Game reserves and rest camps	30
	(k) Indoor sports	30
	(l) Libraries	30
	(m) Museums and art galleries	30
	(n) Parks	30
	(o) Public conveniences and bath houses	30
	(p) Recreation centers	30
	(q) Sports and related stadiums	
	(r) Zoos	
(2)	Recreation facilities	
	(a) Bowling greens	20
	(b) Tennis courts	20
	(c) Swimming pools	20
	(d) Golf courses	20
	(e) Jukskei pitches	20
	(f) Outdoor sports facilities	20
	(g) Organs that is, pipe organs that are fixtures in a municipal hall or other center	20
	(h) Lakes and dams	20
	(i) Fountains	20
	(j) Flood lighting	20

Sum-of-units method of depreciation may be preferred

3. Heritage assets

No asset lives are given, as no ordinary depreciation will be charged against assets such as the following:

- (a) Museum exhibits
- (b) Works of art (which will include paintings and sculptures)
- (c) Public statues
- (d) Historical buildings or other historical structures, as war memorials
- (e) Historical sites, such as Iron Age kiln, historical battle site or site of a historical settlement

4. Investment assets

- (1) Office parks, which have been develop by the municipality itself or jointly between the municipality and one or more other parties 30
- (2) Shopping centers, which have been developed by the municipality itself or jointly between the municipality and one or more other parties 30
- (3) Housing developments 30

5. Other assets

- (1) Building 30
- (2) Abattoirs 30
- (3) Asphalt plant 30
- (4) Cable stations 30
- (5) Caravan parks 30
- (6) Compacting stations 30
- (7) Hostels used to accommodate the public or tourists 30
- (8) Hostels for municipal employees 30
- (9) Housing schemes 30
- (10) Kilns 30
- (11) Laboratories 30
- (12) Fresh produce and other markets 30
- (13) Nurseries 30
- (14) Office building 30
- (15) Old age homes 30
- (16) Quarries 30
- (17) Tip sites 30
- (18) Training centers 30
- (19) Transport facilities 30
- (20) Workshops and depots 30
- (21) Office equipment
 - (a) Computer hardware 5
 - (b) Computer software 3-5

	(c)	Office machines	3-5
	(d)	Air conditioners	5-7
(22)		Furniture and fittings	
	(a)	Chairs	7-10
	(b)	Tables and desks	7-10
	(c)	Cabinets and cupboards	7-10
(23)		Bins and containers	
	(a)	Household refuse bins	5
	(b)	Bulk refuse containers	10
(24)		Emergency equipment	
	(a)	Fire hoses	5
	(b)	Other fire-fighting equipment	15
	(c)	Emergency lights	5
(25)		Motor vehicles	
	(a)	Ambulances	5-10
	(b)	Fire engines	20
	(c)	Buses	15
	(d)	Truck and light delivery vehicles	5-17
	(e)	Ordinary motor vehicles	5-17
	(f)	Motor cycles	3
(26)		Plant and equipment	
	(a)	Graders	10-15
	(b)	Tractors	10-15
	(c)	Mechanical horses	10-15
	(d)	Farm equipment	5
	(e)	Lawn mowers	2
	(f)	Compressors	5
	(g)	Laboratory equipment	5
	(h)	Radio equipment	5
	(i)	Firearms	5
	(j)	Telecommunication equipment	5
	(k)	Cable cars	15
	(l)	Irrigation system	15
	(m)	Cremators	15
	(n)	Lathes	15
	(o)	Filling equipment	15
	(p)	Conveyors	15
	(q)	Feeders	15
	(r)	Tippers	15
	(s)	Pulverising mills	15
	(t)	Aircraft	15
	(u)	Watercraft	15

Sum-of-units method of depreciation may be preferred.

**THEMBISILE HANI LOCAL MUNICIPALITY
FUNERAL PARLOURS, CEMETERIES AND CREMATORIA BY-LAWS**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Thembisile Hani Local Municipality, enacts as follows:-

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1. DEFINITIONS

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

“Adult”	means a deceased person over the age of 12 years and where the word is used to define a corpse, a deceased person whose coffin will fit into the grave opening prescribed for adults in section 18;
“Aesthetic section”	means a cemetery or section of a cemetery which has been set aside by the Council wherein only headstones may be erected;
“Approved”	means the approved by the Council;
“Ashes”	means the cremated remains of a corpse;
“Berm”	means a concrete base laid at the head of a grave and on which a memorial is erected;
“Burial”	means interment in earth, a sepulcher or tomb;
“Burial order”	means an order issued in terms of the Birth and Deaths Registration Act, 1992 (Act 51 of 1992);
“Caretaker”	means the official whom the Council appoints from time to time in a supervisory capacity with regard to a cemetery or crematorium;
“Cemetery”	means a land or part of a land within the municipal area set aside by the Council as a cemetery;
“Child”	means a person who is not an adult, and where the word is used to define a corpse, means a deceased person whose coffin in section 18, and includes the corpse of a stillborn child and a foetus;
“Columbarium”	means a the place set aside in the basement of a crematorium or chapel containing rows of niches for the purpose of placing receptacles containing the ashes of cremated corpses therein;

“Corpse”	means the remains of a deceased person and includes a still-born child and foetus;
“Council” means-	<ul style="list-style-type: none">a) the Thembisile Municipality Council; orb) a structure or person exercising a delegated power or carrying out an instruction, where 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 32 of 2000); orc) a service provider fulfilling a responsibility under these by-laws assigned to it in terms of section 81 (2) of the Local Government: Municipal System Act, or any other law, as the case may be;
“Cremation“	means the process whereby a corpse is disposed of by fire;
“Crematorium”	means a crematorium as defined in section 1 of the Ordinance and includes the building in which a ceremony is conducted and the cremation carried out;
“Cremated remains”	means all recoverable ashes after the cremation;
“Exhumation”	means the removal of a corpse from its grave;
“Funeral undertaker’s premises”	has the meaning assigned to it in regulation 1 of the Regulations;
“Garden of remembrance”	means a section of a cemetery or crematorium set aside for the erection of memorial work of remembrance;
“Grave”	means a piece of land, within a cemetery or heritage site, excavated for the burial of a corpse and includes the headstones, number or marker of and a structure on or associated with the grave;

“Heroes acre”	means an area of land set aside for the burial of a hero;
“Medical officer of health”	means the officer appointed by Council or any other person acting in the capacity of the medical officer of health;
“Memorial section”	means a section of a cemetery set aside for the erection of memorials;
“Memorial work”	means any headstone, monument, plaque, other work or object, erected or intended to be erected in a cemetery or crematorium to commemorate a deceased person, and includes a kerb demarcating a grave, and a slab covering a grave;
“Niche”	means a compartment in a columbarium or wall of remembrance for the placing of ashes;
“Ordinance”	means the Crematorium Ordinance, 1965 (Ordinance No.18 of 1965);
“Panoramic section”	means a section in a cemetery set aside by the Council where memorial work is restricted to a plaque or memorial slab;
“Prescribed”	means prescribed by the Council;
“Prescribed fee”	means a fee determined by the Council by resolution in terms of section 10G(7)(a)(ii) of the Local Government Transition Act, 1993 (Act 209 of 1993), or any other applicable legislation;
“Regulations”	means the Funeral Undertakers’ Premises, made under section 33 and 39 of the Health Act, 1977(Act 63 of 1977), and published as Government Notice No.237 of 8 February 1985;
“Tomb”	means an above ground burial vault;

“Wall of remembrance”

means a structure (in a cemetery) which contains niches in which urns containing ashes can be stored.

2. PURPOSE

The purpose of this by-law is to protect the dignity of its residents and to be aware that a corpse is to be granted respect, and that all its residents have the right and the duty to enter a corpse in a cemetery or to cremate a corpse in a crematorium.

3. APPLICATION OF BY-LAWS

These By-laws apply to all funeral undertakers' premises and to cemeteries, Crematoria and other places of other places of interment as determined by the Council, within the Thembisile municipality area, and to persons making use of such funeral undertakers' premises, cemeteries, crematoria and other places of interment.

4. FUNERAL UNDERTAKERS' PREMISES

- 1) The Council, in order to reduce a public health hazard or eliminate a public health hazard, may issue such order or notice or undertake such remedial work as the Council may deem necessary.
- 2) The medical officer of health and such other person as the Council may or must appoint in accordance with, or who is empowered to act by any other law, are the officials responsible for the implementation of this Chapter, and have such powers as granted in such law, and the Council may furthermore grant other powers to an official as the Council may deem necessary from time to time.

5. GENERAL PROVISIONS RELATING TO CEMETRIES AND CREMATORIA**5.1 Appointment of caretaker**

- 1) The Council must appoint a caretaker for each cemetery or crematorium to control and administer the cemetery or crematorium.
- 2) The caretaker must take into account the customs of the deceased Accommodate these within the framework of these By-laws.

5.2 Keeping to path

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

5.3 Prohibited conduct within cemetery and crematorium

- (1) No person may-
- a) commit or cause a nuisance within a cemetery or crematorium;
 - b) ride an animal or cycle within a cemetery or crematorium;
 - c) bring or allow an animal to wander inside a cemetery or crematorium;
 - d) plant, cut, pick or remove a tree, plant, shrub or flower without the permission of the caretaker;
 - e) hold or take part in a demonstration in a cemetery or cemetery or crematorium;
 - f) interrupt during the performance of his or her duties an official, workman or laborer employed by the Council in a cemetery or crematorium;
 - g) obstruct, resist or oppose the caretaker in the course of his or her duty or refuse to comply with an order or request which the caretaker is entitled under these By-laws to make;
 - h) use a cemetery or crematorium for an immoral purpose;
 - i) mark, draw, scribble, erect an advertisement or object on a wall, building, fence, gate, memorial work or other erection within a cemetery crematorium;
 - j) use water for any form of gardening without the permission for the caretaker;
 - k) plant trees, flowers or shrubs on between graves;
 - l) leave any rubbish, soil, stone, debris or litter within the Cemetery or crematorium;
 - m) in an way damage or deface any part of a cemetery or crematorium or anything therein contained;
 - n) enter or leave a cemetery or crematorium, except by an entrance provided for the purpose;
 - o) solicit any business, order or exhibit, or distribute or leave a tract, business card or advertisement within cemetery or crematorium;
 - p) treat a grave or memorial work with disrespect, such as climbing or sitting on a grave or memorial work;
 - q) enter an office, building or fenced place in a cemetery or crematorium, except in connection with lawful business;
 - r) with the exception of a build person, bring an animal into a cemetery or crematorium; and
 - s) expose a corpse or a part thereof in a cemetery or crematorium.
- (2) An animal found in a cemetery or crematoria may be destroyed by the Council without paying any compensation to the owner thereof
- (3) A person who contravenes a provisions of subsection (1) commits an offence.

5.4 Right of interest in ground

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

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

6. GENERAL PROVISIONS RELATING INTERMENT AND CREMATION

6.1 Consent required for interment and cremation

- 1) No person may dispose of a corpse in any other manner than by interring it in a cemetery or having it cremated in a crematorium, and a person who wishes to dispose of a corpse must obtain the written consent of the caretaker before he or she dispose.
- 2) A person who wishes to obtain the consent as contemplated in Subsection(1) must submit to the caretaker an application in writing in a form Similar to the form in Schedule 1 together with-
 - a) the fee prescribed in Schedule 2;
 - b) a death certificate;
 - c) a burial order issued in terms of the Birth and Deaths Registration Act, 1992, and the caretaker may not approve the application unless all the above requirements are met.
- 3) An application must be submitted to the caretaker, in respect of-
 - a) an interment where the Council is responsible for the digging of the grave, not later than 15: 00 on the day before the intended in interment or, where the grave exceeds the standard size, not later than 15: 00 two days before the intended interment; and
 - b) a cremation, not later than 15: 00 on the day before the intended cremation.
- 4) Should any alteration be in be made in the day or hour previously fixed for an interment or cremation, or an interment or cremation be cancelled, in the instance where the Council is responsible for the digging of a grave, notice of the alteration must be given to the caretaker at the cemetery at least six hours made on monies paid in respect of the opening of an existing grave.
- 5) The application contemplated in subsection (2) must be signed by the nearest surviving relative of the deceased person whose corpse will be buried in the grave or

cremated or such other person as the nearest surviving relative may authorize to sign the application on his or her behalf, however, if the caretaker is satisfied that the signature of the nearest surviving relative cannot be obtained timorously, or for any other valid reason, he or she may in his or her discretion grant an application signed by any other interested person.

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

7. INTERMENT

7.1 Interment and cremation times

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

7.2 Register

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

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

7.3 Indigent and destitute persons

- 1) A person may apply to the Council for the burial or cremation of the corpse of an indigent person and must provide proof that the deceased was granted the status as indigent person in terms of section 19 of the Customer Care and Revenue Management By-laws, 2004 and the Council shall decide if the corpse is to be cremated.

- 2) Subject to the provisions of section 48 of the Health Act, 1977, and section 10 of the Human Tissue Act, 1983, the corpse of destitute person or an unclaimed corpse may be buried or cremated according to conditions determined by the Council.
- 3) Where a corpse contemplated in subsection (1) or (2) is cremated, the caretaker of the crematorium where the corpse was cremated must retain the ashes, and should the ashes not be claimed, bury the ashes in a grave.

7.4 Number of corpses in one coffin

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

7.5 Dimensions of graves and apertures

- 1) The standard dimensions of a grave are as follows:
 - (a) Adult:
 - (i) Single grave: Length: 2200 mm; Width: 900mm.
 - (ii) Double grave: Length 2200mm; Width: 2700 mm.
 - (b) Child:
Single grave: Length: 1500 mm; Width: 700mm.
- 2) Any person requiring an aperture for an interment in an adult's grave of a size larger than the standard dimensions must, when submitting an application in terms of section 13, specify the measurement of the coffin, and pay the charges fee prescribed in Schedule 2 for enlarging the aperture.
- 3) A person, other than an employee of the Council, who digs a grave in contravention of the dimensions stipulated in subsection (1), he or she commits an offence.

7.6 Depth of grave

- 1) An adult's grave is 1900mm in depth and that of a child 1500mm in depth.

- 2) The lid for the coffin, or where one coffin has been buried on top of another coffin, the lid of the top coffin, may not be less than 1200 mm from the surface.
- 3) A person, other than an employee of the Council, who digs a grave in contravention of the dimensions stipulated in subsection (2), commits an offence.

7.8 Reservation of grave

- 1) A person desiring to reserve the use of a grave must apply therefore to the caretaker and must pay the fee prescribed in Schedule 2.
- 2) A restriction is placed on the reservation of graves, and reservations shall only be accepted for adult graves in the monumental section as stated in subsection (3).
- 3) In the event of an interment of a husband or wife in the monumental section, only one addition adjoining grave may not be reserved for the survivor, however, subject to the provisions of section 23, the interment of the survivor may be permitted in the same grave.
- 4) Where another person, other than the applicant, has mistakenly used a grave, the caretaker must allocate another grave within the cemetery to the applicant.

7.9 Child's coffin too large

Should a child's coffin be too large the dimension of a child's grave, it must be placed in an adult grave and the prescribed fee for an adult's interment must be paid by the person submitting an application in terms of section 13, and in the instance where a child is referred in a section intended for adult the fee applicable to adults applies.

7.10 Construction material of coffin

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

7.11 Number of bodies in one grave

More than one corpse may be interred in a single grave.

7.12 Coffin to be covered with earth

The person contemplated in section 13(1) must ensure that a coffin, upon being placed in a grave, is covered without delay with at least 300 mm of earth, and failure to do so constitutes an offence.

7.13 Religious ceremony

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

7.13 Hearse and vehicle at cemetery

- 1) No hearse or other vehicle may enter a cemetery without the prior permission of the caretaker first having been obtained.
- 2) No hearse or other vehicle may use any other route to enter a cemetery than the routes set aside for that purpose.
- 3) A person who contravenes subsections 1) or (2) commits an offence.

7.14 Instruction of caretaker

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

7.15 Music inside cemetery

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

7.16 Interment attended by more than fifty people

In any instance where it is probable that more than 50 people will be present at an interment, the person submitting an application in terms of section 13, must notify the fact to the caretaker the day before the funeral, and failure to do so constitutes an offence.

7.17 Occupation of chapel or shelter

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

7.18 Number on grave

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

8. EXHUMATION OF CORPSE AND RE-OPENING OF GRAVE**8.1 Disturbance of mortal remains**

- 1) Subject to the provisions of an exhumation order given in terms of section 3(4) of the Inquest Act, 1959 any other provision of any Act relating to the exhumation of corpse-

- a) no corpse or mortal remains or ground surrounding it in a cemetery may be disturbed;
 - b) no grave may be re-opened; and
 - c) no corpse may be removed from the grave, without the consent of the Council and the medical officer of health.
- 2) The fees for exhumation prescribed in schedule 2 must be paid to the caretaker at least two days before the date fixed for the exhumation or removal of the corpse.
 - 3) A person who contravenes subsections (1) commits an offence.

8.2 Time of exhumation

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

8.3 Re-opening of grave

- 1) No person may re-opened a grave for the purpose of interring a second corpse in the same grave unless-
 - a) the grave was initially made deeper for this purpose;
 - b) if not made deeper ,then only after 10 years have passed since the interment of the first corpse;
 - c) for purposes of burial of a receptacle containing ashes, the depth does not exceed 300 mm;
 - d) the consent contemplated in section 32(1) has been obtained; and
 - e) the fee prescribed in Schedule 2 has been paid.
- 2) A person who contravenes a provision of subsection (1) commits an offence.
- 3) Council has the right to re-open a grave for the purpose of establishing, by reading the inscription on the coffin, the identity of the corpse.

9. CARE OF GRAVES

9.1 Shrubs and flowers

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

9.2 Care of grave

- 1) The maintenance of a grave is the responsibility of the person contemplated in section 12 (2).
- 2) The Council may, on application by a person contemplated in subsection (1) and upon payment of the fee prescribed in Schedule 2, undertake to keep any grave in order for any period.

- 3) The Council may at its discretion undertake to keep, at its own expense, any grave in order for any period.

10. CREMATION

10.1 Receptacles and ashes

- 1) Unless the ashes are to be buried by the Council, the person contemplated in section 13(1) must provide a receptacle, on which the full name of the deceased person is indicated, for receiving the ashes.
- 2) The Quantity of ashes to be kept, as indicated on the application form by the person contemplated in subsection (1) must, after the cremation, be collected by him or her, and should he or she fail to collect the ashes, the ashes will be dealt with in terms of section 48(1).
- 3) Where a receptacle is intended to be placed in a niche in the columbarium-
 - a) it must
 - (i) be made of wood or stone; and
 - (ii) be of a size and design as to fit into the niche; and
 - b) if the niche is not meant to be sealed, have affixed to it a plate on which the full name of the deceased person is inscribed.

10.2. Burial and exhumation of ashes

- 1) In the absence of an arrangement between the caretaker and the person contemplated in section 37 regarding the ashes, the caretaker may bury or scatter the ashes in a garden of remembrance.
- 2) A person may deposit ashes in a-
 - (a) grave; or
 - (b) niche in a-
 - (i) Columbarium;
 - (ii) wall of remembrance; or
 - (iii) memorial work
- 3) A Person must obtain the consent of the caretaker if he or she wishes to-
 - a) bury ashes in a grave;
 - b) exhume ashes from a grave; or
 - c) scatter ashes, and the caretaker must, on receiving payment of the fee prescribed in Schedule 2-
 - (i) give writing consent to the application to bury, exhume or scatter the Ashes; and

(ii) in the instance of burial or exhumation, prepare the grave for burial or exhumation

- 4) A grave for the burial of ashes or a niche in a columbarium must measure 610 mm in width, and 610 mm in depth.

10.11 Cremation certificate

- 1) On completion of a cremation, the caretaker must supply a cremation certificate to the person contemplated in section 37(1).
- 2) The caretaker must, on application and after receipt of the fee prescribed in Schedule 2, issue a duplicate cremation certificate to a person.

11. ERECTION OF MAINTENANCE OF MEMORIAL WORK

11.1 Consent of Council

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

11.2 Requirement for erection of memorial work

- 1) A person erecting a memorial work must comply with the following:
 - a) He or she must be in possession of a plan approved by the Council;

- b) all work must be effected according to the conditions contemplated in section 40(3);
 - c) proceedings must be of such a nature that no damage be caused to any structure or offence given;
 - d) where a memorial has a pedestal on ground level or on the berm, the pedestal may not be more than 900 mm in length, 250 mm in width and 250 mm in height for a single grave, and not more than 2700 mm in length, 250 mm in width, and 250 mm in height for a double Grave;
 - e) with the contractor's permission, the name of the maker can be displayed on a memorial work, but no address or any other particulars may be added thereto, and the space utilized for it may not be large than 40 x 100 mm; and
 - f) tiles in the Garden of Remembrance must be 240 mm x 300 mm large and must be manufactured out of non-corrosive metal
- 2) A person who does not comply with a provision in subsection (1) commits an offence.

11.3 Position, movement and removal of memorial work

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

11.4 Repairs to memorial work

Should the person who erected a memorial work allow such memorial work to fall into such a state of disrepair that it may cause a Notice of Council may cause of Compliance, as contemplated in section 64, to serve on such person.

11.5 Supervision of work

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

11.6 Damaging of memorial work

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

11.7 Conveying of memorial work

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

11.8 Vehicle and tools

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

11.9 Complying with Council's directions

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

11.10 Times for bringing in material and doing work

- 1) No person may bring memorial work or material into or do any work, other than the dismantling of memorial work for burial purpose, within a cemetery except during the following hours: Mondays to Fridays between the hours of 7:00 and 18:00.
- 2) No person may engage in work which may be disturbing when a funeral takes place and for the duration of the funeral.
- 3) A person who contravenes subsection (1) or (2) commits an offence

11.11 Inclement weather

- 1) No person may fix or place any memorial work during inclement weather or while the soil is in an unsuitable condition.
- 2) A person who contravenes subsection (1) commits an offence.

11.12 Production of written permission

A person charged with a work or on his or her way to or from with the cemetery must, upon demand from the Council or its authorized official, produce the written consent issued to him or her in terms of section 40, and failure to do so constitutes an offence.

11.13 Memorial work in crematorium

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

12. SECTION IN CEMETERY

12.1 Council may establish sections

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

12.2. Monumental section

- 1) Memorial work may be erected upon the whole surface of the grave subject thereto that the provisions of section 41 must be complied with and that the following measurement:
 - a) Height: 2000 mm;
 - b) Width: 900 mm in case of a single grave, and 700 mm in case of a double grave.
 - c) Thickness: 250 mm.
- 2) The Council may in the course of time level all graves and plant grass thereon.
- 3) Flowers, foliage, wreaths or any adornment may be placed upon the berm only of graves, except in the case of graves which have not yet been leveled.
- 4) A person commits an offence of he or she-

- a) exceed the measurements stipulated in subsection (1) ; or
- b) contravenes section (3).

12.3 Garden remembrance

- 1) This section contains the wall of remembrance with niches, and a garden area in which plaques can be erected.
- 2) A container intended to be placed in a niche may exceed 300 mm x 150 mm in size.
- 3) Flowers and wreaths may be placed on the places of provided therefore only.
- 4) A person who contravenes a provision of subsection (2) or (3) commits an offence.

12.4 Heroes acre

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

12.5 Aesthetic section

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

12.6 Panoramic section

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

13. PRIVATE CEMETERIES

13.1 By-laws apply

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

13.2 Establishment and continued use of cemeteries

- 1) No person may, without the Council's consent first having been obtained, establish a private cemetery, and no proprietor of a private cemetery already in existence may, if the use of the cemetery was not previously authorized by the Council, continue to use the existing cemetery for burial purpose.
- 2) A person who wishes to apply for the Council's consent to establish a cemetery or Use as cemetery as contemplated in subsection (1), must submit to the Municipal Manager an application in a form similar to the form in Schedule 3, which schedule refers, in writing together with-
 - a) a locality plan to a scale of not less than 1: 10 000 which shows-
 - i. the position of the proposed cemetery or existing cemetery in relation to the boundaries of the land on which it is situated as the case may be;
 - ii. the registered description of the site;
 - iii. all streets, public places and privately-owned property within a distance of 100 meters of the site;
 - b) a " block" plan to a scale of not less than 1:500 showing the position of external boundaries, internal roads and paths, subdivisions, grave sites, drainage and any building existing or proposed to be erected;
 - c) a plan and sections to a scale of not less than 1:100 of any building existing or proposed to be erected, and which must in this case conform with the National Building Regulations and the Water Services and Sanitation By-laws of the Nelson Mandela Metropolitan Municipality;
 - d) a list of registers or records kept or proposed to be kept with reference to-

- i. identification of graves;
 - ii. sale of grave sites transfer of grave sites; and
 - iii. interments;
- e) the full name and address of the proprietor;
 - f) particulars regarding the nature of the title under which the proprietor will hold or holds the land on which the cemetery is to be established or which is being used as a cemetery and whether such land is subject to any mortgage or trust; and
 - g) a schedule of the burial fees proposed to be charged or actually in force.
- 3) On receipt of an application the Municipal Manager must cause to be inserted in one or more newspapers circulating in the municipal area a notice stating the nature of the application and specifying the date being not less than 14 days after the date of publication of such notice by which objections to the granting of an application may be lodged with the Council.
 - 4) The Council may, upon receipt of the payment by the applicant of the fee prescribed in Schedule 2 and if satisfied after consideration of the application and may objections which may have been lodge that no interference with any public amenity, or nuisance or danger to the public health is likely to take place or arise as a result, in writing grant consent for the establishment of the proposed private cemetery or the continued use of the private cemetery as the case may be, referred to in the application, in accordance with the plans submitted and to any variation or amendment which it may require and to any condition which it may prescribe.
 - 5) No departure from the plans as approved are permitted without the prior approval of the Council.
 - 6) A person who contravenes a provision of subsection (1) or (5) commits an offence.

13.3 Duties of Proprietors

- 1) The proprietor of a private company cemetery for which the consent of the Council has been obtained must-
 - a) comply with-
 - i. any special conditions prescribed by the Council; and
 - ii. the relevant provisions of these By-laws and any other applicable law;
 - b) keep a record which shows-
 - i. the number of each grave site and the ownership of the site; and
 - ii. the number of interments in each grave site and the name, age, sex, race, last known address, date and cause of death of the deceased;
 - iii. maintain the grounds, fences, gates, roads, paths and drains in good order and condition and clear of weeds and overgrowth;

- iv. provide for the identification of grave sites by subdividing the cemetery into blocks each containing a number of graves or grave sites, and-
 - v. each block must be demarcated by means of signs showing the number and situation of each block;
 - c) the graves or grave sites in each block must be separately numbered by means of durable number plates; and
 - d) all signs and number plates must be maintained in a neat and legible condition;
 - e) allow an official to enter or inspect the cemetery and all records kept in connection therewith;
 - f) render a monthly return to the municipal manager on or before the 7th day in each month of all burials, which sets out the-
 - i. name, last known address, age, sex, race, date and cause of death of each deceased person interred in the cemetery;
 - ii. name of the medical practitioner who issued the death certificate;
 - iii. authority who issued the burial order;
 - iv. block and grave site number;
 - v. date of burial; and
 - vi. particulars of a change in identity of the caretaker or of a person newly appointment;
 - g) render an annual return to the municipal manager on or before the 31st day of March each year which contains a detailed list of the name and addresses of all trustees, committee members or persons controlling the cemetery; and
 - h) appoint a caretaker to manage the cemetery and to keep the records.
- 2) A person who contravenes a provision of subsection (1) commits an Offence.

14. MISCELLANEOUS

14.1. Authentication and service of order, notice or other document

- 1) An order, notice or other document requiring authentication by the Council must be sufficient officer of the Council signed by the Municipal Manger or by a duly authorized officer of the Council; such authority being conferred by resolution of the Council in terms of these By-laws shall be deemed to be duly issued if it is signed by the Council.
- 2) Any notice or other document that is served on a person in terms of these By-laws, is regarded as having been served-
 - a) when it has been delivered to that person personally;
 - b) when it has left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
 - c) when it has posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgement 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 representatives in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates; or
 - f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate.
- 3) Service of a copy shall be deemed to be service of the original.
- 4) Any legal process is effectively and sufficiently served on the municipal when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

14.2. Complaint

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

14.3. Notice of compliance and representatives

- 1) A notice of compliance served in terms of section 43 must-
- a) the name and residential and postal address, if either or both of these be known, of the person;
 - b) the nature of the state of disrepair;
 - c) in sufficient detail to enable compliance with the notice, the measures required to remedy the memorial work;
 - d) that the person must within a specified time period take the measures to comply with the notice, to diligently continue with
 - e) the period contemplated in paragraph (d) is an offence;
 - f) that written representatives, as contemplated in subsection(3) may, within the time period stipulated under paragraph (d) above, be made to Council at a specific place.
- 2) Council, when considering any measure or time period envisaged in
- a) the principles and objectives of these By-laws;
 - b) the state of disrepair; imposed; and
 - c) any other relevant factors.
- 3) A person may within the time period contemplated in paragraph (1) (f) make representations, in the form of a sworn statement or affirmation to Council at the place specified in the notice.
- 4) Representations not lodge within the time period will not be considered, except where the person has shown good cause and Council condones the late lodging of the representations.

- 5) Council must consider the representations and any response thereto by an authorized official or any other person, if there be such a response.
- 6) Council may, on its own volition, conduct any further investigation to verify the facts if necessary, and the results of the investigation must be made available to the person, who must be given an opportunity of making a further response if he or she so wishes, and Council must also consider the further response.
- 7) Council must, after consideration of the representations and response, if there be such a response, make an order in writing and serve a copy of it on the person.
- 8) The order must
 - a) set out the findings of Council;
 - b) confirm, alter or set aside in whole or in part, the notice of compliance; and
 - c) specify a period within which the person must comply with the order made by Council.
- 9) If the notice of compliance is confirmed, in whole or part, or is altered but not set aside, Council will inform the person that he or she-
 - a) must discharge the obligations set out in the notice, or
 - b) may elect to be tried in court.
- 10) If the person elects to be tried in court he or she must, within seven calendar days, notify Council of his or her intention to be so tried.
- 11) If the person does not elect to be tried in court, he or she must, within the prescribed manner and time discharges his or her obligation under the order.
- 12) Where there has been no compliance with the requirement of a notice, the Council may take such steps as it deems necessary to repair the monumental work and the cost thereof must be paid to the Council in accordance with section 65.

14.4. Costs

Should a person fail to take the measures required of him or her by notice, Council may, subject to subsection (3) recover all costs incurred as a result of it acting in terms of paragraph 64(12) from the person.

14.5. Appeal

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

14.6. Penalties

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

14.7. Limitation of liability

The Council is not liable for any damage or loss caused by-

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

14.8. Short title and commencement

The By-laws may be cited as the Thembisile Funeral Parlours, Cemeteries and Crematoria By-laws, 2012 and commence on a date as determined by the Council.

SCHEDULE 1
(Section 13(2))

APPLICATION FORM FOR BURIAL / CREMATION

Name of applicant

Address of applicant

Name of diseased person to be interred

Particulars of diseased person

SCHEDULE 2
(Section 60(2))

APPLICATION FORM FOR PRIVATE CEMETERY

EXISTING FORM TO BE USED OR ADAPTED WHERE NECESSARY.

THEMBISILE HANI LOCAL MUNICIPALITY INDIGENT BY-LAWS

In terms of sec 13 of the Local Government Municipal Systems Act 32 of 2000, the Thembisile Hani Local municipality (“the municipality”) hereby publishes the Indigent by-laws set forth herein after which have been made by the municipality in terms of sec 74(2) of the Local Government: Municipal Systems Act 32 of 2000.

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1. Definitions
2. Purpose of this by-law
3. Application of by-law
4. Community participation
5. Qualification criteria
6. Application and registration process
7. Approved household will be entitled to termination of indigent support
8. Auditing
9. Short title
10. Commencement

1. DEFINITIONS

For the purpose of the by-laws any word or expression to which a meaning has been assigned in the Local Government Municipal Systems Act 32 of 2000 shall bear the same meaning in these by-laws and unless the context indicates otherwise.

The following words shall have the meanings hereby:

- “Act”** means the Local government for Municipal Systems Act, 2000 (Act No. 32 of 2000), as amended from time to time.
- “Child-headed family”** means a household where the main caregiver of the said household is younger than 18 years of age.
- “Indigent person / household”** A person and / household, who because of their situation (unemployment, old age etc), is not able to contribute financially towards services provided by the Thembisile Hani Municipality.
- “Municipality”** Thembisile Hani Local Municipality.

2. PURPOSE OF THIS BY-LAW

The purpose of this by-law is to provide a framework for poverty alleviation within Thembisile Hani Local Municipality in line with the changing needs of the Community. The by-law links with the Council's Credit Control and Debt Control Policy, Tariff Policy and respective by-laws by providing a support programme for the subsidization of basic services to indigent households.

3. APPLICATION OF BY-LAW

Where this by-law contradicts National Legislation such conflicts immediately to the attention of the municipality once he becomes aware of such conflicts and will propose changes to the municipality's by-laws to eliminate such conflict

4. COMMUNITY PARTICIPATION

Before the municipality adopts the Indigent by-law, the municipal manager will follow the process of community participation envisaged in chapter 4 of the Municipal Systems Act and comply with the following requirements:

- 4.1 Conspicuously display the draft rates by-laws for a period of at least 30 days (municipality to include period decided on) at the municipality's head and satellite offices and libraries (and on the website)
- 4.2 Advertise in the media a notice stating that the draft Indigent by-laws has been prepared for submission to council and that such by-laws is available at the various municipal offices and on the website for public inspection. Property owners and interest persons may obtain a copy of the draft by-law from the municipal offices during office hours at a cost as determine annually by the municipality. Property owners and interested persons may submit written comments or representations in the municipality within the specified period in the notice.
- 4.3 Council will consider all comments and /or representations received when considering the finalisation of the Indigent by-law.

5. QUALIFICATION CRITERIA

For a household to qualify as an indigent, a household should comply with the following requirements

- The applicant must be 18 years of age and above
- The total household gross income of all occupants must be less than two (2) state pensions combined per month in alignment with the government subsidy.
- The applicant must have an active account with the municipality
- All households that are child headed can also apply for indigent support
- The registered must be both the owner or the occupant of the property concerned
- In a case where the account holder is deceased, the applicant must produce a letter of authority on the property.
- Non-profit organizations (NGOs) within the Thembisile Hani Municipality
- The applicant must own a single property.

6. APPLICATION AND REGISTRATION PROCESS

Applications for relief must be made on the prescribed forms provided by the finance department within the Municipality.

The application form is to contain inter alia the following important information:

- Details of the account holder
- Proof of income
- Proof of residence
- Certified copies of identification documents and
- Number and names of dependants

7. APPROVED HOUSEHOLDS WILL BE ENTITLED TO:

All approved indigent will be subsidized with

- 7.1 A maximum subsidy as approved by Council from time to time per indigent household to cover basic services (e.g. rates, refuse, sewerage and electricity)
 - 7.1.1 Electricity determined by Council - 50kwh of basic electricity shall be provided to all indigent households.
 - 7.1.2 Water - Free basic water service as determined by council shall be provided to all indigent households within the Thembisile Hani Local Municipality to a maximum of 6kl of water per month.
 - 7.1.3 Refuse - The same service shall be rendered as to other households.
 - 7.1.4 Sanitation - The same service shall be rendered as to the other households.
- 7.2 Council will determine the amount of targeted subsidies on a yearly basis which may vary between categories of indigent consumers.
- 7.3 Furthermore, alternative energy will be provided to household with no electricity connection.
- 7.4 All tariffs change annually
- 7.5 All outstanding arrears of the approved indigent will be written off against the provision for bad debts annually.
- 7.6 if an indigent consumer's consumption or use of municipal service is less than the subsidized service or free basic service, the unused portion may not be accrued by the customer and will not entitle the customer cash or rebate in respect of the unused portion
- 7.7 If an indigent consumer's consumption or use of municipal service is in excess of subsidized service or free basic service (in excess of 6kl of water or 50kwh of electricity), the consumer will be obliged to pay for such excess consumption at the applicable normal rate.
- 7.8 Approved indigent household accounts will have the interest indicator flagged.
- 7.9 If technical assistant is needed to make current monthly consumption more affordable through the limited supply of services

7.10 The applicant should agree to accept the limited level of services and agree to stay on the program for at least 12 months.

7.11 No referrals to external debts collectors.

8. TERMINATION OF INDIGENT SUPPORT

Indigent support shall be terminated under the following circumstances:

- Death of the Indigent. If the Indigent had dependants, the dependants will need to reapply for the support because subsidies are not transferable.
- Upon sale of the property.
- End of the 24 months circle, subject to re-assessment.
- When circumstances of the indigent household have improved in terms of a gross income.
- If the is discovered after approval that the indigent has supplied false information, all subsidies provided will be reserved by means of debiting the provided subsidies in their monthly statement.
- If the indigent tampers with the prepaid meter system.

9. REPORTING AND QUALITY CONTROL

Quarterly reports shall be submitted by the department of Community Services with financial implications to relevant Portfolio Committees and to the Mayoral Committee on progress made regarding Indigent applications plus any changes in the status of registered indigents

10. AUDITING

Auditing must be conducted by the Internal Auditing Section or Department of Finance regarding the Indigent register, usage rate of allocations and Credit Control measures applied.

11. SHORT TITLE

This By-law is the Indigent by-law 2012 of the Thembisile Hani Local Municipality.

12. COMMENCEMENT DATE

This By-law takes effect on the date of proclamation in the Provincial Gazette.

THEMBISILE HANI LOCAL MUNICIPALITY**BY-LAWS FOR THE CONTROL OF OUTDOOR SIGNS BY LAWS**

It is hereby notified in accordance with section 13 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2002) that the Thembisile Hani Municipal Council hereby publishes the By-laws for the control of outdoor advertising as set out below:-

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1. DEFINITIONS
2. PROHIBITION AND CONTROL OF THE ERECTION OF SIGNS
3. SIGNS ERECTED WITH COUNCIL APPROVAL
4. EXISTING SIGNS
5. APPLICATION FOR APPROVAL OF SIGNS
6. CONSTRUCTION OF SIGNS
7. INDECENT SIGNS
8. SIGNS THAT CAN CAUSE DAMAGE
9. REMOVAL OF WEATHERED AND OUTDATED SIGNS
10. CONFISCATION OF SIGNS
11. RE-ERECTION OF SIGNS
12. ACCESS TO PREMISES
13. SIGNS ENCROACHING ERF BOUNDARIES
14. ELECTRICAL SIGNS
15. OFFENCE AND PENALTIES
16. SCHEDULES AND CLASSIFICATION OF SIGNS

SCHEDULE 1
APPROPRIATE OPPORTUNITIES

SCHEDULE 2
PERMANENT SIGNS

SCHEDULE 3
TEMPORARY SIGNS

1. DEFINITIONS

In these By-laws, unless the context indicates otherwise, any word or expression defined in the South African Manual for outdoor Advertising Control (SAMOAC), has the same meaning when used in these By-laws, and:-

“Aerial sign” means any sign that is exhibited, displayed or performed in the air with the aid of balloons, searchlights, and aircraft or similar means;

“Council” means the Thembisile Hani Local Municipal Council established in terms of section 12 of the Local Government: Municipal Structures Act 117 of 1998;

“Exhibition” means any exhibition of public interest that a recognized show association, state department or institution presents where there is more than one exhibitor, excluding show houses and exhibition prompted by companies or individual institutions that wish to introduce their products to the public;

“Freestanding sign” means any sign that stands on its own or has its own supports and is not attached to any building or does not form part of or is not an integral part of an architectural element or structure;

“Outdoor advertising” means any sign, that is visible from any street or road or public place, whether or not the sign is erected on private land;

“Permanent sign” means any sign that may be displayed for a maximum period of five years or any other period approved by the Council;

“Person” means any lessor, lessee, legal or illegal occupant or any usufructuary of private, State or Council land on which a sign was or is being erected and/ or displayed, or any individual in whose name the land on which a sign was or is being erected and/ or displayed, as the case may be, is registered in the Deeds Office or a permission to occupy such land, and if the Council is unable to determine the identity of such owner, any individual who is entitled to the benefit of the erection and/ or display and/ or use of the sign or who enjoys such benefit, or such person’s authorized agent, and “the person” in the above context includes both a natural and a legal person;

“Policy” means the By-laws for the Control of Outdoor advertising, the South African Manual for Outdoor Advertising Control (SAMOAC), the Application of the National Building Regulations (SABS 0400), the National Building Regulations, the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977) and Council Resolutions;

“Sign” means any device or article with writing, letters, numbers or illustrations on it, or any non-physical sign projected on a building or any other structure or in the air with the aid of modern technology (e.g. laser beams), which device, article or non-physical sign is

visibly displayed in any way whatsoever from any street or public place for the purpose of advertising, providing information, or attracting the public to any place, public display, article or merchandise or is attached to or forms part of any building, or is fixed to the ground or to a pole, tree, screen or hoarding, or is displayed in any other way, excluding information on the commodities that are exhibited;

“Sky sign” means any sign that is erected or placed on the same level as or above the gutters, parapets or any other part of the roof of a building, or that extends from the gutters, parapets or any other part of the roof of a building, excluding a sign that is painted on the roof of a building;

“Temporary sign” means any sign that may be displayed for a maximum period of 90 days or any other period approved by the Council; and

“Zone” has the meaning assigned to it in the Town Planning Scheme, that is revised from time to time, and “use zone” has the same meaning.

2. PROHIBITION AND CONTROL OF THE ERECTION OF SIGNS

- (1) No person may erect, maintain or display any sign or allow any other person to erect, maintain or display any sign in a place or on a building or structure that is visible from any street or road or public place unless the Council has approved such sign beforehand.
- (2) No person may erect, maintain or display any sign or allow any other person to erect, maintain or display any sign that advertise anything other than that which is kept in stock, sold or produced on the premises concerned or that which is run or practiced from such premises, except where such premises are in an area or minimum control as defined in SAMOAC.

3. SIGNS ERECTED WITH COUNCIL APPROVAL

The council may approve any application to erect a sign that is not referred to in section 2 (2) or 16 after having considered the application in terms of the policy that the Council determined from time to time.

4. EXISTING SIGNS

All signs that are in existence on the date of promulgation of these By-laws and that do not comply with the provisions of these By-laws, and/ or have not been approved by the Council, must within a period of 60 days of the date of promulgation be removed or brought into accordance with these By-laws, and approval must be obtained for these signs.

5. APPLICATION FOR APPROVAL OF SIGNS

- (1) Every application to display a sign on private property or on Council property must be signed by the owner and/ or person in control of such sign and must be submitted for approval to the Council on the appropriate application form.
- (2) The adhesive license issued on approval of temporary signs must appear on every such sign while such signs are on display.
- (3) All temporary signs will be removed if:-
 - (a) they are displayed without the appropriate adhesive license, and the person who displays temporary signs or allows them to be displayed without the appropriate adhesive license is guilty of an offence; and
 - (b) they are displayed without the appropriate adhesive license as issued when they were approved in which case approval of the signs will be withdrawn.
- (4) The following must accompany all applications, except for applications for temporary signs:-
 - (a) A site plan drawn to scale, indicating the position of the proposed sign in relation to the street and existing buildings, including the scale, erf number, street names and erf boundaries, as well as the building lines laid down in the Town Planning Scheme.
 - (b) An elevation sketch of the proposed sign drawn to scale on which the size, wording, construction, finish and colours are indicated:-

Provided that all applications for temporary signs are accompanied by an application form and a sketch and/ or proof poster indicating the size of, colours and wording on the sign and, if required, a description or sketch indicating the location of signs.
- (5) The Council may request any additional information which may be considered necessary about an application.
- (6) Every application must be accompanied by the prescribed application fee as determined by the Council from time to time.
- (7) No person may to any degree or in any manner, way or form deviate from the conditions approved by the Council, and any deviation constitutes an offence and consequently negates an approval.

- (8) The approval of a sign in terms of these By-laws must not be construed as approval in terms of any other act, by-law or regulation, and approval must be obtained in the way prescribed in the relevant act, ordinance, by-law or regulation.
- (9) The approval of a sign in terms of any other act, ordinance, by-law or regulation must not be construed as approval in terms of these by-laws.

6. CONSTRUCTION OF SIGNS

- (1) All signs must:-
 - (a) be sturdy and be made of durable material;
 - (b) if paint is used on them, be painted with weatherproof paint of good quality; and
 - (c) if affixed or attached, be affixed or attached in such a way that they are not a danger to the public.
- (2) Signs may not be attached with wire, nails or glue.
- (3) The person in respect of a sign accepts, despite any approval by the Council, all responsibility and liability for and indemnifies the Council against any claim that may arise from the erection, display and construction of the sign.

7. INDECENT SIGNS

No signs, devices or pictures may be displayed if, in the opinion of the Council, they are indecent, arouse the suspicion that they are indecent or suggest indecency, or are harmful to public morals.

8. SIGNS THAT CAN CAUSE DAMAGE

- (1) No signs may be displayed in places or in ways or with aids which in the opinion of the Council could be detrimental to the amenity of the neighborhood or disfigure the surroundings.
- (2) No swinging or revolving signs may be erected or displayed if they are dangerous or cause an obstruction.
- (3) No sign, whether illuminated or not, may be erected in such a way that it obstructs a clear view of a traffic sign or signal.
- (4) No illuminated sign may be erected in a way that it harms the convenience of a residential building on a Special Residential or General Residential erf or, in the

opinion of the Council, could be detrimental to the residential character, amenity of the neighborhood or any other amenities of the area, or disfigure the surroundings.

- (5) No sign, whether illuminated or not, may be erected and/ or displayed in such a way that it could to any degree or in any manner, way or form pose a traffic safety risk.

9. REMOVAL OF WEATHERED AND OUTDATED SIGNS

- (1) If, in the opinion of the Council, any sign has become weathered, is in a poor condition or is a danger or an inconvenience, the person must immediately and at his/ her own cost remove such sign at the written request of the Council.
- (2) If the person in respect of such sign fails to comply with a written request referred to in subsection (1), the Council may remove the sign at the expense of that person.
- (3) The person must immediately remove any sign which is used for advertising purposes or which provides information about the name of the person or the nature of the business that is operated on the premises when the information on the sign no longer applies to the name and nature of the business, or when the undertaking is no longer being operated.

10. CONFISCATION OF SIGNS

Subject to the provisions of these By-laws, the Council may confiscate any sign that is erected or displayed contrary to the provisions of these By-laws: Provided that:-

- (a) The person in respect of such sign may within seven days of the date of confiscation apply in writing to the Council to have the sign returned, and if the application is approved, the person must undertake to pay the total cost of removing and storing of such sign;
- (b) On expiry of the seven-day period referred to above, the Council may destroy such sign or dispose of it as it deems fit; and
- (c) The Council is not liable for damages of whatever nature arising from the confiscation, removal or disposal of such sign.

11. RE-ERECTION OF SIGNS

No sign that has been removed for whatever reason may be re-erected unless:-

- (a) The provisions of these By-laws have been met; and

- (b) The Council has granted permission and has issued its approval in terms of the provisions of these By-laws.

12. ACCESS TO PREMISES

An authorized officer or employee of the Council who acts in the course of and within the scope of his/ her duties has the right to inspect any sign at any reasonable time and to request that approval for such sign be produced.

13. SIGNS ENCROACHING ERF BOUNDARIES

Although the Council may already have approved a sign which as a whole or in part projects over or encroaches on the erf boundary, the Council may as it deems fit and at any time direct the person in respect of the building to which the sign is attached or the person in respect of such a sign to remove part of or the whole portion that is projecting over or encroaching on the erf boundary within 14 days of the date of notification, and failure to respond to the notice is an offence.

14. ELECTRICAL SIGNS

All signs that could interfere with radio or television reception must be equipped with suppressors that eliminate all forms of interference, and electric wiring must be in accordance with the provisions of the Standard Regulations for Wiring of Properties (SABS 0142-1981, as amended), the Council's Electrical by-laws, any other legislation applicable to electrical signs and the approval of the Council.

15. OFFENCE AND PENALTIES

Any person who contravenes any of the provisions of these By-laws will, on being found guilty, be fined a maximum amount of R4 000-00 and, in the event of a continued offence, may be fined an amount of R100-00 for every day such offence continues.

16. SCHEDULES AND CLASSIFICATION OF SIGNS

- (1) All applicants for outdoor advertising to be considered in terms of these By-laws must be as defined, classified, listed and set out in accordance with the Schedules to these By-laws and the South African Manual for outdoor Advertising Control (SAMOAC).
- (2) All applicants for erecting outdoor advertising in terms of these By-laws are considered in terms of the policy that the Council determines and approved from time to time.

- (3) Where any contradiction, ambiguity or vagueness may occur, the By-laws have precedence and the decision of the Council is final and binding.

SCHEDULE 1

APPROPRIATE OPPORTUNITIES

In Section 2.4 of SAMOAC, Guidelines for Control, each class sign has a particular “appropriate opportunity” standing the type of consent that should be obtained from the Council. The expression “permissible with specific consent” requires municipal Council approval and expression “permissible with deemed consent” does not require municipal Council approval.

In these By-laws, unless otherwise indicated, the “appropriate opportunity” in the following classes is as indicated:-

Class 1(a)	In accordance with SAMOAC.
Class 1(b)	In accordance with SAMOAC.
Class 1(c)	In accordance with SAMOAC.
Class 1(d)	Specific consent in areas of maximum control, partial control and minimum control as defined in SAMOAC.
Class 2(a)	In accordance with SAMOAC.
Class 2(b)	Specific consent in areas of maximum control, partial control and minimum control as defined in SAMOAC.
Class 2(c)	In accordance with SAMOAC.
Class 2(d)(i)	Specific consent in areas of maximum control, partial control and minimum control as defined in SAMOAC and to be read with Class 2(d)(i) of Schedule 3 of these By-laws.
Class 2(d)(ii)	Specific consent in areas of maximum control, partial control and minimum control as defined in SAMOAC and to be read with Class B2 of Schedule 3 of these By-laws.
Class 2(d)(iii)	In accordance with SAMOAC and to be read with Class 2(d) (iii) of Schedule 3 of these By-laws.
Class 2(d)(iv)	Specific consent in areas of maximum control, partial control and minimum control as defined in SAMOAC.
Class 2(d)(v)	In accordance with SAMOAC and to be read with Class 2(d) (v) of Schedule 3 of these By-laws.

Class 2(e)	In accordance with SAMOAC.
Class 2(f)	In accordance with SAMOAC.
Class 2(g)	In accordance with SAMOAC.
Class 3(a)	In accordance with SAMOAC.
Class 3(b)	In accordance with SAMOAC.
Class 3(c)	Specific consent in areas of maximum control, partial control and minimum control as defined in SAMOAC.
Class 3(d)	Specific consent in areas of maximum control, partial control and minimum control as defined in SAMOAC and to be read with Class 3(d) of Schedule 2 of these by-laws.
Class 3(e)	Specific consent in areas of maximum control, partial control and minimum control as defined in SAMOAC and to be read with Class 3(e) of Schedule 2 of these by-laws.
Class 3(f)	In accordance with SAMOAC.
Class 3(g)	In accordance with SAMOAC.
Class 3(h)	In accordance with SAMOAC.
Class 3(i)	In accordance with SAMOAC.
Class 3(j)	Specific consent for small businesses, enterprises and practices, small-scale urban accommodation facilities and medical services, and to be read with Classes A2 and A3 of Schedule 2 of these by-laws.
Class 3(k)	In accordance with SAMOAC.
Class 3(l)	In accordance with SAMOAC.
Class 3(m)	In accordance with SAMOAC.
Class 5(a)	In accordance with SAMOAC.
Class 5(b)	In accordance with SAMOAC.

SCHEDULE 2**PERMANENT SIGNS**

Where a class description of a sign in the Schedule below corresponds to a class description of sign in Schedule 1 of these By-laws, the control measures as set out below must be read with and in addition to any other applicable requirements.

CLASS	DESCRIPTION	SIZE OF SIGNS/ OR LETTERS	RESTRICTIONS
2(d)(v)	Signs on the street elevation, from sidewalk level to above the entrance door(s) (display windows included)	In accordance with Schedule 1	Blackboard or other material from which writing can be removed is included
3(c)	Signs on the walls of a building	In accordance with Schedule 1	Signs may not be displayed on the outside boundary walls
3(d)	Projecting vertical signs on buildings	In accordance with Schedule 1	Signs may not project more than 1,0m over the building line or boundary Signs must be at least 4,5m from any other vertical sign Signs may not project above the parapet or edge of the roof
3(e)	Signs on the street elevation of the buildings	In accordance with Schedule 1	Signs may not project further than 250mm over the building line or erf boundary
A1	Freestanding signs at educational facilities	Maximum total size 12m ²	Signs may not be higher than 2,1m
A1	Freestanding signs at educational facilities (cont)		Signs may indicate the name and nature of the institution and the name of a sponsor, and may display merchandise A maximum total area of 12m ² is allowed: Provided that this area is divided into signs of equal size, form and construction Only erf boundaries adjacent to bona fide streets may be used for this purpose No signs may be placed on or next to erf boundaries adjacent to parks, Council landscaped areas, traffic circles and other areas determined in the policy Signs and

			<p>especially supporting structures must harmonise with the buildings and other structures on the premises as far as material, colour, texture, form, style and character are concerned No illumination of signs is allowed.</p> <p>The general conditions and principles set out in paragraph 2.4.1 of SAMOAC (Schedule 1) apply where relevant.</p>
A1	Freestanding signs at educational facilities (cont).		<p>The signs must form an aesthetic and integral part of architecture and conform to the residential character and/ or other amenities of the area.</p> <p>Where there is no street boundary wall, the signs must form an aesthetic and integral part of a substantive architectural element and be designed and placed on the street frontage boundary to the satisfaction of the Council.</p> <p>The signs may not in any way or means, at the discretion of the Council, detrimentally affect the residential character, amenity of the neighborhood, any other amenities of the area and/or the surroundings.</p> <p>No advertising for sales of any kind or anything similar is allowed on the signs.</p> <p>Specific consent is required.</p>
A2	Signs at home undertakings	Maximum size: 460mm x 600mm	<p>Only one sign is allowed per home undertaking.</p> <p>The sign must form an aesthetic and integral part of the architecture of the wall on the street frontage of the erf</p>
A3	Signs at home offices (cont)		<p>Where there is no street boundary wall, the sign must form an aesthetic</p>

			and integral part of a substantive architectural element, and be designed and placed on the street frontage boundary to the satisfaction of the Council.
			The sign may not in any way, at the discretion of the Council, detrimentally affect the residential character, amenity of the neighbourhood, any other amenities of the area or the surroundings.
			The sign must indicate mainly the name of the business in the home office.
			Not more than 30% of the sign may indicate the nature of the business in the home office
			No sign may be painted on the boundary walls
			Specific consent is required
A4	Boundary walls	Maximum size of letters on wall: 750 mm high	Only one sign is allowed per street frontage. The sign must form part of the architecture of the wall on the street frontage of the erf
A4	Boundary walls (cont)		Where there is no street boundary wall, the sign must form an aesthetic and integral part of a substantive architectural element, and be designed and placed on the street frontage boundary to the satisfaction of the council
			The sign may not in any way, at the discretion of the Council, detrimentally affect the residential character, amenity of the neighbourhood, any other amenities of the area and / or the surroundings
			This class of signage applies to areas of minimum control only
			This class of signage is not applicable to buildings and / or premises used for residential purposes or for community institutions, small enterprises and practices on residential premises, or small-scale residential- oriented

			accommodation
			Specific consent is required

**SCHEDULE 3
TEMPORARY SIGNS**

Where a class description of a sign in the Schedule below corresponds to a class description of a sign in Schedule 1 of these By-laws, the control measures set out below must be read with and in addition to any other applicable requirements.

CLASS	DESCRIPTION	SIZE OF SIGN AND RESTRICTIONS
2(b)	Banners at show houses Banners for special occasion	In accordance with Schedule 1. Banners may only be displayed from 08:00 on Saturdays to 18:00 on Sundays. Stringed flags may be displayed with the banner, but only one banner may be displayed on the particular premises. In accordance with Schedule 1 Banners may only be displayed for the period that the council approves. No banners may be hung or placed within road reserves or across roads or streets

2(d)(i)

“For sale” and To let” signs

The signs may only be displayed on or in front of the particular premises and must relate to those premises 2(d) (iii)

1. Only posters from the following three categories may be displayed in the Thembisile Hani Local Municipal area:-

(a) Category one: Posters with the main purpose of advertising a religious, sporting, educational, ‘cultural, commercial promotion or charity occasion or meeting (b) Category two: Posters with selected news headlines of a specific newspaper 2(d)(iii)

(c) Category three: Posters for parliamentary or municipal elections.

(*Note: A cultural event in this sense means an event promoting the fine arts or another human intellectual achievement)

2. The Council determines and stipulates the number and display format of posters in category three (for parliamentary or municipal elections)
3. Only 100 posters from category one may be displayed for a single occasion, promotion or meeting in the municipal area of Giyani. For more than that number, approval must be obtained from the Council. Only one poster per organization may be displayed on a pole. Only two posters may be displayed on a pole at any time.
4. Posters in category one and category three may not be displayed within 40m of any intersection or traffic light. No posters are allowed on power mast, road traffic signs, traffic circles, traffic inlands, traffic medians, traffic lights, trees, walls, pillars, walls or buildings, fencing, electrical substations, bridges or any similar structures
5. Posters may not be larger than 900mm x 600mm for category one and category three. Posters for category two may not be larger than 600mm x 450mm. 2(d) (iii)
6. The contents, purport and impact of category one posters are subject to Council approval. The name of the organization, and the date and place of the occasion, promotion or meeting must be clearly displayed on the poster in letters of at least 50mm in height.
7. Category one posters may only be displayed if an adhesive license indicating the approval of the Council is attached to them. This adhesive license is only available after the prescribed fees have been paid to the Council.
8. Category one posters may be displayed only for a period of 14 days before the occasion, promotion or meeting and must be removed within three days after the occasion, promotion or meeting.
9. Category two posters may be displayed for 24 hours only. Only one poster at a time from category two may be displayed on a pole.
10. Posters in category two may be displayed only within 40m of a sales point. No posters are allowed on power masts, road traffic signs, traffic lights, traffic circles, traffic medians, trees, walls, pillars, walls of buildings, fencing, electrical substations, bridges or any similar structures.

11. When erecting or removing a sign, advertising hoarding, temporary sign (eg poster) or banner, no person may intentionally cause any damage to any tree, electrical pole, installation, building or property. 2(d) (iii)
12. Temporary signs may be displayed only for that period which the Council has approved beforehand in writing after application on the prescribed form and payment of the prescribed fee(s)
13. Only a maximum height of 50mm of the prescribed maximum size for posters may be used to display a sponsor's name or emblem. This maximum height must be adjusted proportionally when the poster is smaller than the prescribed maximum size for posters. The sponsor's name or emblem must be placed in the bottom 25% of the poster. No wire or nails, may be used to attach signs. Only string may be used.

3(m)

Signs on hoardings

Signs may only be displayed from the beginning of building operations until a certificate of occupation or a consent use has been issued. Signs may advertise anything, except slanderous and indecent messages.

5(a)

Aerial signs

In accordance with Schedule 1

Only the name of the business and one commercial article may be displayed on the balloon. Other aerials signs must be approved in terms of Council policy. A public liability policy, together with the approval of Civil Aviation Control, must accompany an application

B1

Handbills, leaflets or pamphlets

Handbills, leaflets and pamphlets may only be placed in postboxes: Provided that handbills, leaflets and pamphlets of a religious nature may only be distributed with Council approval and in accordance with the restrictions for such approval.

B2

Sale-in-execution

1. Signs may only be displayed for 21 days before the auction takes place

B2

Sale-in-execution signs (cont)

2. Signs may not be affixed to trees, traffic lights, street lamp poles or traffic signs. Signs may not be larger than 900 mm x 600 mm.

3. A person is allowed only one sign per street block, with a maximum of six signs per auction
4. No signs may be displayed at intersections on roads in the Central Business areas. Signs must also be displayed at least 40 m from these intersections.
5. A person is allowed only two signs per intersection or junction
6. Stakes or posts to which direction signs are affixed may not be driven more than 120 mm into the ground. Signs may also not be erected on tarred or paved surfaces
7. Signs may not be displayed higher than 1 m and may not cause an obstruction or be dangerous for pedestrian or other traffic. Signs may also not be erected on any traffic island
8. Signs may use only an arrow to indicate the direction of the auction. The auctioneer's name, the word "auction*" and details of the auction must appear on the signs
9. A copy of the relevant court order with the case number must accompany the application. The case number must be clearly displayed in characters not less than 50 mm in height at the bottom of the signs
10. Specific consent is required.

B3

Direction signs to show houses

1. Signs may only be displayed over weekends, from 08:00 on Saturdays to 18:00 on Sundays

THEMBISILE HANI LOCAL MUNICIPALITY**PROPERTY RATES BY-LAW**

In terms of Section 13 of the Local Government: Municipal System Act No.32 of 2000 as amended; the Thembisile Hani Local Municipal (“the municipality”) hereby published the Property Rates By-laws set forth hereinafter, which have been made by the Municipality in terms of Section 6 of the Local Government: Municipal Property Rates Act 6 of 2004.

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13. Phasing in of the new market value
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1. Preamble

Whereas:-

- 1.1 It is enshrined in Section 229 of the Constitution (Act 108 Of 1996) that a municipality may impose rates on property within a regulatory framework.
- 1.2 The Municipal Property Rates Act, 2004 (Act no. 6 of 2004) (MPRA) provides the regulatory framework to which the municipality must comply with when imposing rates on the property, which includes but is not limited to:-
 - 1.2.1 The adoption of a rates policy will be implemented and made effective by way of a Rates By-law;
 - 1.2.2 Criteria for determination of categories of properties and differential rates for each category of properties;
 - 1.2.3 Criteria to be applied for granting rates relief measures;
 - 1.2.4 Levying of rates in sectional title schemes;
 - 1.2.5 Appointment of a municipal valuer for preparation of a general valuation roll.
- 1.3 In terms of Section 4(1) (c) (ii) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), read with Section 2 of the said Local Government: Municipal Property Rates Act, the municipality has the right to finance the affairs of the municipality by imposing, *inter-alia*, rates on property. In terms of Section 4(2) of the Local Government: Municipal Systems Act, 2000 (32 of 2000), council of a municipality, within the municipality's financial and administrative capacity and having regard to practical considerations, has the duty to:-
 - (a) Exercise the municipality's executive and legislative authority and use the resources of the municipality in the best interests of the local community;
 - (b) Provide, without favour or prejudice, democratic and accountable government;
 - (c) Encourage the involvement of the local community;
 - (d) Strive to ensure that municipal services are provided to the local community in a financially and environmentally sustainable manner;
 - (e) Consult the local community about:-
 - (i) The level, quality, range and impact of municipal services provided by the municipality, either directly or through another service provider; and

- (ii) The available options for service delivery;
 - (f) Give members of the local community equitable access to the municipal services to which they are entitled;
 - (g) Promote and undertake development in the municipality;
 - (h) Promote gender equity in the exercise of the municipality's executive and legislative authority;
 - (i) promote a safe and healthy environment in the municipality;
 - (j) contribute, together with other organs of state, to the progressive realisation of the fundamental rights contained in Sections 24, 25, 26, 27 and 29 of the Constitution; and
- 1.4 Further, a municipality must in the exercise of its executive and legislative authority respect the rights of citizens and those of other persons protected by the Bill of Rights.
- 1.5 In terms of Section 62 of the Local Government: Municipal Finance Act, 2003 (Act 56 of 2003), the Municipal Manager must ensure that the municipality has and implements a rates policy embodied in a By-law as per Section 6 of the said Local Government: Municipal Property Rates Act.

2. Definitions

All words and phrases in this By-law shall have the same meaning and interpretation as assigned in terms of the said Municipal Property Rates Act and for this purpose lists hereunder the definitions used in the Act to be *mutatis mutandis* applied in this By-law.

Unless the context indicates otherwise:-

“**Act**” means the Local Government: Municipal Property Rates Act (Act 6 of 2004);

“**Child headed household**” means a household recognized as such in terms of Section 137 of the Children's Amendment Act, 41 of 2007;

“**Actual use**” means actual activities that are taking place on the property;

“**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;

“Agricultural purposes” in relation to the use of a property, excludes the use of a property for the purpose of ecotourism or for the trading in or hunting of game;

“Annually” means once every financial year;

“Category”:-

(a) in relation to property, means a category of properties determined in terms of Section 8; and

(b) in relation to owners of properties, means a category of owners determined in terms of Section 15(2) of the Act;

“Community services” means any services which the expenditure of rendering of such a service is financed from the revenue generated from property rates;

“Date of valuation” means 02 July 2008 as determined by the municipality council as per resolution in item c (8) paragraph (c);

“Disabled people” means a person who qualifies to receive relief in terms of the Social Services Act, 1992 (Act No. 59 of 1992) or has been certified as disabled by a medical practitioner;

“Disaster” means a disaster within the meaning of the Disaster Management Act (57 of 2002); or any other serious adverse social or economic condition;

“Effective date”:-

(a) in relation to a valuation roll, means the date on which the valuation roll takes effect in terms of Section 32(1); or

(b) in relation to a supplementary valuation roll, means the date on which a supplementary valuation roll takes effect in terms of Section 78(2) (b);

“Exclusion” in relation to a municipality’s rating power, means a restriction of that power as provided for in Section 17;

“Exemption” in relation to the payment of a rate, means an exemption granted by a municipality in terms of Section 15;

“Financial year” means the period starting from 1 July in each year to 30 June the following year;

“Income Tax Act” means the Income Tax Act, 1962 (Act No. 58 of 1962);

“indigent household” means an owner of property who is in permanent occupation of the property and qualifies for indigent relief in terms of the municipality’s indigent policy, shall include state pensioner, child-headed household, disabled people, household without income or with income that falls within a certain threshold and medical boarded people;

“Land reform beneficiary” in relation to a property, means a person who:-

- (a) acquired the property through:-
 - (i) The Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993); or
 - (ii) The Restitution of Land Rights Act, 1994 (Act No. 22 of 1944);
- (b) Holds the property subject to the Communal Property Associations Act, 1996 (Act No. 28 of 1996); or
- (c) holds or acquires the property in terms of such other land tenure reform legislation as may pursuant to Section 25(6) and (7) of the Constitution be enacted after this Act has taken effect;

“Land tenure right” means an old order right or a new order right as defined in Section 1 of the Communal Land Rights Act, 2004;

“Local community” in relation to a municipality:-

- (a) means that body of persons comprising:-
 - (i) The residents of the municipality;
 - (ii) The ratepayers of the municipality;
 - (iii) Any civic organizations and nongovernmental, private sector or labor organizations or bodies which are involved in local affairs within the municipality; and
 - (iv) Visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality; and
- (b) Includes, more specifically, the poor and other disadvantaged sections of such body of persons;

“Local municipality: means a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls, and which is

described in Section 155(1) of the Constitution as a category B municipality. Establish in terms of Section 12 of the Municipal Structures Act No. 117 of 1998;

“Market value” in relation to a property, means the value of the property determined in accordance with Section 46 of the Act;

“Municipal Finance Management Act” means the Local Government: Municipal Finance Management Act No. 56 of 2003;

“Municipal Manager” means a person appointed in terms of Section 82 of the Municipal Structures Act;

“newly ratable property” means any ratable property on which property rates were not levied before the end of the financial year preceding the date on which this Act took effect, excluding:-

- (a) a property which was incorrectly omitted from a valuation roll and for that reason was not rated before that date; and
- (b) a property identified by the Minister by notice in the *Gazette* where the phasing in of a rate is not justified;

“Non-profit organization” means any organization which is registered in terms of the Non-profit Organizations Act;

“Occupier” in relation to a property, means a person in actual occupation of a property, whether or not that person has a right to occupy the property;

“Organ of state” means an organ of state as defined in Section 239 of the Constitution;

“Owner”:-

- (a) In relation to a property referred to in paragraph (a) of the definition of property, means a person in whose name ownership of the property is registered;
- (b) In relation to a right referred to in paragraph (b) of the definition of property, means a person in whose name the right is registered;
- (c) in relation to a land tenure right referred to in paragraph (c) of the definition of property, means a person in whose name the right is registered or to whom it was granted in terms of legislation; or
- (d) in relation to public service infrastructure referred to in paragraph (d) of the definition of property, means the organ of state which owns or controls that public

service infrastructure as envisaged in the definition of “publicly controlled”, provided that a person mentioned below may for the purposes of this Act be regarded by a municipality as the owner of a property in the following cases:-

- (i) A trustee, in the case of a property in a trust excluding state trust land;
- (ii) An executor or administrator, in the case of a property in a deceased estate;
- (iii) A trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
- (iv) A judicial manager, in the case of a property in the estate of a person under judicial management;
- (v) A curator, in the case of a property in the estate of a person under curatorship;
- (vi) a person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitudes; or
- (vii) a buyer, in the case of a property that was sold by a municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer;
- (viii) a lessee in the case of property that is registered in the name of the municipality and is leased by it;

“Permitted use” in relation to a property, means the limited purposes for which the property may be used in terms of:-

- a) Any restrictions imposed by:-
 - (i) a condition of title;
 - (ii) a provision of a town planning or land use scheme; or
- b) Any legislation applicable to any specific property or properties; or
- c) Any alleviation of any such restrictions;

“Person” means natural and legal person including an organ of state;

“Prescribe” means prescribe by regulation in terms of Section 83 of the Act;

“Privately owned township” means single properties, situated in an area not ordinarily being serviced by the municipality, divided through sub-divisions or township

establishment units (ten or more) full title stands and/ or Sectional units and where all services inclusive of water, electricity, sewerage and refuse removal and roads development are installed at the full cost of the developer and maintained and rendered by the residents of such estate or township;

“Property” means:-

- a) Immovable property registered in the name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person;
- b) A right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;
- c) A land tenure right registered in the name of a person or granted to a person in terms of legislation; or
- d) Public service infrastructure;

“Property register” means a register of properties referred to in Section 23;

“Protected area” means an area that is or has to be listed in the register referred to in Section 10 of the Protected Areas Act;

“Protected Areas Act” means the National Environmental Management: Protected Areas Act, 2003;

“Publicly controlled” means owned by or otherwise under the control of an organ of state, including:-

- a) a public entity listed in the Public Finance Management Act, 1999 (Act No.1 of 1999);
- b) a municipality; or
- c) a municipal entity as defined in the Municipal Systems Act;

“Public benefit organization property” means property owned by public benefit organizations and used for any specified public benefit activity listed in item 1 (welfare and humanitarian), item 2 (health care), and item 4 (education and development) of part 1 of the Ninth Schedule to the Income Tax Act;

“Public service infrastructure” means publicly controlled infrastructure of the following kinds:-

- a) National, provincial or other public roads on which goods, services or labour move across a municipal boundary;



THE PROVINCE OF MPUMALANGA
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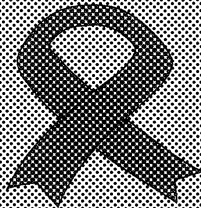
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No. 2138

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affects
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A
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PART 2 OF 2



- b) water or sewer pipes, ducts or other conduits, dams, water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer scheme serving the public;
- c) Power stations, power substations or power lines forming part of an electricity scheme serving the public;
- d) Gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;
- e) Railway lines forming part of a national railway system;
- f) Communication towers, masts, exchanges or lines forming part of a communication system serving the public;
- g) Runways or apron at national or provincial airports;
- h) breakwaters, sea walls, channels, basins, quay walls, jetties, roads, railway or infrastructure used for the provision of water, lights, power, sewerage or similar services of ports, or navigational aids comprising lighthouses, radio navigational aids, buoys, beacons or any other device or system used to assist the safe and efficient navigation of vessels;
- i) any other publicly controlled infrastructure as may be prescribed; or
- j) rights of way, easements or servitudes in connection with infrastructure mentioned in paragraphs (a) and (i);

“Rate” means a municipal rate on property envisaged in Section 229(1) (a) of the Constitution;

“ratable property” means a property on which a municipality may in terms of Section 2 levy a rate, excluding property fully excluded from the levying of rates in terms of Section 17;

“Rebate” in relation to a rate payable on a property, means a discount granted in terms of Section 15 on the amount of the rate payable on the property;

“reduction” in relation to a rate payable on a property, means the lowering in terms of Section 15 of the amount for which the property was valued and the rating of that property at the lower amount;

“Register”:-

- a) Means to record in a register in terms of:-

- (i) the Deeds Registries Act, 1937 (Act No. 47 of 1937); or
- (ii) the Mining Titles Registration Act, 1967 (Act No. 16 of 1967); and
- b) includes any other formal act in terms of any other legislation to record:-
 - (i) a right to use land for or in connection with mining purposes; or
 - (ii) a land tenure right;

“Residential property” means a property included in a valuation roll in terms of Section 48(2) (b) as residential;

“Sectional Titles Act”: the Sectional Titles Act, 1986 (Act No. 95 of 1986);

“Sectional title scheme”: a scheme defined in Section 1 of the Sectional Titles Act;

“Smallholding” means a property recorded in the Deeds Registry Database as being an Erf and zoned for Agricultural usage in terms of an adopted Town Planning Scheme;

“Sectional title unit”: a unit defined in Section 1 of the Sectional Titles Act;

“Small, very small and micro business” means businesses as per the criteria set by the National Small Business Act No. 102 of 1996 schedule;

“Special rating area” means a geographic area within which property owners agree to pay for certain services supplementary to those supplied by the municipality. These services are financed by levying an additional rate, which is added to the rate in a rand of the property owners within the precinct;

“Specified public benefit activity”: an activity listed in item 1 (welfare and humanitarian), item 2 (health care) and item 4 (education and development) of Part 1 of the Ninth Schedule to the Income Tax Act;

“State trust land” means land owned by the state:-

- a) in trust for persons communally inhabiting the land in terms of a traditional system of land tenure;
- b) over which land tenure rights were registered or granted; or
- c) which is earmarked for disposal in terms of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994);

“The Municipality” means the Thembisile Hani Local Municipality;

“Value of property” means the market value of the property as valued in terms of the Act;

“Vacant land” means unimproved land, irrespective of the category of property or zoning in an urban or semi -urban areas.

3. The purpose of this By-law

The purpose of this By-law is to:-

- 3.1 comply with the provisions of the Municipal Property Rates Act, specifically with Section 3 and 6 thereof;
- 3.2 give effect to the principles outlined hereunder;
- 3.3 ensure the equitable treatment of persons liable for rates;
- 3.4 determine the methodology and to prescribe procedures for the implementation of the Act;
- 3.5 determine criteria to be applied for the levying of differential rates for different categories of properties;
- 3.6 determine or provide criteria for the determination of categories of properties and categories of owners of properties;
- 3.7 determine criteria to be applied for granting exemptions, rebates and reductions;
- 3.8 determine how the municipality’s powers must be exercised in relation to multi-purpose properties;
- 3.9 determine measures to promote local economic and social development; and
- 3.10 identify which categories of properties the municipality has elected not to rate as provided for in Section 7 of the Act.

4. Fundamental principles of this By-law

The principles of the By-law are to ensure that:-

- 4.1 the power of the municipality to impose rates on property within its area will not be exercised in a way that materially and unreasonably prejudices national economic policies, economic activities or the national mobility of goods, services, capital or labour as prescribed in terms of Section 229 of the Constitution of the Republic of South Africa;

- 4.2 All ratepayers, in a specific category, as determined by council from time to time, will be treated equitably;
- 4.3 property rates will be assessed on the market value of all ratable properties in the jurisdiction of the municipality and for the purpose of generating revenue to balance the budget after taking into account:-
 - 4.3.1 Profits generated on trading and economic services; and
 - 4.3.2 The amounts required to finance exemptions, rebates and reductions of rates as approved by the municipal council from time to time;
- 4.4 property rates will not be used to subsidize trading and economic services;
- 4.5 The rates income generated by the municipality will take into account relief measures to address the social and economic needs of the community;
- 4.6 this By-law and amendment thereof will be developed in consultation with the community and in compliance with a process of community participation in terms of Chapter 4 of the Municipal Systems Act.

5. Application of this By-law

5.1 Imposition of rates

5.1.1 The council shall as part of each annual operating budget cycle, impose a rate in the rand on the market value of all ratable property as recorded in the municipality's valuation roll and supplementary valuation roll. Ratable property shall include a property on which the municipality may in terms of Section 2 of the Act levy a rate, excluding property fully excluded from the levy of rates in terms of the Act.

5.1.2 The council pledges itself to limit the annual increase of the rate in the rand in accordance with the National Treasury guidelines and the approved integrated development priorities.

5.2 Classification of municipal services and expenditure

5.2.1 The municipal manager or his/her nominee herewith provides the following classification of services which might be amended from time to time as per the guidelines provided by the National Treasury, other relevant authorities and/or the Municipal Council:-

5.2.1.1 Trading services:-

- (a) Water

- (b) Electricity

5.2.1.2 Economic services:-

- (a) Refuse removal
- (b) Sanitation

5.2.1.3 Community services:-

- (a) Air pollution
- (b) Fire fighting services
- (c) Local tourism
- (d) Municipal public works, only in respect of the needs of municipalities in the discharge of their responsibilities and to administer functions specially assigned to them under the Constitution or any other law
- (e) Storm water management system in built-up areas
- (f) Trading regulations
- (g) Fixed billboards and the display of advertisements in public places
- (h) Cemeteries
- (i) Control of public nuisances
- (j) Township development
- (k) Facilities for accommodation, care and burial of animals
- (l) Fencing and fences
- (m) Licensing of dogs
- (n) Licensing and control of undertakings that sell food to the public
- (o) Local amenities
- (p) Local sport facilities

- (q) Municipal parks and recreation
- (r) Municipal roads
- (s) Noise pollution
- (t) Pounds
- (u) Street trading/street lighting
- (v) Traffic and parking
- (w) Building control
- (x) Licensing of motor vehicles and transport permits
- (y) Nature reserves

5.2.1.4 Subsidized services:-

- (a) Health and ambulance
- (b) Libraries and museums
- (c) Proclaimed roads

5.2.2 Trading and economic services must be ring fenced and financed from service charges while community and subsidized services will be financed from surpluses on trading and economic services, regulatory fees, rates and rates related income.

5.2.3 Expenditure will be classified in the following categories:-

- (a) Salaries, wages and allowances
- (b) Bulk purchases
- (c) General expenditure
- (d) Repairs and maintenance
- (e) Capital charges (interest and redemption)/depreciation
- (f) Contribution to fixed assets
- (g) Contribution to funds:-

- i. bad debts
 - ii. Working capital; and
 - iii. Statutory funds
- (h) Contribution to reserves.

5.2.4 Cost centres will be created to which the costs associated with providing the service can be allocated:-

- (a) By Department;
- (b) By Divisions; and
- (c) By Service.

5.2.5 The classification by subject of expenditure, each with a unique vote will be applied to all cost centres.

6. Equitable treatment of ratepayers

6.1 This municipality is committed to treating all ratepayers on an equitable basis. "Equitable" does not necessarily mean "equal" treatment of ratepayers. The circumstances of each category of owner or category of property will be considered in a fair manner and within the limitations set out in the Act.

6.2 Any differentiation in the levying of rates must not constitute unfair discrimination.

7. Discretionary resolutions adopted by the Municipality with respect to levying of rates

It is recorded that the Municipality has adopted the following resolutions:-

- 7.1 To levy rates on all ratable property in its area of jurisdiction;
- 7.2 To determine the date of implementation as being 1 July 2009;
- 7.3 To determine the date of general valuation as being 2 July 2008;
- 7.4 To levy different cents in the rand for different categories of ratable property;
- 7.5 That the categories of properties for the purpose of differential rating are those specified in this By-law document;

- 7.6 That the criteria for the categorization in terms of Section 8(1) of the Act shall be actual use where a property is improved and where the land is vacant, on permitted use;
- 7.7 in case of a property used for multiple-purposes the category shall be determined according to the dominant use of the property;
- 7.8 to rate public service infrastructure (excluding municipal public service infrastructure) that is identifiable and to which a market related value can be determined with the proviso that the municipality may extend this annually to include other identifiable entities as the data set is developed; and
- 7.9 to not rate properties of which the municipality is the owner, except where leased to a third party.

8. Categories of properties for differential rating purposes

- 8.1 For the purposes of differential rates, the following categories of ratable property have been determined, being:-

8.1.1 Residential property

Means improved property that:-

- (a) Is used predominantly for residential purposes including any adjoining property registered in the name of the same owner and used together with such residential property as if it were one property. Any such grouping shall be regarded as one residential property for rate rebate or valuation reduction purposes;
- (b) Is a unit registered in terms of the Sectional Title Act and used predominantly for residential purposes; and
- (c) Is owned by a share-block company and used solely for residential purposes.

8.1.2 Residential property with special consent

Means improved property that is granted additional rights and consent use other than residential in terms of the Town Planning Scheme.

8.1.3 Business, commercial and industrial property

Means improved property that is predominantly used for business, commercial and industrial purposes.

8.1.4 Agricultural property

Means a property envisaged in Section 8(2)(d), (e) and (f) of the Act.

8.1.5 State or government property

Means property owned and used by the state excluding the kinds of publicly controlled infrastructure listed in the definition of Public Service Infrastructure.

8.1.6 Public service infrastructure

Means a property as defined by the Act.

8.1.7 Public benefit organization property

Means property owned by public benefit organizations and used for any specified public benefit activity listed in item 1 (welfare and humanitarian), item 2 (health care), and item 4 (education and development) of part 1 of the Ninth Schedule to the Income Tax Act

8.1.8 Mining property

Means property on which an operation or activity of extracting minerals is conducted and includes any operation or activity incidental thereto.

8.1.9 Rural communal land

Means the residual portion of a rural communal land excluding identifiable and ratable entities within the property and excluding State Trust Land and land reform beneficiaries as defined in the Act.

8.1.10 State trust land

Means land owned by the state:-

- (a) In trust for persons communally inhabiting the land in terms of a traditional system of a land tenure;
- (b) Over which land tenure rights were registered or granted; and
- (c) Which is earmarked for disposal in terms of the Restitution of Land Rights.

8.1.11 Municipal property

In relation to property shall mean those properties owned & exclusively used by the municipality;

8.1.12 Places of public worship

Means a property registered in the name of and used primarily as a place of worship by a religious community, including an official residence registered in the name of that community which is occupied by an office bearer of that community who officiates at the services at that place of worship;

8.1.13 Protected area

Means an area that is, or has to be, listed in the register referred to in Section 10 of the Protected Areas Act.

8.1.14 other property

Means any property determined by the Municipality which is not associated with any of the categories of property listed above.

8.1.15 vacant land

Means unimproved land, irrespective of the category of property or zoning in urban or semi-urban areas.

8.2 Differential rating among the above determined categories of properties will be done by way of setting different rates in the rand for each property category.

8.3 The criteria for weighting the categories determined above, for the purpose of determining cent in a rand amount (rates tariff) for each category, must take account of the following:-

8.3.1 the reliance or otherwise of the owners of specific categories of property on services supplied by the Municipality;

8.3.2 the strategic importance of a category of property with reference to the aims and objectives of the municipality and the Government of the Republic of South Africa as a whole (such as social, economic and developmental issues); and

8.3.3 the nature of the category of property, including its sensitivity to rating (for example agricultural properties used for agricultural purposes).

8.4 The following principles and Section 8.3 above shall be applied for the determination of the cents in the rand:-

- 8.4.1 the activities that take place on business, commercial, industrial and government properties have been identified as the cost drivers for community services;
- 8.4.2 the rate ratio between residential and the properties mentioned in 8.3.1 above shall be 1:2.5 to business; and 1:0.25 to agricultural properties;
- 8.4.3 the rate ratio between residential and residential property with special consent shall be 1:1.5;
- 8.4.4 the rate ratio between residential and government property shall be 1:3;
- 8.4.5 the rate ratio between residential and properties categorized as other and mining shall be 1:2.5;
- 8.4.6 the rate ratio between residential and agricultural property shall be 1:0.25 as prescribed by the Act;
- 8.4.7 the rate ratio between residential and public service infrastructure property shall be 1:0.25 as prescribed by the Act;
- 8.4.8 the rate ratio between residential and public benefit organization property shall be 1:0.25 as prescribed by the Act; and
- 8.4.9 the rate ratio between residential and vacant land shall be 1:3 as prescribed by the Act.

9. Relief measures for property owners

- 9.1 The Municipality has considered the need and desire to grant relief to a specific category of owners of properties and owners of a specific category of properties with a view to providing for appropriate measures to alleviate the impact of the rates burden on them.
- 9.2 The municipality will not grant relief in respect of the payment of rates other than by way of an exemption, rebate or reduction provided for in this By-law and granted in terms of Section 15 of the Act to:-
 - 9.2.1 a specified category of properties; or
 - 9.2.2 a specified category of owners of property as provided for hereunder.
- 9.3 The municipality will not grant relief to the owners of property on an individual basis.
- 9.4 The relief measures shall be granted as follows:-

9.4.1 Category of specific owners

Part A: Rebates

(a) Indigent Household	
Criteria	The owner should be registered in the indigent register in terms of the Indigent Policy of the municipality.
Rebate	The rebate on property rates shall be determined by the municipal council on annual basis during the budget process.
(b) Retired people	
Criteria	<ul style="list-style-type: none"> - Make application in writing in a prescribed form; - Own and permanently reside on the property; - Not own more than one property; - Be at least 60 years of age; and
Rebate	A sliding scale rebate system on property rates account shall be determined by the municipal council on annual basis during the budget process.
(c) Owner of Lodges	
Qualification criteria	<ul style="list-style-type: none"> - Make application in writing in a prescribed form; - Own and utilize the property solely for bed and breakfast, guest house and lodge; - Proof of business license issued by the municipality; - Proof of registration with the South African Grading Council; and - Be in a position to submit audited annual financial statements.
Rebate	Additional rebates on property rates shall be determined by the municipal council on an annual basis during the budget process.
(d) Owners of small, very small and micro businesses	
Qualification criteria	<ul style="list-style-type: none"> - Make application in writing in a prescribed form; - Property owned and utilize by the owner; - Provide proof of registration with relevant authority; - Provide proof of business license, if applicable issued by the municipality; - The business shall meet all requirements (refer to sector, size or class, total employment, total annual turnover and total gross asset value (fixed property excluded) set out in terms of the National Small Business Act No. 102 of 1996 schedule; and - Be a position to submit audited annual financial statements
Rebate	The rebate on property rates shall be determined by the municipal council on an annual basis during the budget

	process.
(e) Owner of Privately Developed Townships or Estates or Complexes	
Qualification criteria	<ul style="list-style-type: none"> - Make an application in writing in a prescribed form; - Provide Service Level Agreement entered into with the municipality; - The full cost of infrastructural development of the township should be incurred by the developer(s); and - The cost of rendering and maintaining of internal services should be incurred by residents or the developer.
Rebate	<ul style="list-style-type: none"> - 100% rebate on property rates for a period when the property is under development not exceeding a period of twelve months; - A rebate on property rates account for owner of a property situated in unproclaimed area shall be determined by council on an annual basis during the budget process; and - A rebate on property rates account for owner of a property situated in proclaimed area where the municipality does not provide maintenance of the internal community services shall be determined by council on an annual basis during the budget process.
(f) Owner of formalized property within rural communal property	
Rebate	The rebate on property rates shall be determined by the municipal council on an annual basis during the budget process.
(g) Owner of a smallholding property categorized as a residential property	
Qualification criteria	The municipality should not be providing any of the community services
Rebate	The rebate on property rates shall be determined by the municipal council on an annual basis during the budget process.
(h) Properties Owned by Public Benefit Organizations, which includes;	
<p>- <i>Health, welfare or charitable institutions</i></p> <p>Properties used exclusively as a hospital, clinic, mental hospital, orphanage, non-profit retirement village, old age home or benevolent institution, including workshops used by the inmates, laundry or cafeteria facilities, provided that any profits from the use of the property are used entirely for the benefit of the institution and or for charitable purposes by registered organizations.</p>	
<p>- <i>Educational institutions</i></p> <p>Properties used for educational purposes including a residence registered in the name of the educational institution and used by full-time employees of the educational</p>	

institution. - Youth development organizations Properties used by organizations such as the Boy Scouts, Girls Guides, or organizations the Council deem to be similar.	
Qualification criteria	<ul style="list-style-type: none"> - Make an application in writing in a prescribed form; - Provide proof of ownership of the property and registration as a Non-Profit Organization in terms of the Income Tax Act or registration as a Public Benefit Organization in terms of the Income Tax Act conducting one or more of the above specified public benefit activities listed in Part 1 of the 9th Schedule; - Submit an affidavit signed by the head of the organization before a Commissioner of Oaths that the property is used primarily for the specified public benefit activities and purposes of the organization; - that no private pecuniary profit is made from the property; and that no rent is received by the applicant for any use of the property by other persons; and - Be in a position to submit audited annual financial statements.
Rebate	The rebate on property rates shall be determined by the municipal council on an annual basis during the budget process.

9.4.2 Category of specific properties

Part A: Rebates

(a) Agricultural Properties	
Qualification criteria	<ul style="list-style-type: none"> - Make an application in writing in a prescribed form; - Proof of registration as a <i>bona fide</i> farmer from South African Revenue Services or if not taxed as a farmer provide proof that income generated in excess of 40% is derived from farming activities; - The property must be predominately utilised for <i>bona fide</i> farming purposes; - The application should clearly motivate how the farm contributes in terms of: <ul style="list-style-type: none"> - local economy; - provision of permanent residence or decent accommodation to the farm workers and their dependants; - provision of portable water and electricity to the dwellings of farm workers; and

	- provision of land for cemetery or educational or recreational purposes to the farm workers, children as well as for people from surrounding farms.
Rebate	The rebate on property rates shall be determined by the municipal council on annual basis during the budget process.
(b) State Trust and Rural Communal Property	
Rebate	The rebate on property rates shall be determined by the municipal council on an annual basis during the budget process.
(c) Affordability rebates - the rebate is unconditionally granted to assist the property owners to leverage the rates burden because of the current economic conditions.	
- Business, Commercial and Industrial Property	The rebate on property rates shall be determined by the municipal council on an annual basis during the budget process.
- Government Property	The rebate on property rates shall be determined by the municipal council on an annual basis during the budget process.
- Mining Property	The rebate on property rates shall be determined by the municipal council on an annual basis during the budget process.
- Residential Property	The rebate on property rates shall be determined by the municipal council on an annual basis during the budget process.
- Other Property	The rebate on property rates shall be determined by the municipal council on an annual basis during the budget process.
(d) Newly ratable properties	50% phase-in rebate on property rates in terms of Section 21(2) of the Act; and 100% phase-in rebate on property rates in terms of Section 21(3) of the Act.
(e) Public Benefit Organization with no source of income (Depending on Donations/ Grants)	May be granted up to 100% rebates subject to an application and approval by the Chief Financial Officer; and application shall be done on a prescribe form obtainable from the Municipal Offices.

Part B - Exemptions

(a) Residential Property	- The first R15 000.00 of the market value of the property is exempted from levying of rates in terms of Section 17(1) (h) of the Act. - The additional exemption on the market value to be
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	exempted from levying of rates shall be determined by the municipal council on annual basis during the budget process.
(b) Public Services Infrastructure Property	- The first 30% of the market value of the property is exempted from levying of rates in terms of Section 17(1) (a) of the Act.
(c) Municipal Property	The property shall be 100% exempted from levying of rates
(d) Places of Worship, including an official residence registered in the name of the community	The property shall be 100% exempted from levying of rates.
(e) Other properties stated in terms of Section 17(b), (c), (d), (e), (f) and (g) of the Act	The properties shall be 100% exempted from levying of rates

Part C: Reductions

(a) Properties Affected by a Disaster or other Serious Adverse Social or Economic Conditions	
Qualification criteria	The owner of any category of property may make application for the consideration of a reduction in the municipal valuation of property as contemplated in Section 15 of the Act, where it is contended that the market value of the property is being affected by:
	(a) A disaster within the meaning of the Disaster Management Act (57 of 2002); or
	(b) Any other serious adverse social or economic conditions as may be defined and determined by the Council.
Reduction Granted	The relief provided will be in the form of a reduction in the municipal valuation of the property in relation to a certificate issued for this purpose by the municipal valuer. The resultant reduction in the quantum of the rates payable will be for the current financial year only and calculated on a pro-rata basis from the date of the disaster or adverse conditions to the end of the financial year. Should the applicant consider that the conditions resulting in the granting of relief remain unaltered at the conclusion of the financial year in question, a further application may

	be lodged for the new financial year
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10. Multiple purpose properties

10.1 The municipality shall determine a method of assessing the value of multi-purpose properties applying the following:-

10.1.1 in respect of vacant land that has not been put to any use. In this instance the zoning or permitted use as approved in terms of Township Establishment Scheme of the municipality shall prevail;

10.1.2 The valuation for all other multiple-purpose properties will be assessed according to the dominant use of the property according to value.

10.2 With regard to the rural communal property-

10.2.1 it shall be considered as a multiple use property as a whole;

10.2.2 that identifiable and ratable entities within the property (such as commercial leases and commercial and institutional in possession of permission to occupy) be identified, valued and rated individually, with the proviso that the municipality may extend this annually to include other identifiable entities as the data set is developed; and

10.2.3 that the residual portion of the land be considered as the 'Residual' portion of the land for valuation, rating and rebate purposes and be exempted from the payment of rates as stipulated in Section 9.4.2, Part B, subsection (c).

11. Community participation

The municipality has conducted public participation and consultation processes in accordance with Chapter 4 of the Municipal Systems Act No. 32 of 2000 and Chapter 2 of this Act.

12. Recovery and payment of rates

12.1 An owner of a ratable property shall be liable for a property rates account.

12.2 Property rates shall be recovered on a monthly basis over a twelve months period in equal installments.

12.3 Owners of ratable properties liable for the payment of property rates account shall be furnished with a written municipal account on a monthly basis.

- 12.4 Payment of property rates with a single amount on or before 31 December of each year, shall be allowed on condition that:-
- 12.4.1 the owner applies to the municipality in writing on a prescribed form for such deferment of the payment of the property rates account;
 - 12.4.2 The owner has more than ten (10) property rates accounts with the municipality;
 - 12.2.3 The application reaches the municipality before 30 June of each year; and
- 12.5 Interest on overdue property rates accounts shall not be levied until 31 December of each year in case of payment of property rates with a single amount for twelve months.
- 12.6 Rates in arrears shall be recovered from tenants and occupants of a property if the owner fails to pay the property rates account.
- 12.7 The Credit Control and Debt Collection By-law shall apply in cases where the property rates accounts are in arrears.
- 12.8 The consolidation of property rates and services charge in one account and any appropriation of payments received shall be done by the municipality on a discretionary basis in accordance with the Credit Control and Debt Collection By-law.
- Interest on property rates in arrears shall be calculated and charged at prime rate which shall be applicable at 30 June plus one percent fixed over the twelve months period of the financial year.
- 12.9 This clause shall only come into effect upon the decision of council.

13. Phasing in of the new market value

- 13.1 Phasing-in of the new market value of a property over a period four years, in a situation whereby the property rates account has increased by more than five hundred percent (500%) due to the new rating system.
- 13.2 Each case or matter shall be treated on its merit.
- 13.3 The owner of the property shall make an application in writing stating the reasons for the request of the phasing-in of market value of the property.
- 13.4 All outstanding debts due to the application for deferment made in the financial year 2009/10 shall be dealt with in terms of the Credit Control and Debt Collection By-law.

13.5 These amendments be applied retrospectively i.e. effective from 1 July 2009; and
[Editor's Note: Numbering as published under LAN 128 in PG 1841/2010]

13.7 The authority to approve the phasing-in of the new market value of the property shall be delegated to the Chief Financial Officer in terms of the municipality's delegations.

14. Special rating area

The establishment of or applications for establishment of special rating area(s) in terms of its City Improvement Districts By-law shall be considered by the municipality.

15. Review of this By-law

The By-law shall be reviewed on an annual basis to ensure that it complies with the Municipality's strategic objectives and with legislation.

16. Short title

This By-law shall be known as Thembisile Hani Property Rates By-law.

17. Implementation of this By-law

This By-law shall be effective from a date determined by Council.

THEMBISILE HANI LOCAL MUNICIPALITY**SOLID WASTE MANAGEMENT BY-LAWS**

The Thembisile Hani Local Municipality (“the council”) hereby publishes the Solid Waste Management By-laws set forth hereinafter, which have been made by the council in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996 and Section 13 of the Municipal Systems Act, 2000 (Act no 32 of 2000)

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CHAPTER 1**INTERPRETATION, PRINCIPLES AND OBJECTS****1. Definitions**

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

“affected person” means a person who has been issued, or who is being issued, with an enforcement notice;

“approved”, in the context of bins, bin liners, containers, receptacles and wrappers means approved by the council or service provider for the collection and storage of waste;

“Bill of Rights” means chapter 2 of the Constitution of the Republic of South Africa, 1996;

“bin” means an approved receptacle for the storage of waste which may be supplied by the council or the owner of the premises in terms of these By-laws;

“bin liner” means an approved loose plastic or other suitable material liner for use in the interior of a bin;

“building waste” includes all waste produced during the construction, alteration, repair or demolition of any structure, and includes building rubble, earth, vegetation and rock displaced during such construction, alteration, repair or demolition;

“bulky waste” means business waste or domestic waste which by virtue of its mass, shape, size or quantity is inconvenient to remove in the routine door-to-door council service provided by the council or service provider;

“business waste” means waste, other than hazardous waste, healthcare risk waste, building waste, industrial waste, garden waste, bulky waste and special industrial waste, generated on premises used for non-residential purposes;

“commercial services” means any service, excluding council services, relating or connected to accumulating, collecting, managing, recycling, sorting, storing, treating, transporting, disposing, buying or selling of waste or any other manner of handling waste;

“container” means an approved receptacle having a capacity for temporary storage of waste in terms of these By-laws;

“council” means –

(a) the municipal council of the Thembisile Hani Local Municipality that has been given or any power has been delegated or sub-delegated in terms of, or as contemplated in, section 59 of the Systems Act or, where the context so requires, means the aforesaid Thembisile Hani Local Municipality; or

(b) a service provider in respect of any power, function or duty of the Council as contemplated in paragraph (a), assigned by it for the purpose of these By-laws to that service provider in terms of section 81(2) of the Systems Act.

“council services” means a municipal service relating to the collection of waste, including domestic waste and business waste provided exclusively by the council or service providers in accordance with the provisions of the Systems Act;

“**damage to the environment**” means any pollution, degradation or harm to the environment whether visible or not;

“domestic waste” means waste generated on premises used solely for residential purposes and purposes of public worship, including halls or other buildings used for religious purposes, but does not include business waste, building waste, garden waste or bulky waste;

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“**dump**” means placing waste anywhere other than an approved receptacle or a place designated as a waste handling facility or waste disposal facility by the council or service provider;

“**DWAF**” means the National Department of Water Affairs and Forestry;

“environment” means the surroundings within which humans exist made up of –

(a) the land, water and atmosphere of the earth,

(b) micro-organisms, plant and animal life,

(c) any part or combination of (a) and (b) and the interrelationships among and between them, and

(d) the physical, chemical aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

“**environmental emergency**” means any unexpected or sudden occurrence that may cause or has caused serious harm to human health or damage to the environment, regardless of whether the potential for harm or damage is immediate or delayed;

“**firm**” includes any juristic person or any association of persons established or operating in the Republic of South Africa;

“**garden waste**” means waste generated as a result of normal domestic gardening activities, including grass cuttings, leaves, plants, flowers and other similar small and light organic matter, but does not include felled trees or branches, bulky waste, soil or building waste or any waste generated as a result of garden service activities;

“**garden service**” means the provision of gardening services by a licensee including the cutting of grass, pruning of trees or any other horticultural activity including landscaping, to any domestic, business, commercial or industrial premises;

“**garden waste handling facility**” means a waste handling facility that receives and temporarily stores garden waste or any other recyclable waste;

“**hazardous waste**” means waste containing or contaminated by poison, a corrosive agent, a flammable substance having an open flash-point of less than 90 deg C, an explosive, radioactive

material, a chemical or any other waste that has the potential even in low concentrations to have a significant adverse affect on public health or the environment because of its inherent toxicological, chemical and physical characteristics;

“health care risk waste” means all hazardous waste generated at health care facilities such as hospitals, clinics, laboratories, medical research institutions, dental and medical practitioners and veterinarians;

“industrial waste” means waste generated as a result of manufacturing, maintenance, fabricating, processing or dismantling activities, but does not include building waste, business waste, special industrial waste, hazardous waste, health care risk waste or domestic waste;

“level of service” means the frequency of the council service and the type of service point;

“licensee” means any person who has obtained a licence in terms of Chapter 7 of these By-laws;

“litter” means any object or matter which is discarded by a person in any place except in an approved receptacle provided for that purpose or at a waste handling facility or waste disposal facility;

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“local community” in relation to the council means that body of persons comprising –

(a) the residents of the council,

(b) the ratepayers of the council,

(c) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the council, and

(d) visitors and other people residing outside of the council who, because of their presence in the council, make use of services or facilities provided by the council;

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

“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 let to lodgers or various tenants, includes the person receiving the rent payable by the lodgers or tenants whether for his own account or as an agent for any person entitled thereto or interested therein;

“owner” includes any person that has the title to any premises or land or any person receiving the rent or profits of any land or premises from any tenant or occupier thereof, or who would receive such rent or profits if such land or premises were let, whether for his own account or as an agent for any person entitled thereto or interested therein: Provided that the “owner” in respect of the premises on the Sectional Title Register opened in terms of section 12 of the Sectional Titles Act, 1986 (Act 95 of 1986), means the body corporate as defined in that Act, in relation to such premises;

“person” means natural person or firm and includes licensees;

“pollution” means any change in the environment caused by –

(a) substances; or

(b) noise, odours, dust or heat, emitted from any activity, including the storage or treatment of waste or substances, construction and the provision of services, whether engaged in by any person or an organ of state,

where that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of natural or managed ecosystems, or on materials useful to people, or will have such an effect in the future;

“premises” means an erf or any other portion of land, including any building thereon or any other structure utilised for business, industrial or residential purposes;

“public place” includes any public building, public road, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden, park, enclosed space vested in a council, and any road, place or thoroughfare however created which is in the undisturbed use of the public or which the public has the right to use or the right to access;

“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;

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“radioactive material” means any substance consisting of, or containing, any radioactive nuclide, whether natural or artificial;

“radioactive waste” means any radioactive material which is or is intended to be disposed of as waste;

“recyclable waste” means waste which has been separated from the waste stream, and set aside for purposes of re-use, reclamation or recycling;

“resident” means in relation to a council a person who is ordinarily resident in the council;

“road reserve” means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic which is between the edges of the roadway or that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or the shoulder;

“service delivery agreement” means an agreement between the council and a service provider in terms of which the service provider is required to provide council services;

“service provider” means any person who has entered into a service delivery agreement with the council in terms of the Systems Act;

“special industrial waste” means waste consisting of a liquid, sludge or solid substance, resulting from a manufacturing process, industrial treatment or the pre-treatment for disposal purposes of any industrial or mining liquid waste, which in terms of the council’s drainage or sanitation By-laws may not be discharged into a drain or sewer;

“Structures Act” means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

“sustainable development” means the integration of social, economic and environmental factors into planning, implementation and decision-making so as to procure that development serves present and future generations;

“Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“target” means any desired air, water quality or waste standards contained in any legislation;

“tariff” means the user charge for the provision of council services, determined and promulgated by the council or adjusted by a service provider in terms of Tariff Policy by-laws adopted under section 75 of the Systems Act;

“waste” means any undesirable or superfluous matter, material, by-product or residue of any process or activity that has been discarded, accumulated or stored for the purpose of discarding, reuse, reclamation or recycling. Waste products may be liquid or solid and may include products that contain a gaseous component and may originate from domestic, commercial or industrial activities, but does not include –

(a) matter processed as part of sanitation services under the Water Services Act (Act 107 of 1997);

(b) any gas or gaseous product which may be regulated by national or provincial legislation; or

(c) any radioactive material save where these By-laws specifically permit it to be handled;

“waste disposal facility” means any facility or site which receives waste for disposal thereof, and which is operated in terms of a permit obtained from DWAF or any other competent authority or where such a facility is an incinerator, registration or such permission as is required by law, and includes garden waste handling facilities;

“waste generator” means any person or firm that generates or produces waste;

“waste handling facility” means any facility that accepts, accumulates, handles, recycles, sorts, stores or treats waste prior to its transfer for incineration or final disposal;

“workplace” means any place within the council on or in which or in connection with which, a person undertakes council services or commercial services; and

“wrapper” means a plastic or other suitable or approved material covering that totally encloses bales or slugs of compacted waste.

2. Principles –

(1) The council has the responsibility to ensure that all waste generated within the council is –

(a) collected disposed of or recycled in accordance with these By-laws; and

(b) that such collection disposal or recycling takes account of the waste management hierarchy set out below.

(2) The underlying principle of these By-laws is to establish a waste management hierarchy in the following order of priority:

(a) avoidance, waste minimisation and waste reduction;

(b) re-use;

(c) recycling, reprocessing and treatment; and

(d) disposal.

3. Main objects.

(1) The main objects of these By-laws are –

(a) the regulation of the collection, disposal and recycling of waste;

(b) the regulation of the provision of council services by service providers and commercial services by licensees; and

(c) enhancing sustainable development.

(2) In pursuing the main objects of these By-laws, and in particular the object set out in subsection (1) (a) (b)(c), the council must –

(a) endeavour to ensure that local communities are involved in the development of local waste plans;

(b) endeavour to minimise the consumption of natural resources;

(c) promote the recycling and reuse of waste;

(d) encourage waste separation to facilitate re-use and recycling;

(e) promote the effective resourcing, planning and delivery of council services and commercial services;

(f) endeavour to achieve integrated waste planning and services on a local basis;

- (g) promote and ensure environmentally responsible council services and commercial services; and
- (h) endeavour to ensure compliance with the provisions of these By-laws.

4. Duty of care

(1) Every person has a duty to manage any waste generated by his activities or the activities of those persons working under his direction in such a manner that the waste does not cause harm to human health or damage to the environment. In particular –

(a) no person may engage in council services or commercial services in a manner that results in, or creates a risk of harm to human health or damage to the environment, except insofar as such risk of harm or damage is an unavoidable aspect of the council services or waste management service and has been authorised by the council; and

(2) Without limiting its generality, subsection (1) applies to an owner of land, premises or equipment, a person in control of land, premises or equipment or a person who has a right to use the land, premises or equipment on which or in which –

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(a) any activity or process is or was performed or undertaken; or

(b) any other situation exists, which causes, or is likely to cause, harm to human health or damage to the environment.

(3) Any person subject to the duty imposed in subsection (1) may be required by the council or an authorised official to take measures to ensure compliance with the duty.

(4) The measures referred to in subsection (1) that a person may be required to undertake include –

(a) investigation, assessment and evaluation of the impact that their activities, the process or a situation have on the environment;

(b) informing and educating employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing damage to the environment;

(c) ceasing, modifying or controlling any act, process, situation or activity which causes damage to the environment;

(d) containing or preventing the movement of pollutants or other causes of damage to the environment;

(e) eliminating or mitigating any source of damage to the environment; or

(f) rehabilitating the effects of the damage to the environment.

CHAPTER 2

WASTE MANAGEMENT PLANNING, POLICY AND STRATEGY

Part 1: Local Waste Plans

5. Development of local waste plans –

(1) The council must prepare a local waste plan for the council within one year of commencement of these By-laws, which plan must be implemented within four years of the commencement of these By-laws. The objectives of the local waste plan include.

(2) establishing a means of ensuring that waste is collected, reused, recycled or disposed of without causing harm to human health or damage to the environment and, in particular, without –

(a) risk to water, air, soil, plants or animals;

(b) causing nuisance through noise or odours; or

(c) adversely affecting rural or urban areas or areas of special interest;

(3) establishing an integrated network of waste handling and waste disposal facilities to ensure that -

(a) comprehensive and adequate council services and commercial services are established within the council;

(b) the disposal of waste occurs at accessible waste disposal facilities; and

(c) the most appropriate methods and technologies are used in order to ensure a high level of protection for and prevention of damage to the environment and harm to human health;

(d) encouraging the minimisation or reduction of waste;

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(e) promoting the recovery of waste by means of recycling or re-use through proven alternative technology; and

(f) any other object which would enhance sustainable development.

6. Scope, preparation and amendment of the local waste plan –

(1) The local waste plan includes but is not be limited to the following matters –

(a) population and development profiles within the council;

(b) an assessment of all significant sources and generators of waste within the council;

(c) an assessment of the quantities and classes of waste currently generated and projected to be generated within the council;

(d) an assessment of the existing markets, council services, commercial services and waste handling and waste disposal facilities for each waste category;

(e) an assessment of the existing options for waste reduction, management and disposal within the council;

- (f) an assessment of the number of persons within the council who are not receiving council services and proposed strategies and targets for providing these services to such persons;
- (g) proposed strategies and targets for managing and reducing waste in the council and for the efficient disposal of waste that cannot be re-used or recycled;
- (h) strategies for waste education and initiatives for separating waste at its source;
- (i) strategies for raising awareness of waste management issues;
- (j) strategies for establishing the information system as required in section 7;
- (k) an implementation programme that identifies the required time-frames, resources and responsibilities for achieving these strategies and targets;
- (l) a mechanism for monitoring performance in light of these targets and strategies;
- (m) current and anticipated waste collection, transportation, transfer and disposal costs;
- (n) a consideration of how the local waste plan relates to other relevant plans of the council; and
- (o) such other matters as may be required by any other legislation, regulation or guidelines.

(2) In preparing the local waste plan, the council must –

- (a) take into consideration any integrated development plan or land development objectives of the council, and the requirements of any national or provincial legislation or policy
- (b) consult with the local community, as required by the Systems Act;
- (c) take reasonable steps to bring its draft local waste plan to the notice of the local community by inviting comment thereon from members of the local community. Not less than two months must be allowed for submitting such comments, and the finalisation of the local waste plan must be after considering any comment received from the local community;

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- (d) send copies of the draft local waste plan to the Minister of Environmental Affairs and the Minister of Water Affairs and Forestry, and neighbouring Municipalities for their information; and
- (e) send a copy of the draft local waste plan to the Mpumalanga Province for comment and finalise the local waste plan after considering such comment.

(3) The council may amend the local waste plan from time to time and must review the plan at least every five years. Such amendments or reviews must be conducted in consultation with the local community.

(4) The council must publish a report once a year on the implementation of the plan. The report must include –

- (a) a description of activities and measures taken to achieve the objects of the plan;

(b) an indication of whether the objects of the plan are being achieved, and if not, an explanation of problems which have undermined the achievement of the objects;

(c) details of convictions under these By-laws; and

(d) a description of significant incidents of dumping.

Part II: Information System

7. Establishment of an information system –

(1) The council must establish and maintain an information system which records how waste is managed within the council.

(2) The information system may include any information relating to or connected to the management of waste within the council.

(3) Details regarding the implementation of the information system will be set out in the local waste plan referred to in section 5.

(4) The local community is entitled to reasonable access to the information contained in the information system, subject to any limitations imposed by law. In giving effect to this right, the council must –

(a) at the request of a member of the local community, provide information contained in the information system;

(b) take steps to ensure that the information provided is in a format appropriate for lay readers; and

(c) may impose a fee for providing such information in order to cover the cost of providing the information requested.

8. Purpose of the information system –

(1) The purpose of the information system is for the council to –

(a) record data relating to the implementation of the local waste plan and the management of waste in the council;

(b) record information held by the council in relation to any of the matters referred to in subsection 6 (1) (a) - (j);

(c) furnish information upon request or as required by law to provincial and national government;

(d) gather information regarding potential and actual waste generators, service providers and licensees;

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(e) provide information to waste generators, service providers, licensees and the local community in order to –

(i) facilitate monitoring of the performance of the council, service providers and licensees, and, where applicable, waste generators;

(ii) stimulate research; and

(iii) assist the council to achieve the main objects of these By-laws.

9. Provision of information –

(1) The council may, subject to the provisions of any other law including the common law require any waste generator, licensee, service provider or person involved in or associated with the provision of council services or commercial services within the council to furnish information to the council that may reasonably be required for the information system. Such information may concern –

(a) significant sources of waste generation and the identification of the generators of waste;

(b) quantities and classes of waste generated;

(c) management of waste by waste generators;

(d) waste handling and waste disposal facilities;

(e) population and development profiles;

(f) reports on progress in achieving any waste management targets;

(g) the management of radioactive waste;

(h) any information which has been compiled in accordance with subsection 1 (e);

(i) markets for waste by class of waste or category; and

(j) any other information required by legislation, regulation or guidelines.

(2) The council may, at its discretion, determine when and how often information must be furnished.

10. Manner of engaging in waste minimisation initiatives –

Notwithstanding the need to promote waste minimisation recycling and reuse of waste, no person may undertake waste minimisation initiatives in such a manner that is likely to cause or to increase the risk of harm to human health or damage to the environment.

CHAPTER 3

COUNCIL SERVICES

Part I: Providing Access to Council Services

11. Duty to provide access to council services –

(1) The council has an obligation to the local community to progressively ensure efficient, affordable, economical and sustainable access to council services.

(2) This duty is subject to –

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(a) the obligation of the local community to pay the prescribed fee, for the provision of council services, which must be priced in accordance with any nationally prescribed norms and standards for rates and tariffs; and

(b) the right of the council to differentiate between categories of users and geographical areas when setting service standards and levels of service for the provision of council services. In exercising the right in this subsection, the council must comply with national legislation and have regard to the factors set out in subsection 3.

(3) The council must take the following factors into account in ensuring access to council services:

(a) the waste management hierarchy set out in section 2(a)-(d);

(b) the need to use resources efficiently;

(c) the need for affordability;

(d) the requirements of operational efficiency;

(e) the requirements of equity; and

(f) the need to protect human health and the environment.

12. The provision of council services –

(1) The council must as far as reasonably possible and subject to the provisions of these By-laws –

provide for the collection of domestic waste, business waste and dailies on a regular basis, which in the case of dailies requires collection on a daily basis; and

provide recycling facilities,

at a cost to end users determined in accordance with the prescribed fee promulgated by the Council.

(2) In relation to council services, the council may determine-

(a) the quantities of waste that will be collected;

(b) which residential or commercial premises require council services more frequently than the regular collection service for reasons of health, safety and environmental protection;

(c) the maximum amount of waste that may be placed for collection without the provision of an additional service or the imposition of an additional tariff; and

(d) specify requirements for the provision of waste storage areas and access to such areas in respect of new premises which are constructed after the commencement of these By-laws.

(3) The council may provide, or require the generator of the waste to provide, an approved receptacle for the storage of domestic waste, business waste and dailies pending collection. Where such receptacle is provided by the council, it remains the property of the council.

(4) In providing council services, the council or service provider may determine or designate-

(a) collection schedules;

(b) locations for placing approved receptacles for collection,

(c) which types of waste generated by the occupier of any premises are recyclable waste and determine the conditions for their storage or collection; and

(d) which waste items are unsuitable for collection.

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(5) The council or service provider may require a generator of dailies and business waste to compact that portion of the waste that is compactable. Such a requirement may be imposed where the quantity of dailies or business waste generated on premises requires daily removal of more than the equivalent of eight 240-litre bins and where, in the opinion of the council or service provider, the major portion of such waste is compactable. The occupier of premises may elect to compact any volume of such waste and place it into an approved receptacle or wrapper approved by the council or service provider: Provided that-

(a) the capacity of the wrapper must not exceed 85 litres and the mass of the wrapper and contents must not exceed 35 kilograms;

(b) after the waste has been compacted and put into the wrapper, it must be placed in the approved receptacle and must be stored so as to prevent damage to the wrapper or any nuisance arising until collected; and

(6) Any approved receptacle used in terms of subsection 12(5) may be collected, emptied and returned to the premises by the council or service provider at such intervals as it may deem necessary.

(7) The council or service provider may review any decisions taken in terms of subsection 12(5) at any time.

(8) The council or service provider must notify all generators of domestic waste, business waste and dailies of any decisions taken in terms of subsections 6 or 7 in writing.

Part II: Using Council Services

13. Obligations of generators of domestic waste, business waste and dailies –

(1) Any person generating domestic waste, business waste and dailies (other than waste which has been designated by the council as recyclable) must place domestic waste, business waste and dailies in an approved receptacle.

(2) No person may allow an animal in his control to interfere with, overturn or damage a receptacle, which has been placed for collection.

(3) The occupier of premises must ensure that –

(a) no hot ash, unwrapped glass or other domestic waste, business waste and dailies which may cause damage to approved receptacles or which may cause injury to the council or service provider's employees while carrying out their duties in terms of these By-laws, is placed in approved receptacles before suitable steps have been taken to avoid such damage or injury;

(b) no material, including any liquid, which by reason of its mass or other characteristics is likely to render such approved receptacles unreasonably difficult for employees of the council or service provider to handle or carry, is placed in such receptacles;

(c) every approved receptacle on the premises is kept closed save when waste is being deposited in it or discharged from it, and every approved receptacle is kept in a clean and hygienic condition;

(d) the approved receptacle delivered by the council is not used for any purpose other than the storage of domestic waste, business waste and dailies and, in particular, that no fire may be lit in a bin or container;

(e) the approved receptacle is placed outside the entrance to the premises before a time and on a day of the week specified by the council or service provider by notice to the owner or occupier of the premises, except where, on written application to the council, the council has indicated in writing that it is satisfied that a person is physically infirm or otherwise incapable of complying with the notice; and

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(f) the approved receptacle, placed in accordance with subsection 12(5) must be undamaged and properly closed so as to prevent the dispersal of its contents.

(4) The owner or occupier of premises must provide space and any other facilities deemed necessary by the council or service provider on the premises for the storage of approved receptacles.

(5) The space provided in terms of subsection 13(4) must –

(a) be in such a position on the premises as will allow the storage of approved receptacles without their being visible from a street or public place;

(b) where dailies are generated on the premises –

(i) be in such a position as will allow the collection and removal of such waste by the council or service provider's employees without hindrance; and

(ii) be not more than 20m from the entrance to the premises used for the collection of waste by the council or service provider;

(c) be so located as to permit convenient access to and egress from such space for the council or service provider's waste collection vehicles;

(d) comply with any further reasonable requirements imposed by the council or service provider by notice to the owner or occupier of the premises; and

(e) be constructed in accordance with the requirements of any applicable building regulations.

(6) The occupier of premises must place or cause the approved receptacles to be placed in the space provided in terms of subsection 13(4) and must at all times keep them there, save that-

(a) in the case of buildings erected, or buildings, the building plans of which have been approved, prior to the coming into operation of these By-laws, or

(b) in the event of the council or service provider being unable to collect and remove waste from the space provided in terms of sub-subsection 13(4)

the council or service provider may, having regard to the avoidance of nuisance and the convenience of collection of waste, indicate a position within or outside the premises where the approved receptacles must be placed for the collection and removal of such waste and such receptacles must then be placed in such position at such times and for such period as the council or service provider may require.

14. The prescribed fee for council services –

The council may either levy rates on property or determine tariffs (or both) for the provision of council services.

Tariffs in terms of these by-laws will be determined and promulgated in terms of Section 75 A of the G Municipal Systems Act 32/2000.

15. Liability to pay for council services –

(1) The owner of premises is liable to the council to pay the prescribed fee for the provision of council services, and is not entitled to exemption from the liability to pay the prescribed fee by reason of his not making use, or of making a partial or limited use, of council services regardless of whether the council provides such services directly or through a service provider.

(2) The prescribed fee becomes due and payable on the same date as the general assessment rate levied.

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CHAPTER 4

COMMERCIAL SERVICES

Part I: Provision of Commercial Services by Licensees and Flow Control

16. Provision of commercial services by licensees –

(1) Save in the case of garden waste, only a licensee may provide commercial services.

(2) Any person requiring commercial services must satisfy him/her that the contractor is licensed to collect and dispose of the category of waste that has been generated and must take reasonable steps to ensure that the relevant waste is collected and disposed of in terms of these By-laws.

17. Provision for council co-ordination of waste disposal -

The council may direct, by a notice published in the Provincial Gazette, which a category of waste be disposed of at a particular depot or disposal site. No person may dispose of such waste other than as specified in the notice gazetted under this section or as specified by the council under other empowering legislation prior to the coming into operation of these By-laws.

Part II: Business, Industrial and Recyclable Waste

18. Storage of business, industrial and recyclable waste –

(1) The owner or occupier of premises on which business, industrial or recyclable waste is generated must ensure that until such time as such waste is collected by a licensee from the premises on which it was generated –

(a) the waste is stored within a bulk container or other approved receptacle; and

(b) no nuisance, including but not limited to dust, is caused by the waste in the course of generation, storage, or collection.

19. Collection and disposal of industrial, business and recyclable waste –

(1) The owner or occupier of premises generating business, industrial and recyclable waste must ensure that-

(a) the container in which the waste is stored may not be kept in a public place except as required for collection;

(b) the waste is collected by a licensee within a reasonable time after the generation thereof; and

(c) that the service rendered by the licensee must only be in respect of that portion of the business, industrial or recyclable waste authorised in its license.

(2) A licensee must dispose of business, industrial or recyclable waste at a waste handling facility or waste disposal facility designated by the council as a waste disposal facility for that purpose in terms of section (17) above and in accordance with the provisions of section (17).

Part III: Garden Waste and Bulky Waste

20. Storage, collection and disposal of garden waste and bulky waste –

(1) The owner or occupier of the premises on which garden waste is generated may compost garden waste on the property, provided that such composting does not cause a nuisance.

(2) The occupier of the premises on which garden waste is generated and not composted or on which bulky waste is generated must ensure that such waste is collected and disposed within a reasonable time after the generation thereof.

(3) Any person or licensee may remove garden waste and bulky waste, provided that once such waste has been collected from the premises on which it was generated, it is deposited at a garden waste handling facility in accordance with the provisions of section (17).

(4) At the written request of the occupier of premises the council or service provider may, in its sole discretion, deliver an approved receptacle for the purpose of storing garden waste in addition to any approved receptacle delivered to the premises for the storage of domestic waste. The provisions contained in section 12(5), read with the necessary changes, must apply, to an approved receptacle delivered in terms of this section but which is to be used for the storage of garden waste.

(5) Where, in the course of providing council services, the council or the service provider providing the service, is of the opinion that it would cause inconvenience to members of the public not, at the same time, to remove garden and bulky waste, the council or service provider may remove such waste if such waste has been placed in an approved receptacle referred to in section 12(5) in the space designated for domestic waste, in which event the tariff for domestic waste, read with the necessary changes, must apply.

Part IV: Building Waste

21. Generation of building waste –

(1) The owner or occupier of premises on which building waste is to be generated must notify the council, in writing, of the intention to generate building waste and of the proposed manner for its removal and disposal at least 14 days prior to the intended generation of such waste.

(2) The owner or occupier of such premises must ensure that –

(a) until disposal, all building waste, together with the containers used for the storage, collection or disposal thereof, is kept on the premises on which the waste was generated;

(b) the premises on which the building waste is generated does not become unsightly or cause a nuisance as a result of accumulated building waste;

(c) any building waste which is blown off the premises is promptly retrieved; and

(d) pursuant to any instructions from the council, any structure necessary to contain the building waste is constructed.

22. Storage of building waste –

(1) The owner or occupier of premises may apply to the council for written consent to place an approved receptacle for the storage and collection of building waste in the road reserve for the period of such consent.

(2) Any consent given in terms of subsection (1) may be subject to such conditions as the council may consider necessary.

(3) Every approved receptacle, authorised in terms of subsection (1) and used for the removal of building waste, must –

(a) have clearly marked on it the name, address and telephone number of the person in control of such approved receptacle;

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(b) be fitted with reflecting chevrons or reflectors which must completely outline the front and the back thereof; and

(c) be covered at all times other than when actually receiving or being emptied of such waste so that no displacement of its contents can occur.

23. Collection and disposal of building waste. –

(1) The owner or occupier of premises on which building waste is generated must ensure that the waste is disposed of by a licensee.

(2) All building waste must be disposed at a waste disposal facility designated for that purpose by the council in terms of a notice under section (17), unless the council has given written consent for the building waste to be used for the purpose of land reclamation or for recycling.

Part V: Special Industrial, Hazardous or Health Care Risk Waste

24. Generation of special industrial, hazardous or health care risk waste –

(1) No person may carry on an activity which may cause special industrial, hazardous or health care risk waste to be generated, without notifying the council, prior to the generation of such waste, of the composition of such waste, the estimated quantity generated, the method of storage, the proposed duration of storage, the manner in which it will be collected and disposed, and the identity of the licensee removing such waste: Provided that where such waste is being generated as a result of activities which commenced prior to the commencement of these By-laws, the generator must notify the council within 6 months of the commencement of these By-laws.

(2) If so required by the council, the notification referred to in subsection (1) may be substantiated by an analysis of the composition of such waste certified by an appropriately qualified industrial chemist.

(3) The person referred to in subsection (1) must notify the council in writing of any changes occurring with respect to the generation, composition, quantity and method and location of disposal of the special industrial, hazardous, or health care risk waste.

25. Storage of special industrial, hazardous or health care risk waste –

(1) Any person carrying on an activity which may cause special industrial, hazardous or health care risk waste must ensure that the special industrial, hazardous or health care risk waste generated on the premises is kept and stored thereon until it is collected from the premises.

(2) Special industrial, hazardous or health care risk waste stored on premises must be stored in such a manner that it does not become a nuisance or cause harm to human health or damage to the environment, and in accordance with the requirements of any applicable building regulations or additional by-laws.

(3) Special industrial, hazardous or health care risk waste must be stored in an approved receptacle for a period not exceeding any maximum period stipulated by the council before collection.

(4) The council may enact additional by-laws providing guidelines for the management of health care risk waste.

26. Collection and disposal of special industrial, hazardous or health care risk waste –

(1) Only licensees may transport special industrial, hazardous and health care risk waste and must do so in accordance with the requirements of the council, stipulated as licence conditions or in additional by-laws, in respect of the type of vehicle, the markings and manner of construction of such vehicle, procedures for safety and cleanliness, and documentation relating to the source, transportation and disposal of such waste, and the requirements of any other legislation.

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(2) A licensee licensed to collect and dispose of special industrial, hazardous or health care risk waste, must inform the council at those intervals the council may stipulate in the licence or elsewhere, about the removal of special industrial, hazardous or health care risk waste, the date of such removal, the quantity, the composition of the waste removed and the facility at which the waste has been disposed.

(3) A licensee must dispose of special industrial, hazardous or health care risk waste at a waste disposal facility designated by the council as a waste disposal facility for that purpose and in accordance with the provisions of section (17).

CHAPTER 5

TRANSPORTATION AND DISPOSAL OF WASTE

27. Transportation of waste

(1) Notwithstanding the provisions of any other legislation, no person may-

(a) operate a vehicle for the conveyance of waste upon a street unless the vehicle has a body of adequate size and construction for the type of waste being transported;

(b) fail to maintain the vehicles used for the conveyance of waste in a clean, sanitary and roadworthy condition at all times;

(c) cause or permit any waste being transported in or through the council to become detached, leak or fall from the vehicle transporting it, except at a waste disposal facility;

(d) knowingly dispose waste at a waste disposal facility that is not permitted to accept such waste .

28. Disposal of waste –

(1) Waste generated within the council must be disposed of at a waste disposal facility that has been permitted to accept and dispose of such waste in terms of section 17 and in accordance with the provisions of any other law regulating the disposal of waste.

(2) No person may burn waste either in a public or private place except at an authorised incinerator operated by a licensee, or other than at a place designated by the council for such purpose.

(3) Notwithstanding the provisions of subsection (1), any person may dispose of those forms of recyclable waste specified by the council in a notice in terms of section (17) or elsewhere at designated garden waste handling facilities, but may do so only if all such waste is brought to the facility in vehicles able to carry a maximum load of one tonne or less.

(4) The disposal of waste at any waste disposal facility may, in addition to any conditions imposed by a competent authority, be subject to such conditions as the council may from time to time specify, including the hours of opening and closing, the nature of the waste which may be disposed of, the position in any such waste disposal facility in which the waste may be placed and any other matters which the council considers necessary to ensure the environmentally sound management of waste.

(5) Every person who enters a waste disposal facility must –

(a) enter the waste disposal facility at an access point determined by the operator of the waste disposal facility;

(b) on request, provide the council or the operator of the waste disposal facility with any information regarding the composition of the waste; and

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(c) follow all instructions issued by the operator of the waste disposal facility in regard to access to the actual place where, and the manner in which, the waste should be deposited.

(6) No person may-

(a) bring any liquor or intoxicating or narcotic substance onto a waste disposal facility or enter such facility in an intoxicated state;

(b) enter a waste disposal facility for any purpose other than the disposal of waste in terms of these By-laws, unless authorised to do so by the operator of the waste disposal facility or the council and then only at such times and on such conditions as the council or operator may from time to time determine;

(c) dispose of waste at a waste disposal facility which is not permitted for such waste; or

(d) light any fire upon or near any disposal area without authorisation.

(7) Any person who contravenes subsection 28(6)(c) will be liable for all reasonable costs incurred by the council in removing or otherwise dealing with waste improperly disposed of at a waste disposal facility.

(8) The operator of the waste disposal facility may at any time require a vehicle or a container on a vehicle that has entered the waste disposal facility for the purposes of disposing waste to be weighed at a weighbridge.

(9) The council, the operator of the waste disposal facility, an authorised official or any other persons duly authorised by the council may, at a waste disposal facility, inspect the content and nature of waste to be disposed of or processed and may take samples and test any waste found on any vehicle to ascertain its composition.

(10) Any person contravening any of the provisions of this section may be refused entry or be removed from a disposal waste disposal facility.

CHAPTER 6

SERVICE PROVIDERS

29. Agreement, delegation and customer charter -

(1) The council may discharge any of its obligations under section 11 of these By-laws by entering into a service delivery agreement with a service provider or service providers in terms of the Systems Act.

(2) Subject to the provisions of the Systems Act or any other legislation, the council may assign to a service provider any power enjoyed by the council under these By-laws: Provided that the assignment is required for the service provider to discharge an obligation under its service delivery agreement.

(3) Any reference in these By-laws to "council or service provider" should be read as the "council" if the council has not entered into a service delivery agreement, and should be read as "service provider" if the council has entered into a service delivery agreement.

(4) Service providers must provide services in accordance with a customer charter which must be drawn up in consultation with the council and which must-

- (a) accord with the provisions of these By-laws;
- (b) be accessible to the public;
- (c) establish the conditions of the service including collection times; and
- (d) provide for the circumstances in which council services may be limited.

CHAPTER 7

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LICENSEES

Part I: Registration

30. Registration requirements –

- (1) Any person who provides or intends to provide commercial services within the council must register with the council.
- (2) Registration must be by written notification to the council, and must specify-
- (a) the name and the residential and postal address of the person providing commercial services, and if a company or close corporation, its registration number, names of its directors or members and the address of its registered head office;
 - (b) the nature of the waste management service provided or intended to be provided by the person;
 - (c) the scope of the service, which must specify the number of clients served or intended to be served at the time of registration, the geographical area of operation and the actual or intended capital expenditure involved, or to be involved, in rendering the service; and
 - (d) the disposal facilities it owns or intends to utilise for the disposal of waste it collects or generates.
- (3) The council must provide proof of registration specifying the name and the residential and postal address of the registered person and describing the nature of the commercial services provided or intended to be provided by that person.
- (4) Where a person has registered in terms of subsection (1) and the person –
- (a) acquires a firm providing commercial services;
 - (b) merges with other persons providing commercial services;
 - (c) changes ownership;
 - (d) changes juristic nature;
 - (e) changes the nature of the commercial services it provides;
 - (f) intends to cease providing such services;
 - (g) is involved in winding-up proceedings; or
 - (h) increase its gross revenue or client base in excess of 25%,
- then that person must notify the council of that occurrence.

Part II: Licence to Provide Commercial Services

31. Licence requirements -

- (1) Subject to section 30, no person may provide commercial services without having first obtained a licence.
- (2) Licences issued under these By-laws –
- (a) are personal to the licensee and incapable of cession or assignment without the prior written consent of the council;

(b) are valid for the period stipulated in the licence, which period may not exceed five years, and may, upon application in terms of these By-laws, be renewed by the council for further periods; and

(c) may be suspended or revoked by the council, on grounds for suspension or revocation which must be

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(1) Applications for a licence to provide commercial services must be in writing on a form prescribed by the council. The form must specify the information to be included in the application and the time available for making the application, which period must not be less than two months in duration.

(2) The council must consider each application, having regard to the following:

(a) the financial, technical and managerial competency and experience of the applicant;

(b) the environmental, health and safety record of the applicant;

(c) the nature of the waste management service to be provided; and

(d) any other factors which the council considers relevant.

(3) After considering the application in terms of subsection 2, the council must –
approve the application by issuing a licence subject to terms and conditions; or
reject the application, which rejection must be accompanied by reasons.

33. Licence terms and conditions –

(1) When issuing a licence in terms of section 32, the council may, subject to the provisions of subsection 32(2), impose any licence conditions it deems reasonably necessary.

(2) Licences issued by the council must –

(a) describe the geographical area of operation of the licensee;

(b) specify the licence period and the procedure for any licence renewal;

(c) specify the category or categories of waste the licensee may manage;

(d) contain a requirement that the licensee must comply with these By-laws, and applicable provincial and national legislation;

(e) require the licensee to keep monthly records in respect of-

(i) the quantities of waste received, the location of the sources generating the waste, the identity of the generator and, where the licensee manages different categories of waste, the quantity of each category managed;

(ii) emission levels where the licensee manages a licensed incinerator;

(iii) any activity related to the achievement of local, provincial or national targets where such targets have been determined, and must include the results of monitoring such activity;

(iv) any waste minimisation or recycling activities in which the licensee is involved;

(v) consumer supply figures; and

(vi) complaints received by the public;

(f) require the licensee to have the appropriate property and liability insurance for any waste disposal or handling facilities owned by it in accordance with an insurance programme approved by the council under the licence, which approval may not subject the council to any liability if the insurance programme proves inadequate;

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(g) permit the licensee to conduct any other business activity not regulated in the licence, provided that any such business activity does not conflict with or adversely affect the licensee's obligations under the licence, these By-laws or any other law, and provided that such activities are separately accounted for;

(h) stipulate procedures for amendment of the licence;

(i) stipulate circumstances under which the licence may be revoked or suspended by the council and set out an appeals procedure;

(j) prescribe the payment of a licence fee;

(k) require the licensee to take reasonable steps to prevent his employees from committing any act or omission in the course of their employment that may cause harm to humans or damage to the environment;

(l) require the licensee to ensure compliance with these By-laws and conditions by its employees, agents and sub-contractors, and ensure that sub-contractors are licensed to store, collect, transport and dispose of any waste stream that they have been contracted to manage; and

(m) contain any other term or condition that the council considers relevant.

34. Prohibited conduct –

(1) Licensees may not:

(a) cease operations at a waste disposal facility without a closure plan approved by DWAF and the Department of Environmental Affairs and Tourism or any other competent authority;

(b) abandon a waste disposal facility or waste handling facility;

(c) operate in contravention of the terms and conditions of their licence;

(d) fail or refuse to give information, or give false or misleading information when required to do so in terms of these By-laws;

(e) fail to take all reasonable steps to prevent an act or an omission by an employee where the employee is or was acting on behalf of the licensee, when such an act or omission would constitute an offence if it were the act or omission of a licensee;

(f) dispose of any health care risk waste otherwise than by incineration, unless prior consent has been obtained from the DWAF; or

(g) dispose of hazardous or special industrial waste otherwise than by disposing of it at a waste disposal facility which has been permitted for the disposal of this category of waste.

35. Transitional provisions and exemptions. –

(1) Any person lawfully providing commercial services within the council at the time an application for a licence is made, may continue to provide commercial services while the licence application is being considered by the council.

(2) A council may at its sole discretion, and having regard to the main object of these By-laws and its local waste plan, exempt any form of commercial service from the provisions of Chapter 7 of these By-laws and must indicate the terms and scope of any exemption in a notice published in the Provincial Gazette.

CHAPTER 8

LITTERING, DUMPING AND ABANDONED ARTICLES

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36. Duty to provide facilities for litter –

(1) The council, or owner in the case of privately owned land, must take reasonable steps to ensure that sufficient approved receptacles are provided for the discarding of litter by the public, in any place to which the public has access.

(2) The council, or owner of privately owned land, must ensure that all approved receptacles installed on the premises for the collection of litter are –

(a) maintained in good condition;

(b) suitably weighted and anchored so that they cannot be inadvertently overturned;

(c) constructed in such a manner as to ensure that they are weatherproof and animal proof;

(d) of suitable size to contain all litter likely to be generated on the premises and by the users thereof;

(e) placed in locations convenient for the use by users or occupants of the premises to discourage littering or the unhealthy accumulation of waste; and

(f) emptied and cleansed periodically or when full. The emptying and cleansing of approved receptacles must be sufficiently frequent as to ensure that no receptacle or its contents may become a nuisance or provide reasonable grounds for complaint.

(3) In any public place where an approved receptacle has been placed for the depositing of litter, the council may put up notices about littering.

37. Prohibition of littering –

(1) No person may –

(a) cause litter;

(b) sweep any waste into a gutter, onto a road reserve or onto any other public place;

(c) disturb anything in, or remove anything from any receptacle which has been placed for the purposes of collecting litter in such a manner as to cause the contents of the receptacle to spill or fall onto the ground around it; and

(d) allow any person under his control to do any of the acts contemplated in paragraphs a, b or c above.

(2) Notwithstanding the provisions of subsection (1), the council, or owner in the case of privately owned land to which the public has access, must within a reasonable time after any litter has been discarded, dumped or left behind, remove such litter or cause it to be removed. For the purposes of this section, a reasonable time may mean that period of time before the litter becomes a nuisance or cause for complaint.

38. Prohibition of dumping and abandoning articles –

(1) No person may, without authorisation, deposit or permit the depositing of any waste whether for gain or reward or otherwise, upon any land or in any building of which he is the owner or occupier except where such deposits are made in accordance with the provisions of these By-laws.

(2) Subject to any provisions to the contrary contained in these By-laws, no person may leave any article or allow any article under his or her control to be left at a place with the intention of abandoning it.

(3) No person may dump waste.

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(4) Any article, other than a motor vehicle deemed to have been abandoned in terms of section 114 of the Road Traffic Act, 1989 (Act 29 of 1989), which, in the light of such factors as the place where it is found, the period it has been lying at such place and the nature and condition of such article, is reasonably regarded by the council as having been abandoned, may be removed and disposed of by the council as it may deem fit.

(5) The council may remove and dispose of any article which is chained or fastened to any pole, parking meter or any other property belonging to the council, without authorisation as it may deem fit.

CHAPTER 9

ADMINISTRATIVE ENFORCEMENT PROVISIONS**Part 1: Appointment of Authorised Officials****39. Appointment of authorised officials**

- (1) The council shall appoint authorised officials who shall be vested with the power to –
- (a) Discharge the council’s right of access to premises in terms of section 101 of the Systems Act;
 - (b) issue an enforcement notice under section 44;
 - (c) impose an infringement notice in terms of section 44; and
- (2) An authorised official is not a peace officer within the meaning of the Criminal Procedure Act and has no powers of arrest in respect of any offence created in these by-laws.
- (3) In appointing an authorised official, the council shall have regard to:
- (a) a person’s technical understanding and experience of matters related to waste management; 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 council or any service provider of the council: Provided that, in the latter case, there is no conflict of interest between the person’s duty as an authorised official and as an employee of the service provider.
- (5) Upon appointment, authorised officials shall be issued with a means of identification by the council (hereinafter called “an identification”) which shall state the name and function of the authorised official, and must include a photograph of the officer. An authorised official, acting within the powers vested in him by these by-laws, is required to present identification on demand by a member of the local community.

Part II: Powers of Authorised Officials**40. Powers to execute work and inspect vehicles and premises –**

- (1) In addition to the powers an authorised official has as an authorised representative of the council under section 101 of the Systems Act or any other legislation, an authorised official, may
- (a) may search any vehicle or other mode of conveyance with the consent of the owner or person in charge of the vehicle.

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- (2) A search conducted in terms of these By-laws must be conducted in a manner that conforms to the requirements of the Bill of Rights and any other law and, in particular, must be conducted with strict regard to decency and order, respect for a person’s dignity, freedom and security, and personal privacy.

(4) To the extent that access to premises does not fall within the scope of section 101 of the Systems Act or any other legislation, an authorised official who has reasonable grounds to suspect that there is an environmental emergency and that any delay in obtaining a search warrant will cause serious harm to human health or damage to the environment may, without warrant, enter and search any premises associated with the emergency: Provided that the entry and search be conducted in conformity with the requirements of the Bill of Rights and any other law, and in particular, with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.

(5) Where, in the opinion of an authorised official, any search of a vehicle, as contemplated in these By-laws, gives rise to the reasonable apprehension that the presence of waste in or on that vehicle is a serious and immediate danger to human health or to the environment, the authorised official may seize that vehicle in order to prevent, or where that is impossible, to mitigate harm to human health or damage to the environment.

(6) In the event of the seizure of any vehicle under subsection 1 (a), the council must-

(a) forthwith take steps to dispose of such waste in order to prevent, and where that is impossible, to mitigate, harm to human health or damage to the environment; and

(b) return the said vehicle, within 48 hours after disposing of such waste, to the control of the licensee or person from whose possession or control it was taken.

41. Powers to question –

(1) In order to monitor or enforce compliance with these By-laws, the authorised official, may, subject to the requirements of the Bill of Rights, and any other law including the common law, require a licensee or any other 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, 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, provide his identification as an authorised official.

42. Supervision of licensees –

(1) Authorised officials must inspect the workplace of a licensee not less than twice a year, and an authorised official is entitled to enter the workplace of a licensee for this purpose.

(2) Such an inspection must be conducted in conformity with the requirements of the Bill of Rights, and any other law, and in particular, an authorised official in conducting an inspection under subsection (1) must do so with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.

(3) If an authorised official is of the opinion, after such an inspection, that a licensee is complying with these By-laws, he may, subject to the provisions of subsection 2, issue the licensee with a certificate confirming compliance, which must state –

- (a) the name and residential and postal address of the licensee;
- (b) the time, date and scope of the inspection; and
- (c) any remarks which in the opinion of the authorised official may be relevant.

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(4) If a licensee fails to obtain a certificate confirming compliance at three inspections over a period of two years, the authorised official may recommend that the council review the licence, and should there be reasonable grounds, the council may revoke the licence in terms of subsection 2 Provided that the consecutive inspections occur at not less than four month intervals.

(5) Authorised officials must keep a register recording each inspection that has been undertaken.

43. Supervision of owners and occupiers –

Owners and occupiers must keep their premises clean and free from any waste which in the opinion of an authorised official is likely to cause a nuisance, harm to human health or damage to the environment, and must take reasonable steps to prevent an employee acting in the course of their employment, from committing an act or omission that may cause a nuisance, harm to human health or damage to the environment.

Part III: Enforcement and Infringement Notices

44. Enforcement notices

(1) If, in the opinion of the authorised official, a person is –

- (a) causing a nuisance, harm to human health or damage to the environment; or
- (b) as licensee, is failing to comply with the terms of a licence granted in terms of these By-laws; or
- (c) as owner or occupier, has failed to satisfy an obligation in terms of section 39 of these by-laws, the authorised official may issue or cause to be issued on that person an enforcement notice in terms of this section.

(2) An enforcement notice issued under this section must state–

- (a) the name and also the residential and postal address, if either or both of these be known, of the affected person;
- (b) the nature of the nuisance, harm to human health or damage to the environment that the affected person is causing or is likely to cause;
- (c) the steps required to forestall or remediate the nuisance, harm to human health or damage to the environment in sufficient detail to enable compliance with the enforcement notice;
- (d) that the affected person must not later than 21 calendar days from the date on which the enforcement notice is issued take steps to comply with the notice;

(e) that failure to comply with the requirements of the enforcement notice within the period contemplated in paragraph (d) may result in civil liability; and

(f) that written representations may be made to the council in accordance with section 47, or a designated committee or internal functionary to which powers under these By-laws have been delegated, at a specified place, within 21 calendar days of receipt of the notice.

(3) If an affected person fails to comply with an enforcement notice, the council or anyone authorised by the council, may perform the steps required in the enforcement notice, provided that council does so in conformity with the requirements of the Bill of Rights and any other law, in particular, an authorised official must act with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.

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(4) Where the council incurs any expenditure as a result of performing such steps, the council may recover any reasonable expenditure from the person who failed to act as directed or, where criminal proceedings have not been instituted, by means of civil proceedings.

(5) Any licensee which commits an offence in terms of subsection 44(1)(b) and has, within the last five years, been convicted of the same offence, may be declared a serial offender under these By-laws and have its license revoked immediately.

45. Infringement notices –

(1) If, in the opinion of the authorised official, a person is-

(a) allowing waste other than domestic waste or dailies to remain uncollected,

the authorised official may serve or cause to be served on that person an infringement notice in terms of this section instead of a notice contemplated in section 56 of the Criminal Procedure Act (Act 51 of 1977).

(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 and the place where the penalty may be paid which penalty may not exceed R5000,00 (five thousand rand); and

(d) 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 may –

(i) pay the penalty; or

(ii) inform the council in writing that he elects to be tried in court on a charge of having committed an offence under section 44.

(3) Where a person makes an election under subsection 2(d) (i), the procedure set out in section 50 applies.

46. Complaints –

Any person may lodge a complaint with an authorised official, or through any other channel established by the council, that any other person is causing harm to human health or damage to the environment by engaging in council services or commercial services, in which event the authorised official, unless he has reasonable grounds to believe that the complaint is frivolous or an abuse of the main objects of these By-laws set out, must investigate the complaint and must, if he is satisfied that such harm is or is likely to be caused, issue an enforcement notice or infringement notice, whichever be appropriate.

47. Representations –

(1) Any affected person may make representations to the council, or a designated committee or internal functionary of the council to which the council has delegated its powers, in the manner specified in the enforcement notice.

(2) Representations must be made by submitting a sworn statement or affirmation to the council, designated committee or internal functionary within 21 calendar days of the service of the notice.

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(3) Any representation not lodged within 21 calendar days must not be considered, save where the affected person has shown good cause and the council, the designated committee or internal functionary condones the late lodging of the representation.

(4) The council, or designated committee or internal functionary, must duly consider the representations and any response thereto by an authorised official or any other person, if there be such a response; and may, on its own volition, conduct any further investigations to verify the facts if that, in its opinion, is necessary. If the council, or designated committee or internal functionary, should conduct any further investigations, the results of such investigation must be made available to the affected person, who must be given an opportunity of making a further response if he so wishes, and the council, or designated committee or internal functionary, must also consider such further response.

(5) After the council, or designated committee or internal functionary, is satisfied that the requirements of these By Laws have been satisfied, the council, or designated committee or internal functionary, must make an order in writing and give a copy of it to the affected person setting out its findings. Such an order may –

(a) confirm, alter or set aside in whole or in part, an enforcement notice; and

(b) must specify the period within which the affected person must comply with any order made by it.

(c) If the enforcement notice is confirmed, in whole or in part, or is altered but not set aside, the council, or designated committee or internal functionary, must inform the affected person that he may elect to be tried in court, or must discharge the obligations set out in the enforcement notice.

(6) If the affected person elects to be tried in court, he must notify the council, or designated committee or internal functionary of his election within seven calendar days, and on receipt of such notification by the council, or designated committee or internal functionary, the provisions of these By Laws apply.

(7) If the affected person does not elect to be tried in court, he must discharge his obligations under the enforcement notice within the prescribed manner and time.

(8) If the affected person lodges a representation or elects to be tried in Court, any requirement in terms of these By-laws requiring compliance with an enforcement notice, may be suspended unless, in the opinion of the council, the affected person has caused an environmental emergency in which event and without derogation from any right that the affected person may have, or may in the future have, at common law or under any other law, to any relief of whatever nature, the affected person must immediately comply with any such requirement on being ordered, orally or in writing, by the council to do so.

(9) If there is an environmental emergency and if the affected person, despite receiving a lawful order made, fails to comply with such an order, the council may itself cause the environmental emergency to be stopped, reversed or abated, in which event the council may institute civil proceedings for the recovery of any reasonable and necessary expenditure which it has incurred or may incur in effecting such a stoppage, reversal or abatement.

CHAPTER 10

JUDICIAL ENFORCEMENT PROVISIONS

48. Service of documents and process

For the purposes of the service of any notice, order or other document relating to non-payment for the provision of council services, the address of the owner of the premises on which domestic waste and business wastes is generated is deemed to be the place for service of documents and process of such owner.

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49. Service of notices -

(1) Where any notice or other document is required by these By-laws to be served on any person other than for the purpose of criminal proceedings-

(a) it must be served on him personally, failing which if it be served on any member of his household, 16 years or older, who signs for the receipt of such notice at his place of residence or business; and

(b) if sent by registered post to the person's address as contemplated, it constitutes service in terms of section 7 of The Interpretation Act, 1957 (Act 33 of 1957).

50. Trial –

If a person elects to be tried in court, the person must, notify the council of his 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 enforcement notice or infringement notice must be cancelled.

51. Offences and penalties

Any person, including an affected person or licensee, who –

- (a) contravenes or fails to comply with any provisions 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 6 months.

CHAPTER 11**GENERAL PROVISIONS****52. Ownership –**

- (1) The person holding the permit to operate a waste disposal facility is deemed to be the owner of the waste disposed at that facility.
- (2) Such operator has a right of recourse against –
 - (i) any person that causes waste to be disposed at the waste disposal facility where that person knowingly and without the knowledge of the operator disposes waste that that facility is not permitted to accept; and
 - (ii) any waste generator that knowingly puts waste out for collection that is not of the category being collected.

53. Consolidation of by-laws. –

- (1) Any by-laws relating to the main objects of these By-laws must be maintained by the council in consolidated form together with these By-laws, and must be made available to the public, on request.
- (2) Additional by-laws may be enacted relating to –

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- (a) the steps and measures to be adopted in giving effect to the duty of care.
- (b) the locations at which any activities relating to waste, including disposal, may be carried out;

- (c) the separation of waste at any stage in any activity relating to waste;
- (d) measures to promote waste minimisation;
- (e) the implementation and operation of recycling, re-use, refundable deposit or take-back schemes;
- (f) penalties to be prescribed for the violation of licence conditions, and
- (g) information to be furnished to the council.

55. Date of commencement.

These By-laws commence on the date of publication in the Mpumalanga Provincial Gazette.

THEMBISILE HANI LOCAL MUNICIPALITY**STREET TRADING BY-LAWS****TABLE OF CONTENTS**

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1. Interpretation/definitions

- (1) In these By-laws, unless the context otherwise indicates:-
- (i) **“The Act”** means the Mpumalanga Business Act, 1996 (Act 2 of 1996);
 - (ii) **“Authorized official”** means an official of the Council authorized to implement the provisions of these By-laws - Peace Officers, Traffic Officers and the South African Police Services;
 - (iv) **“Demarcated Stand”** means a demarcated stand as declared under Section 7(3)(b)(i) of the Act;
 - (v) **“Garden or park”** means a garden or park to which the public has a right of access;
 - (vi) **“Goods”** include livestock, poultry or any movable commodity;
 - (vii) **“Intersection”** means an intersection as defined in Section 1 of the Road Traffic Act, 1989; (Act 29 of 1989);
 - (viii) **“Litter”** includes any container waste material or other matter which has been discarded, abandoned or left behind by a person trading or his customers;
 - (ix) **“National monument”** means a building declared to be a national monument under the National Monuments Act, 1969 (Act 28 of 1969);
 - (x) **“Perishable foodstuffs”** as defined by the MEC in terms of the Mpumalanga Business Act, 1996 (Act No. 2 of 1996);
 - (xi) **“Prohibited area”** means any place declared under Section 7(2)(a) of the Act in which street trading is prohibited;
 - (xii) **“Property”** in relation to a person carrying on the business of street trading, means any article, receptacle, vehicle or structure used or intended to be used in connection with such business, and includes goods in which he trades;
 - (xiii) **“Public building”** means a building belonging to or occupied solely by the State or the Council;
 - (xiv) **“Public place”** means a public place as defined in Section 2 of the Local Government Ordinance, 1939 (Ordinance 17 of 1939);
 - (xv) **“Public road”** means a public road as defined in Section 1 of the Road Traffic Act, 1989 (Act 29 of 1989);

- (xvi) **“Restricted area”** means any place declared under Section 7(2)(a) of the Act in which street trading is restricted;
 - (xvii) **“Roadway”** means a roadway as defined in Section 1 of the Road Traffic Act, 1989;
 - (xviii) **“Sell”** includes supply and also:-
 - (a) Exchange or hire;
 - (b) store, process, expose, offer or prepare for sale; and **“sale”** has a corresponding meaning;
 - (xix) **“Services”** includes any lawful advantage or gain for consideration or reward offered in a restricted area;
 - (xx) **“Sidewalk”** means a sidewalk as defined in Section 1 of the Road Traffic Act, 1989;
 - (xxi) **“Tariff”** means the charges as determined by the council from time to time by resolution;
 - (xxiii) **“Trade”** means sell goods or services in a public road or public place, and **“trading”** has a corresponding meaning;
 - (xxiv) **“Verge”** means a verge as defined in Section 1 of the Road Traffic Act, 1989, and any word or expression to which a meaning has been assigned in the Mpumalanga Businesses Act, 1996, shall have that meaning.
- (2) For the purpose of these By-laws a single act of selling or offering services in a public place shall constitute trading.

2. **Freedom to trade**

Subject to the provisions of Sections 3 and 4 and any other relevant law, street trading is freely permitted except in so far as such trading is restricted or prohibited by Sections 5 to 12 inclusive and Sections 14 and 15 of these By-laws.

3. **General conduct**

A person trading shall:-

- (a) not place his property on the roadway;

- (b) ensure that his property does not cover an area of the sidewalk which is greater in extent than 1 m x 2 m and which on any sidewalk does not leave a space less than 2 m for pedestrian traffic measured over the width thereof and any other public place not to a extent of twelve square metres; and
- (c) Not place or stack his property in such a manner that it constitutes a danger to any person or is likely to injure any person;
- (d) Not obstruct access to a fire hydrant;
- (e) On concluding business or the day remove his property, except any temporary structure permitted by the Council, to a place which is not part of a public road or public place;
- (f) Not display his goods or other property on a building or private property, without the written consent of the owner, occupier or person in control of such building or property;
- (g) On request by an employee or agent of the Council or any supplier of telecommunication or electricity or other services, move his property so as to permit the carrying out of any work in relation to a public road, public place or any such service;
- (h) not attach any object by any means to any building, structure, pavement, tree, parking meter, lamp-pole, electricity pole, telephone booth, post box, traffic sign, bench of any other street furniture in or on a public road or public place;
- (i) not make a fire at a place or in circumstances where it could harm any person or damage a building or vehicle or any street furniture referred to in paragraph (h) or any Council property;
- (j) Not store his property in a manhole or storm water drain;
- (k) Not trade nearer than 10 m from a bank or an automated teller machine.

4. Cleanliness

A person trading shall:-

- (a) Keep the area site occupied by him for the purpose of such business in a clean and sanitary condition;
- (b) Keep his property in a clean and sanitary condition;
- (c) Dispose of litter generated by his business in whatever receptacles provided by the Council for the public or at the Council's dumping sites;

- (d) Not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter;
- (e) Ensure that on completion of business for the day the area or site occupied by him for the purposes of trade is free of litter;
- (f) in the case of a vendor of foodstuffs take such precautions as may be necessary to prevent the spilling onto a public road or public place of any fat, oil or grease in the course of conducting his business and to prevent any smoke, fumes or odors emanating from his activities from becoming a nuisance;
- (g) On request by an employee or agent of the Council, move his property so as to permit the cleansing of the surface of the area or site where he is trading;
- (h) Ensure food preparation, handling and selling is in accordance with the relevant Acts, and Regulations.

5. Obstruction of pedestrians

No person shall trade at a place where such trading substantially:-

- (a) obstructs access to or the use of street furniture such as a bus passenger bench or shelter, a refuse disposal bin or other facility including a queuing line intended for the use of the general public;
- (b) Obstructs the visibility of a display window in business premises, if the person carrying on business in the business premises concerned objects thereto;
- (c) obstructs access to an entrance to or exit from a premise or an automatic bank teller machine;
- (d) Obstructs access to a pedestrian crossing, if in the middle of a block a clear distance of 5 m from the crossing must be obeyed;
- (e) Obstructs access to any vehicle; or
- (f) In any other manner obstructs pedestrians in their use of a sidewalk.

6. Obstruction of vehicular traffic

No person shall trade at a place where such trading:-

- (a) Causes an obstruction on a roadway;
- (b) Limits vehicular access to parking or loading bays or other facilities;

- (c) Obscures any road traffic sign or any marking, notice or sign displayed or made in terms of these By-laws;
- (d) Interferes in any way with any vehicle that may be parked alongside such place; or
- (e) contravenes the provisions of Section 116 of the Road Traffic Act (Act No. 29 of 1989).

7. Trading restricted to specified hours in certain places

No person shall trade:-

- (a) On a verge contiguous to any place of worship, national monument or public building; or
- (b) In a restricted area which is specified by Council resolution outside the hours so specified in relation to each such verge or area.

8. Trading restricted to specified goods or services in certain places

No person shall trade:-

- (a) On a verge contiguous to any place of worship, national monument or public building, financial institutions; or
- (b) In a restricted area which is specified by Council resolution other than in the goods or services so specified in relation to each such verge or area;
- (c) As a barber or hair dressing salon in a public place, unless the barber or hairdressing stand is:-
 - (i) at least 15 metres from the nearest stand which sells perishable foodstuff, fruit or vegetables;
 - (ii) not contradictory to the Health Act (Act 63 of 1977) and relevant regulations;
 - (iii) supplied with an electrical connection, provided by the Council, according to the electrical By-laws and specifications or any other Act.

9. Trading restricted to demarcated stands or areas in certain places

No person shall trade:-

- (a) On a verge contiguous to any place of worship, national monument or public building; or

- (b) In a restricted area which is specified by Council resolution outside a stand or area set apart for trading purposes as contemplated in Section 7(3)(b) of the Act.

10. No trading in stands or areas which have been let except by the lessee

If the Council has let or otherwise allocated any stand or area set apart or otherwise established for street trading purposes, as contemplated in Section 7(3)(c) of the Act, no person may trade on such stand or in such area if he is not in possession of proof that he has hired such stand or area from the Council or that it has otherwise been allocated to him.

11. No trading near certain public buildings, places of worship and national monuments

No person shall trade on a verge contiguous to any place of worship, national monument or public building, which is specified by Council resolution. No person shall trade in a demarcated residential area

12. Trading in prohibited area

No person shall trade in any prohibited area. No person shall trade in any area which has not been approved and indicated by the Council.

13. Signs indicating restrictions and areas

The Council shall:-

- (a) By resolution, prescribed signs, markings or other devices indicating:-
- (i) specified hours, places, goods or services in respect of which street trading is restricted;
 - (ii) The location or boundaries of a restricted area;
 - (iii) The boundaries of a stand or area set apart for the purposes of the carrying on of the business of street trading under Section 7(3)(b) of the Act;
 - (iv) The fact that any such stand or area has been let or otherwise allocated;
 - (v) Any restriction or prohibition against trading in terms of these By-laws; and
- (b) Display any such sign, marking or device in such a position and manner as will indicate the restrictions or the location or boundaries of the area of stand concerned.

14. Trading near residential buildings

No person shall, outside an area referred to in Sections 7 to 12 inclusive, trade in that half of a public road contiguous to a building used for residential purposes within the demarcated areas of trading as specified in terms of these By-laws, if the owner, person in control or any occupier of any part of the building facing onto such road has objected hereto, provided that in a township or portion thereof mentioned in a resolution of the Council, this Section shall not apply to a building used for residential purposes if such buildings is used for business purposes at ground level.

15. Trading near certain business premises

No person shall, outside an area referred to in Sections 7 to 12 inclusive, trade on a verge contiguous to that part of a building in which business is being carried on by any person who sells goods of the same nature as or of a similar nature to goods being sold by the first-mentioned person, other than a department store or supermarket without the consent of the second mentioned person.

16. Removal and impoundment

- (1) An authorized official may, after serving a person with a written warning, within reasonable time remove and impound any goods, article receptacle, vehicle or structure :-
 - (a) which he reasonably suspects is being used or is intended to be used or has been used in or in connection with street trading; and
 - (b) Which he finds at a place where street trading is restricted or prohibited in terms of Sections 5 to 12 inclusive and Sections 14 and 15 and which, in his opinion, constitutes an infringement of any such Section.
- (2) (a) The Council shall publish a notice in at least one newspaper circulating in the Thembisile Hani Local Municipality, containing the following information relating to objects removed in terms of Subsection (1):-
 - (i) A description of the object, the address where the object is stored and, if known, the name of the owner;
 - (ii) That such objects may be claimed by the owners there on production of proof of ownership to the satisfaction of the Council;
 - (iii) that any object which has not been claimed within a period of three months from the date of publication of such notice will be destroyed or sold by public auction and the proceeds of such auction retained by the Council to defray its costs;

- (iv) Impoundment of “perishable foodstuffs” will be handled and disposed of in terms of the Health Act;
 - (v) Pound fees will be charged as laid down from time to time by the Council.
- (b) The Council may sell by public auction any object unclaimed from it more than three months after a notice contemplated in subparagraph (a)(iii) has been published in respect of such object, and may retain the proceeds of such auction or may destroy such object.
- (c) The Council shall not be liable for compensation to any person for damages arising out of the damage to or the loss of any object removed in terms of Subsection (1) or the sale thereof by public auction, and the owner of such object shall have no claim or right of redress against the Council.
- (d)
- (i) If any object is attached to any immovable property or a fixture contemplated in Subsection (1), and such object is under the apparent control of a person present thereat, any authorized official of the Council may order such person to remove the object, and if such person refuses or fails to remove the object, he shall be guilty of an offence.
 - (ii) When any person fails to comply with an order to remove an object referred to in subparagraph (i), any officer of the Council may take such steps as may be necessary to remove the object.

17. Tariffs

- (1) The Council may impose tariffs or fees for street trading or hawking.
- (2) Tariffs or fees may be amended by resolution by the Council.

18. Offences

Any person who contravenes a provision of these By-laws shall be guilty of an offence.

19. Presumption

- (1) In any prosecution for an offence under these By-laws, an allegation in the charge concerned that:-
 - (a) Any goods with which a business was carried on were or were not of a particular kind, class, type or description or as it may be described by resolution of the Council;

- (b) Any goods or services were sold or offered for sale;
 - (c) Any place was situated in a public road or public place or within a particular area;
 - (d) Any person carried on the business of street trading and in a manner and place alleged.
- (2) In any criminal proceedings for a contravention of these By-laws, where it is shown that:-
- (a) Any goods were displayed in a public place, such goods shall be presumed to have been offered for sale;
 - (b) Any property used in the provision of any service was available in a public place, such services shall be deemed to have been offered or supply.

20. Penalties

Any person who is guilty of an offence in terms of these By-laws shall, on conviction, be liable to a fine, not exceeding R2 000 (two thousand rand) or to imprisonment for a period not exceeding three months.

Council reserve the right to withdraw, cancel, or suspend any trading licenses if it deem fit to do so.

THEMBISILE HANI LOCAL MUNICIPALITY**TARIFF BY-LAWS**

Notice is hereby given in terms of Section 13 of the local Government: municipal Systems Act, 32 of 2000, as amended, read with section 156 and 162 of the Constitutional of the republic of South Africa Act, 108 of 1996 as the Thembisile Hani Local Municipality resolves to adopt the following Tariff By-laws with effect from date of publication.

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1. DEFINITIONS

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

“bulk electricity user”	means a bulk user whose electricity demand excess or is likely to exceed 55 kVa per month;
“bulk user”	means a user of electricity, water, sewerage or refuse removal services for commercial or industrial purposes;
“cost to be recovered”	Means the cost reasonably associated with the rendering of a municipal service including the cost of purchasing or acquisition the cost of processing, treatment or adoption of the product or service to be delivered or supplied, capital cost, operation cost, maintenance cost and support systems cost and interest.
“Council”	Means the Local Government Municipal Structure Act, Act 117 of 1998.
“Domestic user”	means a user of electricity, water sewerage or refuse removal for residential purposes only.
“Municipal Finance Management Act”	means the Local Government Municipal Finance Management Act, 2003 (Act 6 of 2004)
“Municipal Property Rates Act”	means the Local Government Property Rates Act (Act 6 of 2000)
“Municipal Systems Act”	means the Local Government: Municipal systems Act, 2003 (act 32 of 2000) as amended.

“Off-Peak supply”	means an electricity supply on written request to a bulk user.
“Poor household”	means a domestic user who qualifies together with his or her dependants, as an indigent person in terms of the Council’s indigent policy;
“Subsidized tariff”	means a tariff that cover only operating and maintenance cost in relation to a municipal service
“Tariff Policy”	Means the Tariff Policy of the council adopted in terms of section 74(1) of the Municipal Systems Act;
“Temporal user”	means a user of electricity, water, sewerage or refuses removal services for temporary period for specific project or occasion.
“User”	means a person liable o the Council for the cost to be recovered for a municipal services payable by such user;

(2) In these by-laws a reference to the singular will include the plural and vice versa.

(3) Any word or phrase in these by-laws, unless defined in subsection (1) above, shall bear the meaning of such word or phrase in the Municipal Systems Act.

2. PURPOSE

The purpose of this by-law is to provide Thembisile Hani Local Municipality with a set of guidelines and/or framework for the setting of all municipal tariffs, these tariffs are levied on users of Municipal services in order to recover all or a portion of costs associated with the provision of such services.

3. COST OF SERVICES TO BE RECOVERED

- a. The Council must annually adopt a budget which will provide for the cost to be recovered for municipal service rendered to a user;
- b. The cost to be recovered meant I subsection (1) may include a surcharge to subsidize the provision of municipal services to poor households meant in Section 6 and to give effect to development of a municipal service in terms of the Council's integrated development plan;
- c. The Council may having regards to the reasonable cost to be recovered associated with a municipal service, allow for subsidization of one municipal service by a higher tariff levied on another for the purpose of economical, efficient and effective use of resources in a sustainable manner.
- d. The Council may levy a surcharge on a municipal service to encourage environmentally safe and sustainable use of such municipal service

4. FUNDED MUNICIPAL SERVICES

- (1) The Council must, when determining the tariff for a Municipal service, take into consideration any intergovernmental grant or subsidy allocated or to be allocated in relation to such Municipal service;
- (2) The Council may, when determining the tariff for Municipal open for the use of the general public, subsidize such tariff from other income derived from the Council.

5. POOR HOUSEHOLDS

- (1) The Council will annually in its annual budget, adopt an indigent policy to determine criteria for the determination of poor households.
- (2) The criteria referred to subsection (1) will take into account:
 - (a) The total income of consumers of Municipal services residing on the property to which Municipal services are rendered.
 - (b) The total expenditure of consumers of Municipal Services residing on the property; and

- (c) A minimum income less expenditure to qualify as a poor household;
- (3) The Council may include in its indigent policy a sliding scale according to which the quantity of basic Municipal services provided free of charge or at a subsidised tariff to a poor household is limited in relation to the income less expenditures of a poor household.
- (4) A user will qualify for the benefits of a poor household with Council in terms of its indigent policy only if such user has applied to be registered as a poor household and comfortable with the maximum electricity current of 20 Amperes.
- (5) Any person who knowingly supplies false information to the Council required in terms of Subsection (4) will be guilty of an offence.

6. ELECTRICITY SERVICES

1. The Council may provide not more than 50kw/h electricity units at a current limited supply restricted in terms of the Indigent Support Policy, free per month or determined subsidized tariff to poor households in terms of the Indigent Policy of Council, subject thereto that any free electricity unit not used during such month will accumulate month-to-month.
2. The Council may determine electricity tariffs in regard to the following:
 - a) a basic monthly electricity charge to be levied on a property where such property is connected to the council's electricity network
 - b) An electricity availability charge to be levied on a property not connected to Council's electricity network, but which property can be so connected to the council's electrical reticulation network at a appoint on the property or less than 50 meters from any boundary of such property:
 - c) The consumption of electricity
 - d) The testing of electricity
 - e) Taking electrical meter reading at the special request of a user;
 - f) The connecting of a property to the Council's electrical reticulation network
 - g) Reconnection for non-payment and consumer change after hours;

- h) Call out fees for after hours call outs;
 - i) Fees payable for testing on installations and for changing of tariff circuit breakers; and
 - j) Tempering charges.
7. The Council may, when determining its electricity tariff, differentiate between;
- a) Users in the following categories:
 - 1) Domestic users;
 - 2) Bulk users;
 - 3) Bulk electricity users;
 - 4) Bulk electricity users of off peak supply; and
 - 5) Temporary users
 - b) The standard of electricity supply network available to a user.
 - c) The geographical area and terrain in which an electricity supply is made available
 - d) The electricity current demand of categorized of uses as differentiated between users of the single and three phase supply.
8. The Council may when determining its electricity tariff take into consideration any business or industrial incentive scheme adopted by the Council.
9. A user of off-peak supply will be charged at the normal bulk electricity user tariff according to standard peak and off-peak for KWh and KVA.

7. WATER SERVICES

- 1. The Council will provide 6 kiloliters of potable water per month free of charge to domestic users per household, subject thereto that such quantity thereof not used will not accumulate month-to-month.
- 2. The Council will, inclusive of the 6 kiloliters of potable water per month free of charge meant in subsection (1), provide 10 kiloliters of potable water per month free of charge to poor household, subject thereto that:
 - (a) Such quantity thereof not used will accumulate month-to-month
 - (b) such poor household is restricted to use of not more than 10 kiloliters of water supply per month ,and

- (c) Should such restriction of 15 kiloliters per month be exceeded repeatedly for three consecutive months or more, the Council may install a restricting device with a maximum water supply quantity of 15 kiloliters over 30 days.
3. The Council may determine water services tariffs in regards to the following:
- (a) A basic monthly water service charge to be levied on a property where such property is connected to the Council's water reticulation network
 - (b) A water service availability charge to be levied on a property not connected to the Council's water reticulation network, but which property can be so connected to the Council's water reticulation network at a point on the property or less than 50 meters from any boundary of such property.
 - (c) The consumption of potable or raw water;
 - (d) The testing of water supply meters;
 - (e) The taking of a water meter reading at the special request of a users, and
 - (f) The connection of a property to the Council's water reticulation network.
4. The Council may, when determining its water services tariffs, differentiate between:
- (a) Domestic users;
 - (b) Bulk users of potable water
 - (c) Bulk users of raw water
 - (d) Other users of raw water; and
 - (e) Temporary users;
 - (f) The standard of the water supply network available to a user.
5. The geographical area, terrain and manner in which a water supply is made available.
6. The Council may, when determining its water services tariffs, take into consideration any business or industrial incentive scheme adopted by Council
7. The Council may, when determining its water services tariffs, differentiate between categories of users according to the volume of water supply and may determine different scale of tariffs according to the volume of water supplied

to such categories of users.

8. SANITATION SERVICES

1. The Council may annually resolve in terms of its budget process, to grant a subsidized tariff for sanitation services to poor households in terms of its indigent policy.
2. The Council may determine sanitation tariffs in regard to the following:
 - (a) A basic monthly sanitation charge to be levied on a property where such property is connected to the Council's sanitation reticulation network.
 - (b) A sanitation reticulation availability charge to be levied on the property not connected to the Council's sanitation reticulation network, but which property can be so connected to the Council's sanitation reticulation network at a point on the property or less than 50 meters from any boundary of such property.
 - (c) The covering or sealing or re-sealing opening in sanitation network connected to the Council's sanitation reticulation network.
 - (d) The removal of any blockages from a sanitation reticulation network connected to the Council's sanitation reticulation network.
 - (e) The alteration of any gully in a sanitation network connected to the Council's sanitation reticulation network;
 - (f) The connection or re-connection of any reticulation network to the Council's sanitation reticulation network.
3. In these by-laws the word sanitation shall have the same meaning as "sewerage" and shall include where applicable a sanitation system.
4. The Council may, when determining its sanitation services tariffs, differential between:
 - (a) Domestic users;
 - (b) Domestic users differentiated according to the number of residential dwellings per erf and also by the size of the stand;
 - (c) Bulk users;
 - (d) Hospitals
 - (e) Churches
 - (f) Boarding houses;
 - (g) Hotels;

- (h) Sports Clubs;
- (i) Private institutions;
- (j) Welfare institutions;
- (k) Government institutions;
- (l) Welfare institutions authorized as a fund raising organization in terms of Section 4 of the Fund Raising Act,1978;
- (m) High density housing;
- (n) Temporary users;
- (o) The standard of the reticulation supply service;
- (p) The geographical area or terrain in which sanitation reticulation service is made available; and
- (q) Schools

9. REFUSE REMOVAL

1. The Council may, annually resolve in terms of its terms of its budget process to grant a subsidized tariff for refuse removal services to poor households in terms of its indigent policy.
2. The Council may when determining its tariff for refuse removal services, differentiate between the following users.
 - (a) Domestic users;
 - (b) Domestic users differentiated according to the number of residential dwellings per erf
 - (c) Bulk users;
 - (d) Hospitals
 - (e) Churches
 - (f) Boarding houses;
 - (g) Hotels;
 - (h) Sports Clubs;
 - (i) Private institutions;
 - (j) Welfare institutions;
 - (k) Government institutions;
 - (l) Welfare institutions authorized as a fund raising organization in terms of Section 4 of the Fund Raising Act,1978;

- (m) High density housing;
 - (n) Temporary users;
 - (o) The standard of the reticulation supply service;
 - (p) The geographical area or terrain in which sanitation reticulation service is made available; and
 - (q) Schools.
3. The Council may further, when determining its tariffs for refuse removal services in regard to the categories in sub-section (2), differentiate between users on the following basis:
- (a) Whether mass containers are used;
 - (b) The size of mass containers in use
 - (c) The number of removals required per week
 - (d) The compaction of refuse to Council standards
 - (e) The removal of medical waste or other requiring special treatment
 - (f) The removal of garden refuse;
 - (g) The removal of building rubble;
 - (h) The removal of dead animal carcasses
 - (i) The geographical area or terrain in which the refuse removal services is made available;
 - (j) The amount of refuse to be removed at any particular collection point; and
 - (k) The requirement for the use of a special loading, transport or off-loading equipment or vehicles

10. PROPERTY RATES

1. The Council will, subject to the stipulations of the Municipal Finance Management Act and Section 15 (1) read with Section 15 (2) of the Municipal Property Rates Act, annually in terms of its budget process, grant;
- (a) A 36 percent rebate on property rates levied on developed residential property and

- (b) An additional 20 percent rebate to owners of developed residential property dependent on pensions or social grants for their livelihood, which rebate will be calculated on the balance after deduction of the rebate mentioned in subsection (a) above, or
- (c) a rebate of 60 percent on property rates levied on property occupied by a poor household or property situated within a low income government housing scheme development as identified by the Council.

11. OTHER SERVICES

1. Nothing in these by-laws shall prohibit the Council from determining tariffs on municipal services or part thereof or incidental thereto, not mentioned in these by-laws.
2. The Council must, when determining tariff for municipal services meant in subsection (1) have regards to the principles in Section 74(2) of the Municipal System Act.

12. USERS

1. The Council may without derogating from any other categories of municipal services and users in these by-laws, when annually determining its tariff structure, differentiate between the following categories of users according to the actual use of municipal services ;
 - (a) Residential
 - (b) Business
 - (c) Industrial
 - (d) Agricultural
 - (e) Institutional
 - (f) Rural
 - (g) Municipal; and
 - (h) Special uses in terms of the Council's Town Planning Scheme.
 - (i) Governmental

13. GEOGRAPHICAL AREAS

The Council may notwithstanding any categories of municipal service and users in these by-laws, when annually determining its tariff structure and any surcharged differentiate between different geographical areas having regard to the cost to be recovered for a municipal service rendered or to be rendered to a particular geographical area.

14. BUDGET

1. The Council must, in its annual budget set out the value in money allocated to the rendering of free and subsidize electricity service, water service, and sanitation service and refuse removal service, per such service, and
2. The value in money of free subsidized municipal services meant in subsection (1) per household and the total predicted cost to Council thereof.

15. ACCUMULATION

A free or subsidized municipal service is rendered on month-to-month basis and no credit will be allowed to accumulate for any part of such free of subsidized municipal service not used in any particular month.

16. MUNICIPAL FINANCE MANAGEMENT ACT

These by-laws will be read together with the Municipal Finance Management Act and any duty, obligation or regulation under the said Act will be complied with when giving effect to these by-laws.

17. PENALTY

Any person who contravenes any provision in these by-laws shall be guilty of an offence and upon conviction liable to a fine or imprisonment of not more than three months or both such fine and imprisonment.

18. SHORT TITLE

These by-laws will be known as the Themibisile Hani Local Municipality Tariff By-Laws 2012

19. COMMENCEMENT DATE

This by-law takes effect on the date of proclamation in the provincial gazette

THEMBISILE HANI LOCAL MUNICIPALITY
WATER SUPPLY AND SANITATION SERVICES BY-LAWS

The Thembisile Hani Local Municipality, being a Water Services Authority as defined in the Water Services Act 108 of 1997 (“the Service Authority”), hereby publishes the water supply services By-laws set forth hereinafter, which have been made by the Service Authority in terms of Section 21 of the Water Services Act 108 of 1997:-

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CHAPTER I

GENERAL PROVISIONS

1. Definitions

For the purpose of these By-laws, any word or expression to which a meaning has been assigned in the Water Services Act 108 of 1997 and the Local Government: Municipal Systems Act 32 of 2000 shall bear the meaning so assigned to it in these By-laws and, unless the context otherwise indicates:-

“apparatus” means any equipment, tool, device, meter, connection, system or network, service connection, service protection device, articulation network, communication pipe, supply mains, or part thereof, supplied or used in the supply, distribution or conveyance of services or the measurement or consumption of services;

“authorised personnel” means any employee, agent, subcontractor, or representative of a Service Provider or any person duly authorised by the Service Provider to perform any function under these By-laws;

“breach” shall include damage, tampering, interference, breaking, violation, interruption and severance;

“communication pipe” means any pipe leading from a main to the premises of any consumer as far as the street boundary of such premises situated nearest to such main, or in the case where the meter is installed inside the premises of any consumer in terms of these By-laws, as far as the inlet of the meter;

“premises” means any land and any building, erection or structure above or below the surface of any land;

“street boundary” means, in relation to a premises, a boundary of such premises, which abuts any street;

“street” means any street, road, thoroughfare, lane, footpath, sidewalk, subway or bridge, which a) vests in the Municipality, or b) the public has the right to use, or c) is shown on a general plan of a township filed in a deeds registry or Surveyors General Office and has been provided or reserved for use by the public or the owners of erven in such township;

“water services area” means the respective area or areas within the municipal boundaries of the Municipality to which water services are provided by a Service Provider;

“Water Services Provider” means the Water Services Authority and any Water Services Provider who provides water services to consumers in a water services area pursuant to a written contract with the Water Services Authority, and **“Service Provider”** shall have a corresponding meaning;

“consumer” means any end user who receives water from a Water Services Provider, including an end user in an informal settlement;

“occupier” in relation to any premises means:-

- (a) any person in actual occupation of such premises;
- (b) a person indicated as such in the service agreement;
- (b) a person appearing as such on the records of a Service Provider;
- (d) any person legally entitled to occupy such premises;
- (e) in the case of such premises being let to boarders or tenants, the person receiving the rent payable by such boarders or tenants, whether for his/her own account or as agent for any person entitled thereto, or entitled to receive such rent;

- (f) any person in charge of such premises or responsible for the management thereof, and includes the agent of any such person when he/she is absent from the Republic of South Africa or his/her whereabouts are unknown “**owner**” means the owner of land in terms of the common law and includes:-
- (aa) a lessee or other person who controls the land in question in terms of a contract, testamentary document, law or order of court;
 - (bb) in relation to land controlled by a community, the executive body of the community in terms of its constitution or any law or custom;
 - (cc) in relation to state land not controlled by person contemplated in par. (aa) or a community:-
 - (aaa) the Minister of the Government Department or the Member of the Executive Council of the Provincial Administration exercising control over that state land;
or
 - (bbb) a person authorised by him or her; and
 - (ccc) in relation to a Local Authority, the Municipal Manager of the Local Authority or a person authorised by him or her; and
 - (ddd) in the case of such premises being let to boarders or tenants, the person receiving the rent payable by such boarders or tenants, whether for his/her own account or as agent for any person entitled thereto, or entitled to receive such rent; and

“**own**” shall have a corresponding meaning;

“**consumer services agreement**” means an agreement between a consumer and a Service Provider for the provision of water supply services;

“**consumer installation**” means collectively a pipeline, fitting or apparatus connected to a water services connection point and used by a consumer to gain access to the supply of water supply services (including any other loose standing system used for such purposes but not connected to the water supply services works) or, if the context is appropriate any one of them and includes a meter attached to such pipeline, fitting or apparatus;

“consumer installation pipe” means any pipe included in any consumer installation;

“consumer conditions” means the conditions set for the provision of water services in compliance with Section 4 of the Water Services Act 108 of 1997;

“Municipality” means the Thembisile Hani Local Municipality established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998: Disestablishment of existing municipalities and establishment of new municipalities;

“date of proclamation” means the date upon which these By-laws commence in terms of Clause 85 of these By-laws;

“damage” means the willful or negligent act of damaging, interference or tampering any pipeline, fitting or apparatus;

“domestic purpose” includes every kind of household purpose, but shall not include the use of water for any engine or machine, or for any mining or quarrying operations, or for the flushing of any sewer or drain, or for any purpose connected with any trade, manufacture or business, or for the cleaning of any road, path or pavement, or for garden purposes or for the watering of any tennis court, bowling green or any other ground used in connection with sporting or recreational purposes;

“main” means any pipe, aqueduct or other work under the exclusive control of a Service Provider and used by it for the purpose of conveying water to consumers, but shall not include any communication pipe;

“tamper” means the interference with, damage to, alteration of, connection to, removal of, painting or defacing of any pipeline, fitting or apparatus;

“tariff” means the tariff of charges determined by the Water Services Authority from time to time in accordance with these By-laws;

“unlawful connection” means a connection with any main, communication pipe, reservoir, hydrant, conduit pipe cistern or other component of the water supply services works without the authorisation of a Service Provider;

“water supply services works” means all movable and immovable assets owned, leased, installed, provided by or used by a Service Provider to supply water supply services to consumers, consisting of inter alia any reservoir, dam, well, pump house, borehole, access road, pumping installation,

water purification plant, sewage treatment plant, electricity transmission line, pipeline, meter, fitting or apparatus;

“**water services authority**” means the Municipality, and “**service authority**” shall have a corresponding meaning.

2. Preamble

No provision in these By-laws shall by implication or otherwise impose on a Service Provider the primary and direct duties and obligations of the Municipality under the Water Services Act 108 of 1997 and the Constitution of Republic of South Africa, 1996.

3. *Domicilium citandi*

For the purpose of the service of any process, notice, order or other document in terms of these By-laws, the address of the consumer registered in the records of a Service Provider shall be deemed to be the *domicilium citandi et executandi* of the consumer.

4. Infringement of By-laws

4.1 Any owner or occupier having or using upon his premises, and any person providing, installing, laying down or connecting, or causing or permitting to be provided, installed, laid down or connected, upon any premises any consumer installation or part thereof or any meter or apparatus which fails to comply with the requirements of these By-laws, shall be guilty of an offence in terms of these By-laws.

4.2 Any person who in any manner willfully damage, tamper or interfere with any pipeline, fitting or apparatus shall be guilty of an offence (see also 17, 20 and 82).

5. Presumption of breach

Any breach of these By-laws committed on the premises of any consumer shall be deemed to be a breach by that consumer of the By-laws unless and until he/she shall prove to the contrary.

6. Entry and inspection

6.1 Authorised personnel may for any purpose connected with the carrying out of these By-laws at all reasonable times or at any time in any emergency and without previous notice enter upon any premises and make such examination and enquiry thereon as may be deemed necessary: Provided that upon entry on any premises such authorised personnel, if required, shall state the reason for

such inspection, examination and enquiry and shall provide a letter or identification card which identifies them as authorised personnel.

- 6.2 Should such authorised personnel consider it necessary for the purpose of examination or inspection or of carrying out any other work in terms of these By-laws, he/ she may at the expense of the consumer after having given 24 hours' notice, or without giving any notice if in his/her opinion immediate action is necessary, move any earth, concrete, brick, wood or metal work or any cart of such premises.
- 6.3 A Service Provider shall not be liable to pay any compensation in respect of work carried out by authorized personnel in terms of Clause (6b): Provided that where any such inspection is made for the sole purpose of establishing a breach of these By-laws and no such breach is discovered, that Service Provider shall bear the expense connected with such inspection together with that restoring the premises to their former condition.

CHAPTER II

PROVISIONS RELATING TO SUPPLY OF WATER

7. Connection by Service Provider only

No connection shall be made to any main or communication pipe except by authorized personnel. The consumer may connect the consumer installation to the communication pipe or, in the case of a meter installed inside any premises, to the outlet pipe from the meter, provided that the consumer has entered into a consumer services agreement with a Service Provider and notified that Service Provider of the connection in writing.

8. Connection to other water supply systems

No consumer installation pipe, tank, cistern or other apparatus for storing or conveying water supplied by a Service Provider shall be directly or indirectly connected with any system or source of water supply other than the water supply services works.

9. Unlawful connections

- 9.1 No person shall make an unlawful or unauthorized connection, and no person shall, in the absence of a consumer services agreement with a Service Provider having jurisdiction in that water services area or contrary to the provisions of any such agreement, take any water from

or accept any water from the water supply service works or use water services from a source other than the Service Provider without the prior written approval of the Service Provider.

9.2 A Service Provider will have the right to eliminate unlawful connections, in terms of the following procedure:-

should any consumer fail to legalise his/ her connection to the works within 14 (fourteen) days of receipt of a notification, the Service Provider shall be entitled, without prejudice and in addition to its other rights in respect of the consumer, to forthwith cut-off the provision of any or all water supply services to such consumer provided that the water supply services of all consumers who reconnect illegally to the water supply services works, having been cut-off in terms of this Section, may be cutoff forthwith by the Service Provider without any further notice.

10. Damage to water supply services works

No person shall willfully or negligently damage or cause to be damaged the water supply services works.

11. Pollution of water supply

No person shall, in respect of any stream, reservoir, aqueduct or other place which forms part of the water supply services works:-

- 11.1 bathe or wash, dispose of or cause or permit to enter therein any animal;
- 11.2 throw any rubbish, dirt, filthy or other deleterious matter therein, or wash or cleanse therein any cloth, wool, leather or skin of any animal, clothes or other matter; or
- 11.3 cause or permit the water of any sink, sewer, drain, [steam engine], boiler or any other unclean water or liquid for the control of which he/she is responsible, to run or be brought therein, or do any other act, with the result that water intended for consumers may be polluted.

CHAPTER III**CONDITIONS OF SUPPLY OF WATER****12. Application for water supply services**

Application for the supply of water for any purpose whatsoever shall be made to and in a form prescribed from time to time and in which the applicant shall state for what purpose the water is required.

13. Consumer services agreements

- (a) No water services shall be provided to any property unless a written agreement governing the supply and cost thereof has been entered into as determined by a Service Provider within its administrative, logistical and financial capability.
- (b) Such agreement shall be entered into by both the owner and occupier, where applicable;
- (c) The owner and occupier shall be jointly and severally liable for payment of all water services and charges whether or not a consumer agreement has been entered into.
- (d) It is the duty of the owner to ensure at all times that the consumer is not in arrears with payments.
- (e) A Service Provider may require that service applications for business entities, including but not limited to trusts, companies, close corporations, partnerships, sole proprietors and voluntary associations shall be subject to the following:-
 - (i) a resolution shall be submitted whereby authority to enter into the agreement is delegated to the signatory;
 - (ii) the business entity's registration number or IT number shall be submitted, if applicable;
 - (iii) the names, addresses and all relevant contact particulars of all the businesses' directors or members or trustees or proprietors or partners or executive members must be submitted with the resolution;
 - (iv) that any one or more or all partners/members/directors/trustees must sign assurity and co-principal debtor for the due fulfillment of all the obligations of the business entity;

- (v) the signatory to the agreement shall warrant that he/she is duly authorized to do so, that all information supplied is true and correct and shall further warrant that the business is not trading in insolvent circumstances;
 - (vi) in the agreement consumers shall warrant that all information supplied is correct and that liability is accepted for all water services and charges, costs of collection and interest on overdue accounts in the event of accounts being arrears.
- (f) A Service Provider shall provide a consumer with a copy of the service agreement upon signature thereof.
- (h) A Service Provider shall decide to which premises meters shall be provided.
- (i) Meters shall be read during such intervals as may be agreed upon by a Service Provider and a consumer. The Service Provider may during the period between meter readings render to the consumer a provisional account in respect of part of such period, and the amount of such account shall be determined as provided in sub-clause (d) and shall as soon as possible after the meter reading at the end of such period render to the consumer an account based on his actual metered consumption during that period giving credit to the consumer for any sum paid by him on a provisional account as aforesaid: Provided that an account may be rendered for fixed charges in terms of the tariff as and when the same becomes due.
- (j) The amount of a provisional account referred to in sub-clause (e) shall be determined by the Service Provider by reference to such previous consumption, if any, on the same premises as would constitute a reasonable guide to the quantity of water consumed over the period covered by the provisional account: Provided that where there has been no such previous consumption, the Service Provider shall determine the amount of the said account by reference to such consumption on other similar premises as would constitute a reasonable guide.
- (k) Where a meter has not been read the Service Provider must average the consumption by debiting the account with the average monthly reading for the preceding three months, if the history of the account is available. Where no such history exists, the consumer shall pay an estimate as provided for in par. j. above.
- (m) When a meter is replaced, the consumer shall be informed thereof in writing.

- (n) In the event of a service being metered but cannot be read due to practical, financial or human resource constraints or circumstances out of the control of a Service Provider, and the consumer is then charged for an average consumption as contemplated in paragraph 8.2, the account following the reading of the meter consumption shall articulate the difference between the actual consumption and the average consumption and the resulting credit or debit adjustment.
- (o) Every consumer shall give an authorized representative of a Service Provider access at all reasonable hours to the property in order to read, inspect, install, repair or replace any meter or service connection for reticulation, or in order to disconnect, stop, restrict or reconnect the provision of any service.
- (p) In the event of access not being reasonably possible a Service Provider may relocate a meter and the consumer shall be responsible for payment of the costs of such relocation.
- (q) In the event of reasonable access not being possible a Service Provider may:-
 - (i) by written notice require the consumer to restore access at his/her own cost within a specified period; or
 - (ii) restore access without prior notice and recover the costs thereof from the consumer.
- (r) The amount payable for water consumed shall be as prescribed in the tariff and it shall be a condition of the supply of water in terms of every consumer services agreement that payment therefore by the consumer shall be effected in the manner prescribed in terms of sub-clause (e), read with Clause 39(b).

14. Deposits

- (a) Council shall determine the payment of deposits at a future date.

15. Tariffs and charges

- (a) The Water Services Authority shall levy the fees, charges and tariffs payable for the provision of water services by way of Council Resolution.
- (b) The tariffs and charges payable and the date of its implementation shall be published as prescribed in the Local Government: Municipal Systems Act No. 32 of 2000, as amended.

- (c) Such tariffs and charges may differentiate between different categories of consumers, services and service standards as well as geographical areas.

16. Special conditions or provision relating to the supply of water

- (a) A Service Provider shall have the right to attach special conditions or make special provisions relating to the supply, limitation or discontinuation of water supply services to any person or consumer or premises in any case where, by reason of the purpose for which the supply is desired, the nature or situation of the premises, the quantity to be supplied, the availability of supply or the method of supply, it is in the opinion of the Service Provider necessary or desirable to attach special conditions or make special provisions relating to the supply or limitation or discontinuation thereof..
- (b) Notwithstanding anything to the contrary in any other Clause of these By-laws contained, it shall be lawful for a Service Provider in making such special provisions to stipulate any or all of the following:-
 - (i) where the Service Provider permits any person or consumer to re-sell water, it may recommend a price at which the water may be re-sold by such person or consumer, and may require that plans of any proposed water supply system and reticulation to be submitted to the Service Provider from time to time for approval as a condition precedent to authority to resell being given;
 - (ii) where any consumer is given a supply by means of more than one connection from mains, the Service Provider may stipulate the manner in which and the times during which the supply from any one or each of such connections may be used by the consumer; and
 - (iii) the Service Provider may stipulate the maximum quantity over and above Basic Water Supply to be supplied to any consumer and may fix the hours or period during which any consumer shall be entitled to a supply].
- (c) Save as is provided in sub-clause (b), the terms of any special conditions or provisions shall otherwise conform to the provisions of these By-laws.

17. Cutting off water supply services

- (a) Without paying compensation and without prejudice to its rights to obtain payment for the provision of water supply services to the consumer, and subject to the proviso below, the Service Provider may cut off, alternatively restrict, water supply services to any consumer where such consumer has:-
- (i) Failed or refused to pay any sum due to the Service Provider in terms of these By-laws;
 - (ii) wilfully or negligently damaged or caused or permitted damage to be inflicted upon any component of the water supply services works;
 - (iii) committed a breach of any of the provisions contained in these By-laws, or in the consumer services agreement relating to such consumer;
 - (iv) tampered or interfered with or caused or permitted any tampering or interference with any component of the water supply services works;
 - (v) the protection of the public health shall be considered at all times;
 - (vi) should any hospital, school, correctional service facility or other approved Provider whether public or private, be in default of its conditions of supply in respect of water supply services, the Service Provider shall notify the Municipality of the fact at least 14 (fourteen) days prior to cutting off water supply services;
 - (vii) default on an invoice must be for at least a period of 30 (thirty) days from its due date;
 - (viii) the Service Provider must have demanded payment from the consumer in respect of the outstanding amount in writing. In this instance the following provisions shall apply:-
 - (i) if an account is not paid on the due date shown on the account, and unless extension for payment has been granted by the Service Provider, a written warning of possible disconnection of water supply will be forwarded to the consumer and in which notice the date of such disconnection shall be stipulated, which date shall not be less than 14 days, calculated from date of receipt of such notice.

- (b) The consumer will be deemed to have received such notice on the same day if delivered by hand, e-mail or telefax transmission, on the 3rd day after day of posting, if posted by ordinary mail and on the 4th day after date of posting, if posted by registered mail.
- (c) The Service Provider shall be entitled to disconnect the supply of water without any further notice if payment in full had not been made on the date stipulated in the notice.
- (d) Upon disconnection of the supply of water the Service Provider shall post a notice in a conspicuous place on the property wherein the consumer is informed that the supply has been disconnected, and that all water outlets should be closed. The said notice shall also advise that the supply will only be reconnected upon payment of the total amount specified in the notice together with the prescribed reconnection fee, or if an arrangement acceptable to the Service Provider has been made. Such notice shall also warn the consumer of the consequences of unauthorised reconnection or use.
- (e) The Service Provider shall restore services within a reasonable time after submission of proof of payment of the required amount, subject to logistical capacity. Services shall only be restored during official business hours except in instances deemed to be emergencies, and an additional after-hours fee shall then be charged by the Service Provider.
- (f) A Service Provider shall not be liable for damages to any consumer where the Service Provider cuts off water supply services to a consumer in the bona fide belief that any of the circumstances set out in sub-clause 16(a) apply.
- (g) The consumer shall pay to the Service Provider the fee as prescribed in the tariff for cutting off water supply services in terms of this Clause.
- (h) Upon payment by the consumer of the outstanding amount due and payable in terms of the tariff schedule, including interest thereon, a reconnection fee payable in terms of the tariff schedule and increased deposit payment, the Service Provider shall re-establish water supply services as soon as reasonably possible.
- (i) Should the Service Provider have unlawfully cut off water supply services to a consumer, the Service Provider shall re-establish water supply services within a maximum period of 24 (twenty four) hours and the Service Provider will not be entitled to charge any sum in respect of the re-establishment of water supply services.

18. Termination of consumer agreement

The consumer may at any time terminate the consumer services agreement entered into in terms of these By-laws by giving not less than ten days notice in writing to the Service Provider of the intention to do so.

19. Disconnection of supply of water on termination of consumer services agreement

Where a consumer services agreement has been terminated, a Service Provider shall be entitled to disconnect such supply; provided that such disconnection shall be carried out where the new consumer accepts liability of payment for water consumed as from the date of the previous ordinary reading of the meter or for a special reading of the meter at the charge fixed in the tariff.

20. Special restrictions

- (a) A Service Provider may, at any time restrict the supply of water to the whole or any portion of the Water Services area to such hours as it may decide, or restrict usage or types of usage, and it may prohibit the use of water for any specific purpose or for any purpose other than specified,
- (b) Any person using water during prohibited hours or for prohibited purposes or purposes other than specified, after public notification of such prohibition by the Service Provider, shall be guilty of an offence.
- (c) For the purpose of this Section “public notification” shall mean publication in English, Afrikaans and siSwati in one or more issues of newspapers circulating in the Water Services area to which the notification apply.

21. Failure to supply water

The Service Provider shall under no circumstances whatsoever be liable to a consumer for any failure to supply water or for any defect in the quality of the water supplied, or for the consequences thereof unless caused by a willful act or by negligence of the Service Provider.

22. Water pressure

- (a) Save as set out in these By-laws, no undertaking or guarantee shall be given by a Service Provider to supply or maintain any specified pressure of water at any time at any point in the water supply services works.
- (b) Where application is made for a supply of water to or where a supply is required for any premises or part thereof situated above a level that can be served by the normal pressure in the main, it shall be the duty of the applicant or consumer to provide and maintain a supply to such premises or part thereof: Provided that, subject to the provisions of this Clause, a Service Provider may grant a supply to such premises from the main where such supply is available on such conditions as the Service Provider may impose.
- c)
 - (i) Where in the circumstances set out in sub-clause 22(b) it is necessary for the consumer to pump water to maintain the supply, any pump installed for the purpose shall not be connected to the main.
 - (ii) The suction pipe of any such pump shall be connected to a storage tank supplied with water from the main.
 - (iii) Such tank shall be constructed in accordance with the requirements of Clause 58 and shall have a minimum capacity of not less than one-eighth of the average daily requirement of the consumer determined by the Service Provider, or one hour's capacity of the pumping system, whichever is the greater.
 - (iv) Such tank shall be fitted with an inlet control valve of the correct size so set as to admit water to the tank from the main at a rate equal to the average hourly requirement of the premises.
 - (v) The said pump shall be self-priming, float or electrode controlled and fitted with electrical safety devices for the protection of the pump or pump drive motors, or both in the event of stoppage of the supply of water from the main.
- (d) Before the installation of any such pumping system, full details thereof shall be submitted to the Service Provider for approval and authorization.

23. Sale of water by consumers

No consumer shall:-

- (a) sell any water supplied to him/her by a Service Provider, except as provided in terms of Clause 15; or
- (b) take away or cause or permit to be taken away from his premises any such water except as provided for in Clause 43.

24. Special provisions governing the supply of water by portable meters

In addition to the provisions laid down in these By-laws, the following special provisions shall apply to the supply of water by portable meter and shall be deemed to have been included in every agreement for such supply.

- (a) A Service Provider may at its discretion provide water supply services to consumers from hydrants.
- (b) Where water is to be supplied by the Service Provider from hydrants, the Service Provider shall supply a portable meter for measuring such supply together with stand pipe, hydrant coupling, hose pipes and necessary unions for connection to the meter.
- (c) The consumer shall pay to the Service Provider in advance the amount prescribed in the tariff in respect of each portable meter supplied, which amount shall be held by the Service Provider as security for the due fulfillment of all provisions of any agreement relating to the supply of such meter and the payment by the consumer to the Service Provider of the cost for all water supplied to him and all other payments due by him to the Service Provider in terms of such agreement.
- (d) The cost for water is supplied and for the use of the portable meter shall be at the rate prescribed in the tariff.
- (e) All accounts for water so supplied shall be paid by the consumer to the Service Provider within 7 (seven) days of the date of rendition of such an account.
- (f) Where water is taken by the consumer from a hydrant without such water passing through a portable meter, or where water is wasted before passing through such portable meter, the

amounts prescribed in the tariff shall be paid by the consumer to the Service Provider for every day during which water is so taken or such waste continues.

- (g) The consumer shall:-
- (i) upon taking delivery of the portable meter, sign a receipt acknowledging such meter to be in good order and condition; and
 - (ii) maintain and return such meter in the same good order and condition, fair wear and tear expected.
- (h) If the consumer fails to return the portable meter, he shall pay to the Service Provider the cost of a new meter, or if he returns such meter in a damaged condition, he shall pay to the Service Provider the cost of a new meter or the cost of repairs if such damaged meter can be satisfactorily repaired.
- (i) The consumer shall take delivery of and shall return the portable meter to the Service Provider at such place as the Service Provider may from time to time direct.

25. Water supply for building purposes

- (a) Where, upon the application of any owner, builder or other person, a supply of water for building purposes is provided to any premises the cost of providing and fixing the communication pipe and the meter shall be borne by such owner, builder or other person in accordance with the prescribed tariff.
- (b) Such owner, builder or other person shall pay for water so supplied according to the tariff.
- (c) If suitable for the purpose, the same communication pipe as is supplied in terms of this Clause may be used for the permanent supply to the premises, but no permanent supply shall be made by means of such communication pipe until all the provisions of these By-laws have been complied with, and until a consumer agreement has been concluded in respect of such connection.

26. Alternative methods of supply

- (a) A Service Provider may use the following methods for providing water supply services:-

- (i) provision from a high level break tank of a capacity of not less than 170 litres (one hundred and seventy litres) complete with ball valve, which may be purchased from the Service Provider, provided that:-
 - (1) the consumer will be responsible for the installation of the tank as well as the piping and fittings to connect the tank to the communication pipe provider;
- (ii) provision from a 200 (two hundred) litres ground level storage tank which may be purchased from the Service Provider, provided that:-
 - (1) the consumer will be responsible for the installation of the tank on the property as well for the piping to connect the tank to the communication pipe. The water bailiff will be responsible to fill the tank daily on pre-payment of the prescribed tariff; or
 - (iii) any other alternative method of supply, which satisfies the requirements of the Water Services Act 108 of 1997, and which meets with the approval of the Water Services Authority.

CHAPTER IV

GENERAL PROVISIONS RELATING TO METERED SUPPLIES

27. Provision of communication pipe

- (a) Upon the completion of a consumer services agreement between a Service Provider and any consumer and after the relevant provisions of these By-laws have been complied with, the Service Provider shall provide, lay down and maintain a communication pipe to serve such premises: Provided that the position of the communication pipe shall be as agreed between the Service Provider and the consumer, and if failing agreement as determined by the Service Provider.
- (b) The sum payable by such consumer in respect of such communication pipe shall be as prescribed in the tariff: Provided that in respect of any size or length of communication pipe not provided for in the tariff or in cases where the tariff charge is insufficient to cover the cost of providing such communication pipe, the consumer shall pay such sum as may be determined by the Service Provider, having regard to the circumstances of the case.

- (c) Any amount due in terms of this Clause shall be paid to the Service Provider in advance by the consumer,

28. A separate communication pipe for individual premises

For the purpose of supplying water thereto, a separate communication pipe shall be provided in respect of each and every premises or portion thereof in separate occupation: Provided that:-

- (a) where it appears to a Service Provider that hardship or grave inconvenience or other similar circumstance would otherwise result, the Service Provider may permit such supply by means of more than 1 (one) communication pipe;
- (b) where more than 1 (one) communication pipe is permitted in terms of Clause 28(a) a charge shall be made in accordance with the tariff for each additional communication pipe and meter;
- (c) in case of sectional title properties, there shall be one communication pipe only, under the responsibility of the body corporate;
- (d) one communication pipe only shall be permitted by the Service Provider for the supply of water to a group or block of dwellings, flats, shops, offices or other buildings in single ownership where the consumer thereof undertakes to pay for the water supplied to each of the buildings comprising such group or block;
- (e) where, in terms of sub-clause 28(c), more than 1 (one) building is supplied from 1 (one) communication pipe, a stop tap shall be fixed on each branch pipe leading there from to each such building for the purpose of turning off the supply of water to each such premises without interrupting the supply to the others;
- (f) where a tap is fixed to a stand pipe from which water is intended to be supplied to more than 1 (one) premises, such tap shall be an approved type of self-closing tap.

29. Provision, fixing and position of meters

- (a) All meters shall be supplied and fixed in the communication pipe on the boundary of a property, if possible, failing which, as near to the boundary as is possible and according to the specifications of the Service Provider.

- (b) If so required by the Service Provider, the consumer shall provide a suitable and safe place on the boundary of his/her premises or the nearest accessible point to such boundary in which to fix the meter and the Service Provider may install the meter in such place.
- (c) The Service Provider at the consumer's expense shall carry out any maintenance necessary in that portion of the communication pipe between the street boundary and the meter, where the meter is situated within the premises.
- (d) Combination meters shall be installed by the Service Provider for communication pipes with a diameter in excess of 50mm.

30. Provision and position of stop cock

- (a) A Service Provider shall, for its exclusive use, install a stop cock between the meter and the main.
- (b) The consumer shall, at his/her own expense, or the Service Provider may in its discretion and at the consumer's expense and for his/her exclusive use, provide and install a stop cock at a suitable point on the consumer installation immediately inside the boundary of the property in the case of a meter installed outside the boundary, and in the case of a meter installed on the premises at a suitable point on the consumer's side of the meter.

31. Cost of installing meter

The consumer shall pay all amounts in connection with the installation of any meter irrespective of its position on the communication pipe supplying the premises, as are prescribed in the tariff.

32. Ownership of meters

Any meter provided and installed by a Service Provider in terms of these By-laws, together with the fittings connected therewith, shall be and remain the absolute property of the Service Provider, and such meter shall at all times be under the sole control of the Service Provider.

33. Safekeeping of meters

The consumer shall be responsible to the Service Provider for the safekeeping and condition of any meter supplying his premises and shall be liable to the Service Provider for any loss, damage, injury or tampering, which may be done to or sustained by such meter.

34. Interference with, tampering or damage to meters

- (a) Only authorised personnel shall disconnect, interfere with or cause or permit any other person to disconnect or interfere with any meter or fittings connected therewith.
- (b) No person shall willfully damage any meter or fittings connected therewith.
- (c) No person shall use or permit to be used on any consumer installation any fitting, machine or appliance which causes damage or is in the opinion of a Service Provider likely to cause damage to any meter.

35. Repairs to meters

- (a) In the event of repairs to any meter being found necessary, a Service Provider shall affect such repairs to such meter as soon as possible.
- (b) A Service Provider shall, at its own cost and expense, maintain and repair any meter provided by it to the extent of ordinary wear and tear.
- (c) Where any repairs have become necessary in consequence of such meter having been willfully or accidentally damaged or tampered with by the consumer, the consumer shall be liable for the cost of such repairs, including the cost of removal and re-installation thereof, or substitution if necessary, and such cost shall be payable by the consumer to the Service Provider on demand.

36. Substitution of other meter

A Service Provider may at any time at its own cost and expense disconnects and removes any meter and install and substitute any other meter in its discretion.

37. Quantity of water registered and payment therefore

The quantity of water registered by the meter as having been supplied to any consumer shall be deemed to be the quantity actually supplied.

38. Records of service provider binding

In the absence of evidence showing, the onus whereof shall be on the consumer, either that any entry in the records of a Service Provider has been incorrectly made or that the meter was at a time of such reading in default or registering incorrectly, every consumer shall be prima facie bound by

the entry in the records of the Service Provider, and it shall not be necessary to produce the person who read the meter, or the person who made any particular entry, in order to prove such reading or entry.

39. Dissatisfaction with meter reading or accounts

- (a) Each Service Provider shall, within practical and financial constraints establish:-
 - (i) a central complaints/feedback office;
 - (ii) a centralised database in order to enhance co-ordination of complaints and the resolution thereof as well as effective communication with consumers.
- (b) A consumer may lodge a written request with the Service Provider for recalculation of an account, within 7 (seven) days of receiving that account if such customer is of the opinion that the account rendered is inaccurate.
- (c) If any consumer is at any time dissatisfied with any particular reading on a meter supplied by the Service Provider and is desirous of having such meter tested, he/she shall give written notice to the Service Provider within 7 (seven) days after receipt of notice from the Service Provider of such reading, and shall at the same time deposit with the Service Provider the amount prescribed in the tariff, and thereupon the meter shall be tested forthwith by the Service Provider.
- (d) If such meter is found to be registering correctly, the Service Provider shall retain the amount deposited with it.
- (e) If such meter is found to be registering incorrectly, the Service Provider shall refund the payment to the consumer and the Service Provider shall reaffix a meter in good working order without charge to the consumer, where applicable, and the charge for water consumed during the three months preceding the reading in dispute, shall be adjusted in accordance with the degree of error found: Provided that, where such meter has been installed for a period of less than 6 (six) months, such adjustment shall be over half such lesser period.
- (f) The meter shall be deemed to be registering correctly if when tested in accordance with SABS 1529. meets the specifications as set out within SABS 1 529 relevant for the size of meter so tested.

- (g) Such a request must contain full personal and/or business particulars of the consumer, the relevant account number, direct contact number, address and any other particulars required by the Service Provider.
- (h) Pending the outcome of the request, the consumer must pay an amount equal to the average of the monthly total of the preceding three month's accounts where history of such an account is available. Where no such history is available the consumer shall pay an estimate provided, not later than the date due for payment thereof.
- (i) Failure to make interim payments as contemplated herein will render the customer liable for disconnection of the services.
- (j) Upon receipt of the notice of complaint, the relevant department shall give a written acknowledgment thereof, investigate the matter and inform the customer in writing of the outcome of such investigation. The Service Provider shall give reasons for its decision.
- (k) Any adjustment to the consumer's account as a result of the investigation shall be made within a reasonable time.
- (l) The decision of the authorised official shall be final.
- (m) No dispute, enquiry or complaint will be reconsidered after the outcome thereof has been communicated to the consumer.
- (n) If the consumer is not satisfied with the outcome of the complaint, the consumer must pay the amount in dispute under protest before approaching a court of law for the necessary relief.

40. Failure of meter to register or to register correctly

- (a) Where any meter is found to have ceased to register or is found to be faulty in any other respect, or where the actual consumption is not recorded correctly due to factors other than a faulty meter a Service Provider shall repair or replace such meter as soon as possible at no cost to the consumer, where applicable.
- (b) Unless it can be proved to the satisfaction of the Service Provider that a lesser or greater quantity of water has been consumed, the quantity of water to be paid for by the consumer from the date of reading of the meter prior to its failure to register or to register correctly up

to the time of its repair or replacement or up to such time as it correctly reflects the consumption, as the case may be, shall be estimated by the Service Provider on the basis of:-

- (i) the average monthly consumption of water upon the premises served by the meter during the 3 (three) months prior to the last correct registration, or, if this is not possible;
 - (ii) the corresponding month's consumption of water upon the premises in the previous year, or, if this is not possible;
 - (iii) the average monthly consumption of water upon the premises served by the meter over a period of 3 (three) months after repair or replacement of the meter has been effected or it again correctly reflects consumption, as the case may be.
- (c) If it can be established that the meter had been registering incorrectly for a longer period than the meter reading period referred to in Subsection (b), the consumer may be charged with the amount determined in accordance with the said Subsection or for a longer period: Provided that no amount shall be so charged in respect of a period in excess of 12 (twelve) months prior to the date on which the meter was found to be registering incorrectly.
- (d) Meters will be tested in accordance with SABS 1 529/1 "Water Meters for Cold Potable Water" (1998).
- (e) When a new or repaired meter is tested, the difference between the indicated volume and the actual volume of water that passes through the meter shall not exceed:-
- (i) 5% of the actual volume passed at actual flow rates of less than qt; and
 - (ii) 2% of the actual volume passed at actual flow rates of not less than qt.
- (f) When a used water meter is tested, the difference between the indicated volume and the actual volume of water that passes through the meter shall not exceed:-
- (i) 8% of the actual volume passed at actual flow rates of less than qt; and
 - (ii) 3,5% of the actual volume passed at actual flow rates of not less than qt.

CHAPTER V**PROVISIONS RELATING TO CONSUMER INSTALLATIONS****41. Pipes across street**

- (a) No consumer shall, without the written permission of the Municipality or the Road Authority having jurisdiction first had and obtained and except under such conditions as the Municipality or the Road Authority may prescribe, lay, fix, alter, construct or cause to be laid, fixed, altered or constructed any pipe, channel or conduit on, in or under any street, public place or lands forming part of the water services works, whether such water is derived originally from a Service Provider or from private sources of supply. For the purposes of this Clause, the determination by the Municipality or the Road Authority shall be in consultation with the Service Provider.
- (b) Any person receiving such permission shall, where water supply services are available for the premises, pay to the Service Provider such rental for the pipe line as is prescribed in the tariff: Provided that where the water is paid for at the rates prescribed in the tariff, no additional charge shall be made for the pipe line.
- (c) When no water supply services are available, any permission given shall be conditional upon the payment of the charges referred to in Clause 40(b) immediately upon water supply services becoming available.
- (d) Any such permission may be withdrawn on not less than 1 (one) month's written notice to the consumer.

42. Provision of consumer installation

Every owner or consumer shall, at his/her own expense, provide, install, lay down and maintain his/her own consumer installation.

43. Covering of consumer installation

When any consumer installation is being or has been installed or any alteration or extension of any existing consumer installation is being or has been carried out, no person shall cover any part of such installation, alteration or extension, or cause, permit or suffer it to be covered, until it has been inspected and approved by the Service Provider.

44. Notice to inspect

When any work as referred to in Clause 42 has been carried out, it shall be the duty of the owner or of any other person occupying or in control of the premises to notify the Service Provider in writing of the fact that the work is ready for inspection by it in terms of that Section.

45. Inspection and approval of consumer installation and alterations thereto

- (a) No consumer installation shall be placed in use unless and until it has been inspected and a certificate of approval has been issued by a Service Provider.
- (b) Every additional fitting or alteration to an existing consumer installation already connected to the water supply services works, shall be subject to inspection by and approval of the Service Provider, and shall in the event of a certificate of approval not being issued, be altered to comply with these By-laws or be removed immediately.

46. Preparation of consumer installation for and installation of meter

- (a) Where a Service Provider agrees to supply water by meter to any premises not previously so supplied, the consumer shall, at his/her own expense, prepare his/her consumer installation for the installation of the communication pipe and the meter.
- (b) After the consumer installation has been prepared and approved by the Service Provider, and after payment of the charges prescribed in the tariff, the Service Provider shall connect the consumer installation to the communication pipe.

47. Joints

No joints except standard screwed joints, wired plumbing or other joints approved by a Service Provider shall be used on any consumer installation.

48. Taps, ball valves and flushing valves

No tap, valve, water-mixer or other device for controlling or regulating the flow, pressure or temperature of water or other article shall be installed in any consumer installation unless:-

- (a) it bears the appropriate standardization mark of the South African Bureau of Standards;

- (b) where for any reason not connected with the quality thereof, the said Bureau is unable or unwilling to place its standardization mark thereon, but a Service Provider is satisfied by means of tests carried out by the Service Provider or any other competent person that it complies with the requirements of the relevant standard specification of the Bureau, notwithstanding that it does not bear the mark of the Bureau, and the Service Provider has accordingly placed its stamp of approval thereon; or
- (c) it is certified or approved by the Agreement Board of South Africa and the Service Provider has accordingly placed its stamp of approval thereon.

49. Depth of consumer installation pipes below ground

All consumer installation pipes laid in the ground shall have a minimum cover of 400 (four hundred) mm as prescribed in SABS 1 200

50. Laying of pipes in places where pollution might result

No person shall lay or install any pipe which is to be supplied with water by a Service Provider, through, in or into a sewer, drain, ash pit, manure hole or other place where, in the event of the pipe becoming unsound, the water conveyed through such pipe would be liable to become polluted or to escape without observation, or make use for the above purpose of any pipe so laid or installed: Provided that where it is impractical to lay or install such pipe in any other manner than aforesaid, the part thereof so laid or installed shall be carried through another cast iron tube or box of sufficient length and strength and of such construction as will afford proper protection to the pipe in the interior thereof and render any leakage or waste there from readily perceptible.

51. Leakage of taps or pipes

- (a) No person shall cause or permit any pipe, tap or fitting to leak, and no tap or fitting shall be installed in such position that any leakage cannot readily be detected.
- (b) No consumer shall as of right be entitled to any rebate in respect of the wastage of water due to faulty fittings or undetected leakage in any part of the consumer installation, but may apply, after detection and proof of repair of such faulty fittings or leakage by a qualified plumber, apply to the Service Provider for a rebate which may be granted in the discretion of the Service Provider, where after the provisions of Clause 40(b) shall *mutatis mutandis* apply. Notwithstanding the above, the consumer shall only be entitled to a reduction in the

account for the period during which the fitting was faulty or the leakage occurred, but subject to a maximum period of four months.

- (c) Any work or repair, digging or replacement, or any other operation which a Service Provider undertakes to, or in respect of, its mains, including stop cocks, in order to enable a consumer to carry out repairs or other work to his/her own consumer installation, shall be undertaken by the Service Provider at the consumer's expense.

52. Pipes and stand pipes to be securely fixed

- (a) All pipes, except those laid in the ground, shall be securely fixed at frequent intervals to that portion of the wall or other rigid portion of the structure along which they pass.
- (b) All stand pipes or other pipes projecting above the ground and not otherwise secured to any structure shall be securely fixed to a stake securely driven into the ground, or by other means approved by the Service Provider, in such a manner as to prevent undue movement of such stand pipe or pipes.

53. Cistern or tank in ground

No cistern or tank buried or installed in any excavation in the ground shall be used for the storage or reception of water supplied by a Service Provider and intended for human consumption.

54. Taps for domestic use

Other than those discharging from the hot water taps to supply water for domestic purposes in dwelling houses or residential buildings or for drinking purposes on any other type of premises shall be connected to a consumer installation pipe at a point before such pipe goes into a cistern or tank and shall not be supplied from any cistern or tank: Provided that in buildings where a water supply is required above the level which a regular and adequate supply is available from the mains, it may be taken from a tank or cistern which shall be constructed in accordance with the provision of these By-laws.

55. Connection of sundry apparatus

- (a) No person shall cause or permit any consumer installation pipe to be connected directly to any water closet, urinal, steam boiler or trade vessel or apparatus.

- (b) Every water closet, urinal, steam boiler, trade vessel or apparatus shall be fed separately and directly from a cistern installed solely for that purpose: Provided that a Service Provider may approve of any such fitment being connected direct to the consumer installation without the interposition of a cistern or break-pressure tank, where adequate means for the prevention of reverse flow or re-entry of water from such fitment to the consumer installation are provided.

56. Cistern or tank

No person shall install, fit, use or cause or permit to be installed, fitted or used upon any premises a cistern or tank for the reception or storage of water, other than a cistern used for flushing water closets or other sanitary fittings, unless:-

- (a) the cistern or tank is constructed of a material, which in the opinion of the Service Provider is sufficiently strong for the purpose and capable of resisting corrosion;
- (b) the cistern or tank is watertight, vermin proof, and properly covered and ventilated;
- (c) the cistern or tank is provided with access covers, which shall be bolted down or locked in position at all times, except when opened for inspection;
- (d) the inlet pipe to the cistern or tank is provided with a ball, tap or check valve of a type approved by the Service Provider;
- (e) the cistern or tank is so placed that it may be readily drained and inspected and cleansed inside and outside;
- (f) a stop-cock is fitted to the outlet pipe near to each cistern or tank so that repairs to any pipe leading from or to apparatus fed by the cistern or tank can be effected without emptying the latter;
- (g) a brass sampling cock is fitted to the cistern or tank to enable the Service Provider to draw samples of the water stored therein when necessary for testing purposes; and
- (h) the cistern or tank is provided with an adequate drainage system to ensure that the premises are not flooded in the event of leakage or accidental overflow, the capacity of such drainage system to be such that it will be capable of discharging water at a rate at least equal to the rate of flow of the incoming supply and the outlet of the drainage discharge pipe to be so situated that the discharge of water may be readily detected;

- (i) in the event of water stored in the cistern or tank becoming contaminated in any way, the consumer shall on instructions from the Service Provider take immediate steps to drain the cistern or tank, cleanse it and disinfect it to the standards set by the Service Provider before refilling and replacing in service;
- (j) when a cistern or tank on account of age or deterioration or for any other reason, no longer complies with the requirements of this Section, the consumer shall adequately repair or entirely replace the tank of cistern within 60 (sixty) days of receipt of written notice from the Service Provider to do so;
- (k) when a continuous supply of water to the premises is required, the required cisterns or tanks shall be provided in duplicate.

57. Overflow pipe to cistern to tank

Every cistern or tank shall be provided with an overflow or waste pipe, so that any overflow can be readily detected.

58. Capacity of cistern

- (a) Every steam boiler and any premises which require, for the purpose of the work undertaken on the premises, a continuous supply of water, shall have a cistern holding not less than half a day's supply calculated according to the average daily consumption.

59. Water-heating apparatus

- (a) Every boiler, hot-water tank or other water heating apparatus connected to a consumer installation pipe shall be of a type, design and material tested and approved by the Service Provider and shall be provided with an unobstructed outlet or expansion pipe, safety valve or other pressure release device which is adequate for the release of excess pressure, and the design, specification and position of which have been approved by the Service Provider and which releases either into the open air in a position where water discharging can easily be detected, or into the cistern supplying the water heating apparatus with water at a level above the level of the water in the cistern.
- (b) No person shall obstruct or perform any act which prevents or is likely to prevent the effective operation of any outlet or expansion pipe, safety valve, device, apparatus, pipe line or fitting.

- (c) A permanent notice shall be displayed in a conspicuous position on every such water-heating device directing attention to the danger of obstructing the outlet or other pipe or device.

60. Material of circulating or supply pipes

Circulating or supply pipes for hot water may be of lead, galvanised iron, copper, or any other SABS approved material except that where used for heating purposes only the pipes may be of black iron.

61. Distance between consumer installation and electric wires

- (a) No portion of the consumer installation shall, except where it is part of a specifically approved water installation, be laid, installed or maintained within 300 (three hundred) mm of or be in metallic contact with, any electrical apparatus: Provided that this requirement shall not be taken as preventing electrical bonding as required by any By-laws or regulations for the supply and use of electrical energy and for the wiring of premises.
- (b) No tap, valve or similar apparatus shall be laid, installed, fixed or maintained within 2 (two) m of an electrical socket outlet, appliance or distribution board without the prior written approval of the Service Provider.

CHAPTER VI**SPECIAL PROVISIONS RELATING TO FIRE EXTINGUISHING SERVICES****62. Special provisions**

- (a) Notwithstanding anything to the contrary contained in this Chapter, the provisions contained in the preceding Chapters shall mutatis mutandis apply to the supply of water for fire extinguishing services and shall be deemed to have been included in every agreement for such supply.
- (b) Fire extinguishing services shall be provided in compliance with the relevant By-laws.

63. Payment for services

- (a) All fire hydrants or fire extinguishing installations shall be provided with a combination meter by a Service Provider.
- (b) The consumer and the owner of premises shall be jointly and severally liable to pay the charges prescribed in the tariff in respect of any fire-extinguishing installation or appliance used or installed upon such premises.

64. Communication pipes for fire-extinguishing services

- (a) All communication pipes, which are intended for preventive or automatic use in case of fire, shall be laid by the Service Provider as far as the boundary of the consumer's property.
- (b) Such communication pipes shall be used only for fire-extinguishing purposes.
- (c) No take-off of any kind from any such communication pipe shall be made nor shall any water there from be used other than in connection with automatic sprinklers and drenchers, hydrant connections or hose reel connections or for the pressure tank connected therewith, and such tank shall be controlled by a suitable ball tap.

65. Valves in communication pipes

Every communication pipe shall be fitted with a proper control valve, which shall be:-

- (a) supplied by the Service Provider at the expense of the consumer;

- (b) installed between the consumer's property and the main;
- (c) of the same diameter as the communication pipe; and
- (d) installed in such position as may be determined by the Service Provider.

66. Extension of system

Without the written consent of the Service Provider no further sprinklers shall be added or connected to any existing fire-extinguishing system after such system has been connected to the main.

67. Extension of system to other premises

No extension or connection from any fire-extinguishing system to other premises shall be made, and in the event of any such connection or extension being made, the Service Provider shall be entitled to enter upon such premises and take all steps necessary to remove such connection or extension at the cost of the person responsible for such extension or connection.

68. Inspection and approval of fire-extinguishing system

No water shall be supplied to any fire-extinguishing system until it has been inspected and the Water Services Authority, in consultation with the Service Provider, where applicable, has certified in writing that such consumer installation complies with the requirements of these and other relevant By-laws and the work has been carried out to the satisfaction of the Service Provider.

69. Connection to be at the discretion of Service Provider

- (a) The Service Provider shall be entitled in its absolute discretion to grant or refuse an application for the connection of a fire-extinguishing installation to its main.
- (b) If in its opinion a fire-extinguishing installation which it has allowed to be connected to the main is not being kept in proper working order or is otherwise not being properly maintained, the Service Provider shall be entitled either to require the installation to be disconnected from the main or itself to carry out the work of disconnecting it at the consumer's expense.

70. Meters in fire-extinguishing communication pipes

The Service Provider shall be entitled to install a water meter in the fire-extinguishing communication pipe and the owner of the premises shall be liable for the whole of the cost in so doing if it appears to the Service Provider that water has been drawn from the pipe otherwise than for the purpose of extinguishing a fire.

71. Provision of pressure gauge

A pressure gauge indicating the water pressure in kPa shall be fixed on all fire-extinguishing systems inside the premises of the consumer.

72. Installation of reflux valve

- (a) When a fire-extinguishing installation includes a fire-pump connection a reflux valve of a type approved by the Service Provider shall be fitted on the premises in an accessible position permitting of its ready inspection, repair and removal.
- (b) The said reflux valve shall be used to shut off the domestic supply from the main whenever or for so long as the fire-pump connection is in use.
- (c) The said reflux valve shall be serviced at least once annually by a registered bona fide firm approved by the Service Provider as being capable of undertaking such work.
- (d) When called upon to do so by the Service Provider, the consumer shall produce a certificate from the said firm that the service has been done.

73. Sprinkler extinguishing installation

A sprinkler installation may be installed in direct communication with the main, but neither the Service Provider nor the Water Services Authority shall be deemed to guarantee any specified pressure of water at any time, and neither the Service Provider nor the Water Services Authority shall be liable for any damage or harm caused by insufficient pressure of water.

74. Header tank or double supply from mains

- (a) Unless a duplicate supply from a separate main is provided for the sprinkler installation, the consumer shall install a header tank at such an elevation as will compensate for any cessation or reduction of pressure in the main.
- (b) The main pipe leading from the header tank to the sprinkler installation may be in direct communication with the main: Provided that in such case it is fitted with a reflux valve which will close against the main and open to that of the tank should the pressure in the main not be available for any reason.
- (c) An overflow pipe shall be fitted to such tank, which pipe shall discharge in such a position as to be readily observable, and shall not be led away by any down pipe to any drain.
- (d) Where a duplicate supply from a separate main is provided, each supply pipe shall be fitted with a reflux valve situated on the premises.
- (e) The reflux valves installed in terms of Subsections (1) and (2) shall be serviced annually as prescribed in Section 72(c).
- (f) The header tank shall be drained and refilled at least once per annum and the Service Provider shall be advised at least 48 (forty eight) hours before the tank is due to be drained to enable an inspection to be arranged and made if necessary.

75. Annual charges for sprinkler and drencher installation

- (a) The amounts prescribed in the tariff for the inspection and maintenance of the communication pipes leading from the main to the boundary of a stand, erf or other area of land shall be payable in advance and shall become due in respect of every such pipe as soon as a Service Provider has notified the owner of the land that the pipe has been laid and is ready for connection to a fire-extinguishing installation on the land.
- (b) The charges in terms of Subsection (1) shall cover also the emptying and refilling of any tanks, which may be necessary.
- (c) The charges to be paid in terms of Subsection (1) shall be calculated according to the volume of the tank, regard being had to the level to which the tank is filled.

76. Annual charges for private hydrant installations

The charges in terms of the tariff for the maintenance of connections and the inspection of private hydrant installations, other than sprinklers, shall be paid in advance.

77. Sealing of private fire hydrants

- (a) All private hydrants shall be sealed by a Service Provider and such seals shall not be broken by any person other than authorised personnel in the course of testing, except for the purpose of opening the hydrant in case of fire.
- (b) The cost of resealing such hydrants shall be borne by the consumer except when such seals are broken by authorised personnel for testing purposes.
- (c) Any water consumed after the breaking of the seal, other than in the course of testing by authorised personnel or in case of fire, shall be paid for by the consumer at the rates prescribed in the tariff for domestic purposes. The quantity thus consumed shall be determined by the Service Provider.

CHAPTER VII**SPECIFICATIONS AND PENALTIES****78. Diameter of pipes**

- (a) All diameters of pipes referred to in this chapter relate to internal dimensions.
- (b) No consumer installation pipe shall be less than 12 (twelve) mm in diameter.

79. Material of consumer installation pipes

- (a) All consumer installation pipes shall be to the relevant SABS specification: Provided that:-
 - (i) piping of other suitable material may be used subject to the prior written permission of the Service Provider first had and obtained;
 - (ii) piping of not less than 75 (seventy five) mm diameter may be of iron or steel coated internally and externally with a suitable coating approved by the Service Provider.

80. Pipes and fittings to withstand 2 000 kPa pressure

All communication pipes, consumer installation pipes and fittings shall be capable of withstanding an internal pressure of 2 000 kPa.

81. Taps, ball valves and flushing valves

- (a) (i) Unless otherwise specified, the component parts of flushing valves shall be of brass or gunmetal, or if hot pressings, of brass or manganese bronze, or in either case of an equally suitable corrosion-resisting alloy or other approved material.
- (ii) All flushing valves shall be of a waste-preventing type, shall have a flushing capacity as provided in the Municipality's Drainage and Sanitation Services By-laws and, shall be connected to the flush pipe.
- (iii) Parts of flushing valves intended for screwing, shall have standard metric right hand threads and parts of all fittings of the same size and intended for the same purpose shall be interchangeable.
- (iv) All flushing valves shall be tested to withstand a pressure of 2 000 kPa without leaking or sweating.
- (v) The name or registered trade-mark of the makers shall be stamped on all flushing valves.
- (vi) Self-closing taps which are of a non-concussive type approved by a Service Provider and which will not cause damage to the meter and fittings and which have been tested, approved and stamped may be installed.
- (vii) The external form of bath or wash hand basin taps shall be optional to suit any particular style of bath or wash hand basin.
- (b) The fees prescribed in the tariff shall be payable for the testing and stamping of all taps, ball valves, flushing valves and other fittings.

82. Offences and penalties

- (a) Any person contravening or failing to comply with any provision of Section 4 (See also Sections 17, 20 and 82) of these By-laws shall be guilty of an offence and liable on conviction to a fine, or in default of payment, to imprisonment for a period not exceeding 2 years.
- (b) Any person who contravenes or fails to comply with any other provision of these By-laws or who remain to be in default in complying therewith shall be guilty of an offence and shall be liable, on first conviction, to a fine, or in default of payment to imprisonment for a period not exceeding 6 months, and on any subsequent conviction to a fine, or in default of payment, to imprisonment for a period not exceeding 12 months.
- (c) Any person who fails to comply in any respect with any notice served on him by a Service Provider in terms of these By-laws directing him to do or not to do anything, shall be guilty of an offence and be liable on first conviction to a fine and shall in addition be guilty of a further offence for every day or part of a day during which non-compliance continues and shall be liable in respect of each offence as aforesaid to a fine or in default of payment, to imprisonment for a period not exceeding 7 days for each day of contravention.
- (d) The fines referred to above, without mention of a specific amount, shall be as annually determined by Council and approved by the Chief Magistrate, and shall lie open at the Office of the Director Technical Services.
- (e) No provision in these By-laws should be construed as prohibiting any person from being charged with any common law offence.

83. Interpretation

- (a) In the event of any contradiction or inconsistency between these By-laws and the Credit Control and Debt Collection By-laws, the last-mentioned shall take preference.

85. Commencement

These By-laws may be cited as Water Supply and Sanitation Services by-laws of the Thembisile Hani Local Municipality, 2012 and shall commence on a date published on Provincial Gazette.

THEMBISILE HANI LOCAL MUNICIPALITY WORK IN ROAD RESERVE BY –LAWS

Under Section 156 of the Constitution of The Republic of South Africa, 1996 (Act 108 of 1996), the Thembisile Hani Local Municipality enacts as Follows;-

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DEFINITIONS

In the By-Laws, unless the context indicates otherwise-

- “Backfilling”** means the replacement of the structural layers in a trench or Excavation and includes the base, selected sub- grade, but exclude the surfacing;
- “Council;** means the Thembisile Hani Local Municipal Council or a service provider in respect of any power, function or duty of the council;
- “Emergency work “** means any work that is required to prevent or end a dangerous situation, to privet or end an unplanned in the supply of a Service, or to avoid any substantial losses, such as, but not limited to burst pipes;
- “ Lane rental’** means the rental that are paid to the Council by a service agency whose work in a road reserve results in time delay costs being Incurred by the users of the road reserve;
- “Protected road”** means a road which is of particular strategic importance or which poses special engineering difficulties and which has been Designated a protected a road by the council”
- “Protected road “** means a road which is of particular strategic importance or which poses special engineering difficulties and which has been designated a protected road by the council;
- “Reinstatement’** means, in the instance of a road ,to the replacement of the bituminous surfacing or paving blocks, and in the instance of a footway or verge ,to the replacement of the paving blocks ,paving slabs, bituminous surfacing or grass;

- “Road reserve”** means the full width of a public road, and includes the verge and the roadway;
- “Service”** means any system for supplying a public need that a service agency has on a road reserve;
- “Service agency”** means a municipal department, public agency or utility that has a service in a road reserve;
- “work in the road reserve”** means any activity, including but not limited to the activities provided for in section 4 of these By-laws, carried out within a road reserve

PRINCIPLES AND OBJECTIVES

- 1) It is the duty of the Council, who is the custodian of all municipal road reserve, to control and co-ordinate all work in the road reserve and for these purposes the Council takes cognizance of the following:
 - a) The value of other services in a road reserve is often more than that of the road itself and therefore require as much or more maintenance, rehabilitation and replacement;
 - b) The activities contemplated in paragraph [a] may, together with the work that has to be carried out on the road itself, result in considerable delay, inconvenience, danger and additional costs to the road users; and
 - c) Any work that is done in a road reserve may have serious cost implications as a result of damage to road other service, damage to vehicles, injury to vehicle occupants or pedestrians, Reduction of the effective life of the road footway or other service, and time and social costs caused by delays.
- 2) The Council, in order to fulfill its duty contemplated in subsection [1] adopts these By-laws, thereby attempting to ensure maximum co-ordination and co-operation between all the various department departments and agencies that have to share the road reserve to provide service to

their customers, and to minimize the effect of all work in the road reserve to the benefit of all concerned, all Ratepayers, road users [motorists and pedestrians], service agencies and the Council, and for these purposes prescribe-

- a) The application procedure;
- b) The permission to be obtained;
- c) Procedures to follow while doing the work and on completion of the work; and
- d) The specifications according to which the work must be done.

3. APPLICATION

- 1) The By- laws apply to a person who carries out work in a municipal road reserve in the municipal area of the Council, such as a municipal department an external organization , a service agency and a contractor.
- 2) These By-laws do not apply to work in a motorway reserve or in a national or provincial road reserve within the municipal area of the Council.

CHAPTER 1

WORK IN ROAD RESERVE

4. WORK IN ROAD RESERVE

Work in the road reserve comprises work relating to;

- a) the installation or maintenance of underground or overhead service by a municipal service agency and a non-municipal service agency, such as Telkom and Eskom ,or any person;
- b) the erection of a that requires approved building plans in terms of the National Building Regulations and Building Standards Acts, 1977 [Act 103 of 1977];
- c) The erection of an advertising sign, structure or hoarding that requires approval in terms of the relevant by –laws;

- d) Road works, such as construction of a new road, a road widening or access to a development, undertaken by a developer;
- e) A connection to municipal services, such as water, sewers, electricity and storm water drainage from a development;
- f) The installation of service by a private concern, such as but not limited to the laying of cables to connect different buildings;
- g) The installation or construction of kerbing; paving, a bollard, a wall, and a garden on a sidewalk by a property owner or occupier;
- h) The closure of a road;
- i) The putting in place of a traffic calming device; and such work includes, but is not limited to, the following activities:
 - i. The digging of a trench;
 - ii. tunneling;
 - iii. shaping and landscaping; and
 - iv. other work that may affect a motorist, cyclist, pedestrian, the road, a footway, kerbing, a traffic sign, traffic signal, street lighting, an underground or overhead service or a structure or service or that is contained within a road reserve.

5. APPLICATION TO DO WORK IN ROAD RESERVE

- 1) A person who intends to carry out work in a road reserve [“the applicant”] must first obtain the approval of the Council for carrying out the intended type of work, and for these purposes must complete and submit to the Council a form similar to the form contained in Schedule 1, which schedule refers.
- 2) The Council may approve or refuse to approve the intended work, and must notify the applicant of its decision within 21 days after the form contemplated in subsection [1] had been submitted.
- 3) A person who carries out work in a work in a road reserve without having obtained the approval of the Council as contemplated in subsection [1] commits an offence.

6. PERMISSION TO DO WORK IN ROAD RESERVE

- 1) Once approval as contemplated in section 5 [2] has been obtained to carry out the intended type of work, the applicant [hereafter referred to as "the contractor"] must obtain the permission of the Council to commence with the work in a road reserve, and for these purposes must pay the processing fee contemplated in section 45 [1] and complete and submit to the Council a form similar to the form contained in Schedule 2, which schedule refers, and-
 - a) The form must be submitted timorously to ensure that permission is obtained before the work is programmed to start; and
 - b) No work may be done in the road reserve without the permission of the Council first having been obtained.

- 2) The following must be attached to the form contemplated in subsection [1];
 - a) The form contemplated in section 5 on which the approval of the Council appears; and
 - b) Three copies of an approved drawing which shows the following details of the proposed work;
 - i. A clear depiction of the proposed work;
 - ii. Where a service is to be installed;
 - iii. The depth of the service below the level of the surface of the road;
 - iv. The distance of the service from the road reserve boundary, such as the property Boundary;
 - v. The position and extent of all structures, including underground structures such as Manholes, chambers, and junction boxes; and
 - vi. The location of all other service in the road reserve.

- 3) The Council may refuse to grant permission for the intended work to commence, or May, if the intended work is not at variance with the principals and objectives or in contravention of these by –laws, grant permission on a form similar to the form in schedule 3, which schedule refers, to commence with the work in a road reserve.

- 4) The contractor must ensure that a copy of the form contemplated in subsection [3] is always on site when work is being done in the road reserve.

- 5) The contractor accepts full responsibility for all costs associated with the work, including any damages to another service the costs of relocation of another service, backfilling and reinstatements, tests and any claims that may result from the work.
- 6) Only work described in the form contemplated in the form contemplated in subsection [3] may be done and only at the locations stipulated in the form.
- 7) The work described in the form contemplated in subsection [3] must commence within 90 days of date of issues of the form, otherwise re-application is required.
- 8) The contractor must inform the Council 48 hours before he or she commences with the work
- 9) The work must be carried out according to the procedures and specifications in these by –laws, the conditions under which the work was approved, and any other requirements of affected service agencies
- 10) The Council must inform a relevant service agency in writing before work on the road reserve is connected, that may affect the service of the service agency in the road reserve.
- 11) The Council may stop work being carried out in the road reserve if the Council’s permission had not first been obtained
- 12) A person who contravenes a provision of subsection (1)(b),(4),(6),(8) or (9) commits an offence

7. PROTECTED AND UNPROTECTED ROAD

- 1) No digging of a trench is allowed on a protected road.
- 2) A protected road may only be crossed using a trench less method, however ,if a trench less method cannot be used for some reason in a protected road, special permission to excavate must be obtained from the Council
- 3) For the purpose of planning work done by a service provider road and a cal de sac, except the first 20 m from an intersection with any other class road considered to be protected, regarded as an unprotected road, unless it has been newly constructed, overplayed or resurfaced within seven years before the date of the proposed work, in which case it is regarded as a protected road.

- 4) If a road is protected it is indicated as such on the form contemplated in section 6 (3).
- 5) A person who digs a trench in contravention of subsection (1) or who contravenes a provision of subsection (2) commits an offence.

8. LANE RENTAL

- 1) Lane rental is based on a cost per lane, or part of a lane, occupied per day, or part of a day;
- 2) Occupied lane is considered as being not longer than one street block,
- 3) A prescribed fee must be paid by service agency to the Council and the Council may change the prescribed fee that differentiates between different road categories.
- 4) The Council and the service agency must, before the commencement of the work, agree on the days that will be allowed during which the work is to be completed.
- 5) The service agency must pay ,during the agreed days, lane rental that is equal to 50% of the time delay costs, however, after the agreed completion date , the lane rental will be 100% of time delay costs.
- 6) All costs will be based on average time delays costs that have been calculated for each road category. For example: if a lane is closed for two street blocks, then the cost will be for two lanes.
- 7) A service agency is entitled to a reduced rate when work on the road reserve is undertaken after normal working hours, however, the service agency must take precaution to avoid disturbance in a residential area.
- 8) For every day that work is done after hours and the lane is fully opened for all the normal hours of the following day, lane rental is 10 % of time delay costs.
- 9) for the purpose of calculating lane rental, normal hours are considered as being between 06;00 and 19;00 on Monday to Friday and between 06;00 to 14; 00 on Saturday however, these times are not fixed and may change depending on local conditions and special events in vicinity where work is to be undertaken.

- 10) The Council or organization working on behalf the Council is exempt from payment of lane rental when any construction, resurfacing, maintenance, improvement or rehabilitation work is being done on the road itself.
- 11) During the days that have been agreed to in terms of subsection [4], no lane rental is payable if all lanes are kept open at all times.
- 12)
 - a) if work continues after the agreed completion date, lane rental of 25% of time delay costs may be charged if all lanes are kept open.
 - b) if a lane is closed for any part of a day, the normal lane rental of 50% of time delay costs for a full day may be changed before the official completion, date and 100% thereafter;
- 13) Lane rental may also be charged if a footway is affected by work.
 - a) if the footway is totally closed so that pedestrians are required to use a traffic lane, and since the lane will not be available for vehicular traffic, lane rental is payable in the normal way for the occupation of a traffic lane.
 - b) if a footway is partially obstructed in such a way that it causes a delay for pedestrians, 50% of the lane rental that is applicable for that road shall be changed.
 - c) For the purpose of determining lane rental for a footway, a footway is considered that part of the verge that is normally used by pedestrians, and in the instance of a constructed footway, the whole constructed width is a footway.

9. EXISTING SERVICE IN ROAD RESERVE

- 1) The applicant must obtain information from all service agencies supplying services within the municipal area of the Council on the location of their service, which must be indicated on the drawing contemplated in section 6[1] [b].
- 2) A Services agency may lay down additional condition relating to work in the vicinity of its service;

- 3) The applicant has to confirm on the form contemplated in subsection [1] that the necessary information has been obtained from the service agencies and must undertake to adhere to the additional conditions laid down by service agency.
- 4) A person who contravenes a provision of subsection [1] or makes a false entry on the form contemplated in subsection [3] or who does not adhere to additional conditions as contemplated in subsection [3] commit an offence.

10. TRAFFIC SIGNS AND BARRICADING

- 1) In order to ensure the maximum safety for motorists, pedestrians and workers and the minimum disruption of vehicles and pedestrians, the contractor must comply with all laws regarding traffic, safety, and signs and barricading.
- 2) The contractor must take all necessary measures and provide all necessary facilities to ensure an adequately safe and easy passage for traffic and pedestrians through areas in which work is progress, or is uncompleted.
- 3) The erection and display of a traffic sign or barricading must be done according to the South African Roads and Traffic Signs Manual, Volume 2, Chapter 13.
- 4) The contractor must contract the relevant traffic authority to ensure that all requirements have been met for the particular location where the work is being done.
- 5) The contractor must ensure that work site is properly barricaded and signed irrespective of how long the work will last.
- 6) A contractor whom contravenes a provision of this section commits an offence.

11. ROAD CLOSER

- 1) The granting of permission does not give the contractor the authority to close the road completely to traffic, and the contractor must determine methods of construction and a

programmer of work on the basis that no road, or portion of road, may be completely closed to traffic for any appreciable period.

2)

a) In exceptional circumstances the Council may grant permission for the closure of a road or portion of road to traffic.

b) The contractor must apply to the Council separately for approval of such Closure two weeks prior to the road being closed.

c) Such a road closure may be approved for a specific period and is only valid for this specific period.

d) If the work is not carried out in this specific period, the contractor must again apply for permission for the closure of the road.

3) Work carried out on arterial, major collector and a road in the central business Districts are. To ensure free flow of traffic during peak hours, restricted to outside. The following period; from 6; 30 to 09; 00 and 15; 30 to 18; 00.

4) A contractor who fails to comply with the provisions of subsection [2] [b] or [d] or [3] Commits an offence.

12. EXCAVATIONS

1) The area that is excavated must always be kept to a minimum.

2) The width of a trench must be uniform in length and in depth so that the sides are parallel and vertical.

3) The top of a trench must be cut with a saw to ensure smooth, uniform edges.

4) The minimum depth that a service may be placed under a road is 800mm measured from the level of the surfacing of the road to the top of the service, and the minimum depth at any other

place in the road reserve, such as on a verge, is 800mm measured from the level of the surfacing of the road and not from natural ground level.

- 5) A service not subject to being laid at a specific grade, such as water pipes and cables, may not be placed at a depth in excess of the 800mm as this could interfere with future services that have to be laid at a specific grade, such as sewers and storm water pipes.
 - 6) All excavated material and equipment must be placed and demarcated in such a way as to cause the minimum disruption to vehicles and pedestrians.
 - 7) A safe passage must be kept open for pedestrians at all times;
 - 8) The contractor is responsible for any damage to an existing service
 - 9) A service indicated on the drawings or on site by representatives from the relevant service agency, must be opened by careful hand digging, however, if the services cannot be found, the relevant organisations, must be contacted again for further instruction.
 - 10) Under no circumstances may a contractor dig with mechanical equipment before a known service has been found and marked, and when found, the service must be marked and protected or supported as required by the owner.
 - 11) Should a service need to be moved, instructions from the owner must be followed carefully, and the contractor is responsible for all movement costs.
 - 12) If a service is damaged during excavations, the relevant service agency must be contacted immediately;
 - 13)
 - a) The contractor must take adequate preventative measures to ensure that no water whatsoever flows into the open trenches so as to result in the weakening of the structural layers of the road
 - b) Any water that is present in the trenches must be pumped out before backfilling
 - c) Water must be pumped into the storm water system and may not be pumped into sewer manholes
 - d) Any material that has become wet must be removed from the bottom of the trench before backfilling
- a) The contractor must prevent foreign materials from entering a drain and ensure that silting does not occur either from pumping operations or as a result of rain
- b) If any silting or other contamination does occur, the contractor must clean the drain or request the Council to do it at the cost of the contractor

- 14) All re-usable materials, such as concrete blocks, slabs, kerbs, gutters, channels and storm water inlets must be removed with care and re-used if possible
- 15) If any street furniture, such as a street name, a traffic sign, or a bus shelter, has to be removed, arrangements must be made with the Council for the removal, storage and re-erection, at the contractor's cost.
- 16) Where an excavation is made through an entrance to a property, access must be maintained by using steel plates, or other temporary bridges of sufficient strength and properly secured against movement, and the occupant of the property must be kept informed at all times of how his or her access will be affected.
- 17) An underground service must have not less than 800mm cover, and a manhole valve cover must be finished flush with the surface of the road or verge
- 18) A contractor who does not comply with a provision of this section commits an offence

13. TRENCHLESS METHODS

- 1) If a trench less method is used, disruption of traffic flow and pedestrian movement must be reduced as possible by using the necessary equipment and expertise to complete the work successfully.
- 2) A trench less method must be used for a road classified as protected road
- 3) The position of an existing service must be located accurately, and if a service is damaged, the contractor is responsible for all costs
- 4) The depth to top of a tunnel that is drilled for the installation of a new service, must be at least 800mm measured from the level of the surfacing of the road
- 5) A contractor who does not comply with a provision of subsection [1], [2] or [4], commits an offence

14. EMERGENCY WORK

- 1) The contactor must inform the Council in writing within 24 hours from commencing with work on an emergency
- 2) If Council is not informed within 24 hours from the first working day, the work will be reinstated by the cost thereof will be invoiced against the service agency

15. GENERAL SPECIFICATIONS FOR BACKFILLING AND REINSTATEMENTS

- 1) Backfilling and reinstatement as a trenching activity that disturbs the structural integrity of a road or footway, must be done in such a way as to ensure that the reinstated trench and its immediate surroundings do not fail structurally, thus resulting in road user discomfort and increased costs
- 2) The contractor must in all cases do backfilling in accordance with the specification in subsection [7] and section 16, applicable
- 3) Permanent reinstatement be done by the Council or by the contractor, provided that the contractor has the necessary expertise and experience required
- 4) Permanent backfilling and reinstatement [100mm asphalt layer] done by the contractor is subject to a guarantee period of one year based on the performance specifications described in section 27
- 5)
 - a) Where the permanent reinstatement must be done by the Council , the contractor must do a temporary reinstatement as specified in section 23
 - b) The contractor shall be charge for the permanent reinstatement at the applicable Rates appearing on the form contemplated in section 6[1] [b];
 - c) A Reinstatement Order must be submitted together with the Completion Notice;
 - d) The temporary reinstatement shall be removed by the Council and the Backfilling shall be tested, and should the backfilling not comply with the applicable specification, it shall b replaced at the costs of the contractor which costs are over and above the normal reinstatement costs?

- 6) Temporary reinstatement must be done where the contractor abandons the site for a for a period not exceeding two months view of returning to complete the work, and the contractor must maintain this temporary reinstatement;
- 7) The trench bottom must be prepared and compacted according to the service agency's own requirements to ensue that the service is not damaged, and applies to the backfilling around the service;
- 8) Where a service with a diameter of more than 300mm is installed, the sub grade material used for the reinstatement must be soil Crete [in- situ material mixed with 8% cement], place with poker vibrators, up to a level of 300mm above the top of the service;
- 9) A contractor who does not comply with a provision of subsection [1], [2] [5] [a],5 [c], [6] , [7] or [8] commits an offence

16. BACKFILLING OF ROAD

1. The minimum requirements of the Council are that the structural layers of the backfilling trench, which structural layers are the base, sub-grade and sub-grand down to a depth of 800mm below the level of surfacing of the road, must have at least the same shear strengths as those of the adjacent undisturbed structural layers.
2. The contractor must use one of the following types of materials to ensure adequate shear strengths in trench backfills;
 - a) Importing material [section 18]; or
 - b) Formed concrete [section 19]
3. A contractor who does not comply with a this section commits an offence

17. RE-USING EXCAVATED MATERIAL

- 1)]During excavation of the trench, the material from **the** top 400mm of the excavation [or in the case of arterials, collectors and Industrial Street, the top 550mm] must be stockpiled separately from the rest of the material being excavated
- 2) The material contemplated in subsection [1] must then be improved through chemical stabilization with cement and used for the base and sub-base layers during backfilling, and in the case of arterial, collectors and industrial streets also for the selected sub-grade layers
- 3) The requirements for this method are given in Figure 1 in Schedule 4 which refers
- 4) If the material is not stockpiled separately during excavation, the Council may require that material with the required properties be imported
- 5) Material that was originally stabilized may not be re-used and must be discarded
 - a) The contractor must ensure that the top 400mm [550mm for an industrial street] must be stockpiled separately and stabilized 4% Ordinary Portland cement approximately 80kg \m of cement
 - b) The material must be compacted in thin [75 to 100mm] layers with a densities [base; 90%, sub base; 95% selected sub grade; 93% and sub grade; 90%Mod. American of State Highways and Transportation Officials] to within 100mm of the existing road surface
- 6) A contractor who does not comply with a provision of this section commits an offence

IMPORTING MATERIAL

- 1) Water must be uniformly mixed into the material and must then be placed in the trench in 75mm to 100mm layers and compacted to the required Mod American Automobile of state Highways and Transportation Officials densities as specified in Figure 1, Schedule 4
- 2) The final layer must be finished to a level 100mm below the level of the surrounding sound surface of the road
- 3) A contractor who does not comply with a provision of this section commits an offence

19. FOAMED CONCRETE

- 1) Foamed concrete of minimum 4 Mega- Pascal crushing strength and manufactured to an approved manufacturer's specification must be used
- 2) The foamed concrete must be placed to a level 100mm below the level of the surrounding sound surface of the road, and as soon as the foamed concrete has set sufficiently a 70mm layer of asphalt base course material must be placed on top followed by a 30mm layer of continuously graded asphalt wearing course material
- 3) A contractor who does not comply with a provision of this section commits an offence

20. BACKFILLING OF FOOTWAY

- 1) Where there is no possibility of a vehicle crossing a footway, the footway must be backfilled using the excavated material placed in the trench in 150mm layers and compacted to 90% Mod American Automobile of State Highways and Transportation Official density [maximum Dutch Cone Penetrometer Penetration of 14mm \blow]
- 2) Where there is a possibility of a light vehicle such as a car or light delivery van crossing the footway, where there is typically mountable kerbing, the footway must be backfilled as specified in section 18 or as specified in section 19 according to the standards for Local Street
- 3) Where heavy vehicles make use of a footway such as loading zone in industrial areas, the footway must be backfilled as specified in section 18 or as specified in section 19 according to the standards for Local Street
- 4) An excavation in an unobstructed verge must be backfilled in such a way that the verge is in the same condition after backfilling as it was before excavation and-
 - a) all excess material must be removed and may not be spread over the verge; and
 - b) Topsoil must be removed and stored separately and replaced as the final layer
- 5) A contractor who does not comply with a provision of this section commits an offence

21. PERMANENT REINSTATEMENT OF ROAD

- 1) The same method of reinstatement must be used in all instances, irrespective of the method of backfilling of the structural layers
- 2)
 - a) The permanent reinstatement of the surfacing must consist of 100mm hot- mix asphalt
 - b) The lower 70mm must be ‘black base’ [26, 5mm normal stone size, continuously graded;
 - c) Cold mix may only be used for temporary reinstatements, and both these surfacing layers must be compacted to 95% Marshall Density
- 3) The reinstated surfacing must be at least 100mm wider than the trench on both sides to accommodate any edge breaks where saw cutting was not possible
- 4) The top 100mm of the trench must be backfilled by the contractor, compacted and maintained in a serviceable condition for a period fourteen days after the Completion Notice has been submitted IN ANOTHER PLACE THE CODE SAYS; The reinstatement [100mm asphalt layer] of the surface will be done by the Road Authority unless specific permission is granted to the applicant to do the work
- 5) The material used for the reinstatement of the surfacing must comply with the relevant requirement of Section 4200; Asphalt Base and Surfacing of the Committee of Land and Transport Officials or its successor in title, Standard Specification for Road and Bridge Works
- 6) In the case of a road surface with interlocking paving blocks, the material removed during the excavation of the trench must be re- used, however, where new material has to be used, these must be of the same type and size as the existing material and must comply with the requirement of SABS 1058-1985 as amended
- 7) A contractor who does not comply with a provision of this section commits an offence

22. PERMANENT REINSTATEMENT OF FOOTWAY

- 1) All the material removed during the excavation of the trench must be re- used, however, where new material has to be used, these comply with the following requirements:
 - a) Precise concrete Krebs and channel must comply with the requirement of Section 2300; Concrete Kerbing, Concrete Linings for Open Drains of the Committee Of Land and Transport

Officials Standard Specification for Road and Bridge Works And all Cast in –situ concrete must be Class 25\19

- b) Concrete paving blocks must comply with the requirement of SABS 1058- 1985 As amended
- c) Cast in- situ concrete must comply with the relevant requirements of section 6400; Concrete for Structure of the Committee of Land and Transport Official Standard Specification for Road and Bridge Works, and all cast in-situ concrete Must be Class 25 \ 19
- d) Precast concrete paving slabs must comply with the requirements of SABS 541-1971 as amended
- 2) A constructed footway must be reinstated with the same surfacing materials that existed originally such as concrete blocks or slabs, if undamaged, or else replaced with similar materials, and the supporting layers must be compacted to obtain shear strengths at least equal to those of the adjacent undisturbed footway
- 3) Where a private driveway or footway or with not-standard materials are to be intended work, and the owner must supply the contractor holder with the materials that are to be used for the reinstatement
- 4) Where an unobstructed verge has an established lawn, this must be removed, stored and replaced in sods in such a way that the lawn the same condition after reinstatement as it was before excavation, however, the sods should be allowed to dry out or become damaged in any way, they must be replaced with similar sods
- 5) If an unobstructed verge has been planted with garden vegetation, to obtain instructions on what to do with the plants that are affected, and every effort must be made to preserve all plants
- 6) A contractor who does not comply with a provision of this section commits an offence

24. TEMPORARY REINSTATEMENTS BY CONTRACTOR

- 1) If the permanent reinstatement is to be done by the Council, the contractor must do temporarily reinstatement is to be done by the Council, the contractor must do temporary reinstatement with a suitable material [preferably could mix asphalt] that is compacted to an adequate density to ensure that it will carry the traffic for a period of at least two weeks without deforming or potholing

- 2) The temporary reinstatement must be maintained by the contractor in a serviceable condition for a period of two weeks from the date that the Completion Certificate has been issued by the Council, and after the two-week period the maintenance will be taken over by the Council

24. REMEDIAL WORK

- 1) Remedial work is required if any of the following exists;
 - a) A depression;
 - b) A hump [crowing];
 - c) An edge depression [trip, vertical discontinuity] at the interface; or
 - d) Cracking
- 2) A depression or hump is measured with a straight edge across the reinstatement and requires remedial work if the limits as specified in Schedule 8, which schedule refers, are exceeded over 100mm or more of the length of the trench
- 3) Remedial work is required if a depression result in standing water wider than 500mm or exceeding one square meter 2 hours after rain has stopped
- 4) An edge depression exceeding 10mm over 100mm or more of the length of the trench requires remedial work,
- 5) An open crack wider than 3mm and longer than 100mm is required remedial work
- 6) A contractor who does not comply with a provision of subsection [1], [3], [4] or [5] commits an offence

COMPLETION OF WORK

- 1) On completion of the work the contractor must ensure that all trenches and excavations in the road reserve are backfilled and reinstated according to the specifications contained in these by-laws

- 2) Permanent reinstatements may be done by the Council at the cost of the contractor, or by the contractor
- 3) The diction on who does the permanent reinstatement lies with the Council
- 4) A contractor who does not comply with a provision of subsection [1], or who fails to do permanent reinstatement if required to do so in terms of subsection [3] commits an offence

6. CAMPETION NOTICE AND CERTIFICATION OF COMPLETION

- 1) On completion of the work and temporary or permanent reinstatement, as applicable, the contractor must complete and submit, within 24 hours, a notice similar to the notice contained in Schedule 5, which schedule refers, to the Council, and should the Council have to the reinstatement, a Reinstatement Order as contained in the Schedule 6, which schedule refers, must accompany abovementioned notice
- 2) On receipt of the contemplated in subsection [1], Council shall set up a site meeting together with the contractor to do an inspection and to issue the Certificate of Completion. if all requirement have been met, at which time the 12- months guarantee period for permanent reinstatements or the 2- weeks maintenance period for temporary of the work means that –
- 3)
 - a) all work has been completed;
 - b) All materials, equipment and rubble have been removed;
 - c) The site is completely cleared and; and
 - d) The contractor has done either the permanent or temporary reinstatement, as Applicable
- 4) If work involved more than one street link [street block], then a completion notice must be submitted after completion of each link
- 5) The Council shall issued a Certificate of Completion as contained in Schedule 7, which schedule refers, once all requirement have been met [4] A contractor who does not comply with a provision of subsection [1] or [4] commits an offence

27. PERFORMANCE SPECIFICATIONS

- 1) The Council shall for a period of 12 months monitor the performance of any backfilling done or any trench permanently reinstated by the contractor, during which period the contractor holder is responsible for any remedial work that may be required
- 2) The following tests used for quality control [density or shear strength] shall be used to determine whether or not the work was done according to specification however, the Council may do additional tests if the quality control tests are not considered to be adequate;
 - a) Quality control of the backfilled structural layers shall be done by measuring the shear strengths of the adjacent structural layers as well as that of the backfilled Layers
 - b) The shear strength shall be measured with a Dutch Cone penetrometer or a Rapid Compaction Control Device
 - c) Although the shear strengths of the backfilled layers, an indication of probable Acceptance on most roads can be obtained from the typical Dutch Cone Penetrometer and Rapid Compaction Control Device.

CHAPTER 2 - HOARDINGS

28. Every person who erects, removal, alters, repairs or paints any building or carries out any excavation on any such work, part of which is within 2m of a street must, before he or she commences any such work, enclose or cause to be enclosed a space in front of part of such building

- 1) If the enclosure occupies or projects over a portion of a street, such person must apply for a permit contemplated in subsection [3], however, if the person doing the application is not the owner of the building or land on which the work is done or is to be done, the owner must, to acknowledge that he or she is aware of it, countersign the application
- 2) No person may erect in any street any hoarding, fence or scaffolding or any planked shed for any purpose whatsoever or make any enclosure for the purpose of depositing Building or other materials or plant outfit for any other purpose of written permit first having been obtained from the Council

- 3) No demolition work may be commenced without a written permit first having been obtained from the Council
- 4) Every permit granted by the Council in terms of subsection [3], must specify the area and precise position of that part of a street where the enclosure, overhanging or covering of which is permitted and the period for which the permitted is granted.
- 5) On the granting of a permit contemplated in subsection [3] , a fee is payable for every week or part of a week of the currency of the permit by the person to whom the permit is granted , which fee shall be calculated in the case of a hoarding , fence , or scaffolding at the rate of 6c for every m of a street enclosed , overhung ,covered or in any way obstructed thereby , and in the case of a planked shed which does not obstruct a street , at the rate of 3c for every m of the street overhung or covered thereby .
- 6) The person to whom a permit is granted in terms of this of this section , if he is a different person , and the owner of the land on which building operations to which the permit relates are carried on ,are jointly and severally liable for the fees prescribed by this section .
- 7) The Person to whom the permit is granted must pay in advance in respect of every parking meter, the removal whereof has been so necessitated, the charges assessed by the chief traffic officer or any or any other person duly authorized thereto by the Council, regard being had to charges prescribed by the Council for parking regulated by meter.
- 8) The Council reserves the right to withhold the issue of the permits required in terms of this section until all fees and charges have been paid and the acceptance of any such permit by the applicant without demur shall be taken to indicate that all Krebs, Gutters and other and other works were in good order and condition on the date of such permit.
- 9) A person who does not comply with a provision of subsection [1], [3] or [4] or who fails to comply with a condition contemplated in subsection [5] commits an offence.

29. PRESCRIBED WIDTH OF HOARDING

- 1) The extent of ground forming portion of the street which is allowed to be occupied as aforesaid may not in any case exceed 3.5m in width, measured from and at right angles to the frontage of the ground adjoining the public sidewalk and in length must extend along so much of the purpose of depositing bricks, lime, rubbish or any other materials or plant in connection with such building, removals, alterations or repairs.

- 2) The Council may, in its discretion, permit a greater width of hoarding than is provided in subsection [1].
- 3) A person who does not comply with a provision of subsection [1] commits an offence.

30. CLOSE HOARDINGS

- 1) Any portion of the street for use whereof a permit is given as aforesaid must be forthwith enclosed, by the person obtaining such permit, with a hoarding or close fence of such construction and appearance as is necessary.
- 2) Any such hoarding or fence may not be less than 2m nor more than 3m high, excepting in the cases for which special provision is made hereinafter, and such hoarding or of a crowd of people and must be maintained standing and in good condition to the satisfaction of the Council to protect the public and traffic .
- 3) A person who does not comply with a provision of this section commits an offence

31. CORNER HOARDINGS

- 1) In the case of corner stands, the hoarding or fen must be splayed off at the angle from the frontage line in each line in each street, and the height of the portion of the hoarding so spayed and along the other frontages for a distance of 1,5m front each angle must be 1, 25m in height neither more not less, except in the cases for which special provision is made as contemplated in section 40, and all angles of hoardings must be spayed off at an angle of 45 degrees at distance of not less than 1,5m from the point at which such hoarding would intersect were it not splayed off.
- 2) A person who does not comply with a provision of subsection [1] commits an offence.

32. HOARDING ENTRANCES

- 1) Not more than one opening in any hoarding is allowed for each 15m of frontage; and such opening may not exceed 4m in width and must be securely closed each day at sunset and remains closed unit sunrise the following morning.

- 2) A person who does not comply with a provision of subsection [1] commits an offence.

34. TEMPORARY FOOTWAYS

- 1) In all cases in which the footway or sidewalk will be obstructed or rendered useless by the granting of the said permit, the person obtaining such permit must cause to be put up outside the hoarding or fence above- mentioned and must maintain in good condition during the time for which permit runs, a convenient platform an hand rail with posts and supports to serve as a way for pedestrians.
- 2) Such pedestrian way must be made and maintained, and-
 - a) must be at least 1,5m in width;
 - b) the posts and handrails may not be les than 75mm by 75mm;
 - c) the posts may not be more than 2m apart; and
 - d) the handrail must be wrought smooth with edges rounded or beveled.
- 3) The whole of the footway between the rail and the hoarding must be strongly boarded so as to form a safe and rigid part for pedestrians.
- 4) A person who does not comply with a provision of this section commits an offence.

35. LIGHTS ON HOARDINGS

- 1) Any person obtaining such permit as aforesaid must at sunset place suitable and sufficient lights upon such hoardings and temporary footways, and must keep them well lighted during the night until sunrise.
- 2) A person who does not comply with a provision of subsection [1] commits an offence.

6. GUTTER TO BE KEPT CLEAR

- 1) The channel or bridge adjoining the footway may not be obstructed but must be kept clear of rubbish and building material by the person obtaining such permit as aforesaid, and in case there is no properly formed street gutter, the person obtaining such permit must construct and keep clear a channel adequate to allow all surface water to flow freely.
- 2) A person who does not comply with a provision of subsection [1] commits an offence.

37. REMOVAL OF HOARDINGS

- 1) At the end of the time for which the permit has been granted, the hoarding, platform, handrail, posts, temporary footway, all and materials, as well as all building and other materials and rubbish on the ground for the enclosure whereof such permit has been granted, must be removed by the person to whom such permit has been granted, at such convenient time or times as the Council may approve.
- 2) In no case may any material or rubbish be left on the footway and for more than eight hours after the removal of the hoarding, and the footway and the street must be left perfectly clear, and must, together with the kerbing and guttering, be restored to the condition in which it was before such permit was granted.
- 3) In the event of any default to remove any of the aforesaid, or to restore the roadway, Footpath kerbing and guttering, or any of them, to their formed condition, the person commits an offence and the Council shall effect such removal and restoration at the cost of the person to whom such permit has been granted.

38. DAMAGE TO KERBING AND PAVING

- 1) Any person who, whether as owner, builder, contractor or subcontractor, carries on or is engaged in any demolition, excavation, building, renovation or other operation on any site-
 - a) must afford sufficient and effective protection to kerbing adjacent to the site upon which such operations are in progress during the course of such operations by means of timber beams at least

- 114mm by 75mm set on edge and secured so as project at least 50mm above the top of the kerbing and clear of the waterway of the street gutter or channel;
- b) must refrain from removing any kerbing or paving for any purpose whatsoever Without the Council's consent;
 - c) notwithstanding the provisions of section 41 is liable jointly and severally in Respect of any damage caused by such operations including the delivery adjacent to the site upon which such operations in progress;
 - d) must, where vehicle cross a footway to the site where such operations are in Progress, if so directed by the Council, provide a drive- way which is paved in accordance with the provisions of section 22
- 2) A person who does not comply with a provision [1] commits an offence.

39. WHEN COUNCIL MAY REMOVE HOARDINGS

- 1) The Council has the right to remove or to be removed, any hoarding or obstruction upon a street if public safety or convenience so require, notwithstanding that a permit may have been granted for such hoarding or obstruction.
- 2) The Council may remove hoardings for which permits have been given if they are constructed or used otherwise than in accordance with these by- laws and otherwise than for the purpose and under the conditions set forth in the permit granted in pursuance of these by- laws.
- 3) The expense of removal is recoverable from the person who obtained the permit.

40. HOARDING; SPECIAL CONSTRUCTION

- 1) The Council has the right in special cases to require the erection of hoardings or other erections of special height and construction, where such is necessary for the public safety or in order to minimize obstruction to traffic.
- 2) A person who does not comply with a requirement contemplated in subsection [1] commits an offence.

1. DEPOSITS FOR FOOTWAY DAMAGE

2. Where any demolition, excavation, building, renovation or other operation is to be carried on any site, the owner of the building or the person responsible for any such operation must deposit with Council a sum of money estimated by the Council's engineer to be equal to the cost of constructing the street paving, kerbing and guttering adjacent to the site on which such operations are to be carried on.
3. On failures of the owner of the building or the person responsible for the operations referred to in subsection [1] to repair any damage caused by such operations to paving, kerbing or guttering, such damage may be repaired by the Council and the cost thereof recovered from the deposit made in terms of that subsection.

42 .REMOVAL OF HOARDINGS FIXED WITHOUT PERMIT

In the event of any person without previously obtaining a permit in writing from the Council as aforementioned, erecting or placing or causing to be erected or placed in any street, public road, square, footway or other public place within the area of jurisdiction of the Council, any fence, scaffolding, hoarding or other obstruction, the Council has the right to have the same immediately removed at the expense of such breach of these by-laws.

43 .PLANKED SHED, ROOF OR GANTRY OVER SIDEWALKS

1. Whenever a building, excluding one storey in height, is erected, raised or demolished within 2m of any street or public place, or in such city areas in such streets as may be necessary, the builder, contractor or demolisher, erecting, raising or demolishing such building must erect and maintain during such erection, raising or demolition a planked shed, roof or gantry, formed of at least 38mm planking on posts at least 150mm by 114mm and beams at least 150mm by 75mm in sectional area, over the footway in front of the premises or over the platform as prescribed in these by- laws, having a clear internal width of not less than 1,5m and a clear internal height of not less than 2,5m for pedestrians.
2. No portion of such planked shed, roof or gantry may be less than 230mm from the outside edge of the kern.

3. A drawing showing the requirements of the Council can be seen in the offices of the Council's engineer, and any permit or license to erect hoarding in any street is subject to the observance of such requirements and to the pedestrian footway being kept unobstructed and accessible for used by pedestrians at all times.
4. A person who does not comply with a provision of subsection [1] or [2] commits an offence.

CHAPTER 3 - MISCELLANEOUS PROVISIONS

44. NOTICE OF COMPLIANCE AND REPRESENTATIONS

- 1) A notice of compliance must state-
 - a) the name and residential and postal address, if either or both of these be known, Of The affected person;
 - b) the condition which has not been complied with and which is imposed in terms Of these by-laws, or the provision which has not been complied with in terms of These by- laws;
 - c) in sufficient detail to enable compliance with the notice, the measures required to Remedy the situation;
 - d) that the person must within a specified time period take the measures to comply With the notice, to diligently continue with the measures, and to complete the Measures before a specified date;
 - e) that failure to comply with the requirements of the notice within the period Contemplated in paragraph [d] is an offence;
 - f) that written representations, as contemplated in subsection [3], May within the Time period stipulated under paragraph [d] above, be made to Council at a specified Place.
- 2) Council, when considering any measure or time period envisaged in subsection [1] [c] and [d], must have regard to-
 - a) the principles and objectives of these by-laws;
 - b) the nature of the non-compliance;

- c) any measures proposed by the person on whom measures are to be imposed; and
 - d) any other relevant factor.
- 3) A person may within the time period contemplated in paragraph [a] [f] make representations, in the front of a sworn statement or affirmation to Council at the place specified in the notice.
 - 4) Representations not lodged within the time period will not be considered, except where the person has show good cause and Council condones the late lodging of the representations.
 - 5) Council must consider the representations and any response thereto by an authorized official or any other person, if there be such a response.
 - 6) Council may, on its own volition, conduct any further investigation to verify the facts if necessary, and the results of the investigation must be made available to the person, who must be given an opportunity of making a further response, if he or she so wishes, and Council must also consider the further response.
 - 7) Council must, after consideration of the representations and response, if there be such a response, make an order in writing and serve a copy of it on the person.
 - 8) The order must-
 - a) set out the findings of Council;
 - b) confirm, alter or set aside in whole or in part, the notice of compliance; and
 - c) specify a period within which the person must comply with the order made by the Council
 - 9) If the notice of compliance is confirmed, in whole or in part, or is altered but not set aside, of Council will inform the person that he or she-
 - a) must discharge the obligations set out in the notice; or
 - b) may elect to be tried in court.

- 10) If the person elects to be tried in court he or she must, within seven calendar days, notify Council of his or her intention to be so tried.
- 11) If the person does not elect to in court, he or she must, within the prescribed manner and time discharge his or her obligations under the order.
- 12) Where there has been no compliance with the requirements of a notice, the Council may take such steps as it deems necessary to remove the remedy the situation and cost thereof must be paid to the Council in accordance with section 45.

45. COSTS

- 1) The processing fee is a fixed amount that is determined by the Council from time to time and which is payable by the applicant when submitting the form contemplated in section 6 [1] [b].
- 2)
 - a) When Council does the permanent reinstatement, the cost involved is payable by the contractor, and the cost is determined by using the relevant reinstatement rates, which are determined by the Council from time to time, appearing on the form contemplated in section 6 [1] [b].
 - b) The form contemplated in section 6 [1] [b] must be accompanied by official order for an amount based on the expected area to be reinstated, and the final invoiced amount payable is determined using the measured area of the final reinstatement as agreed between the Council and the service agency.
- 3) Should a person fail to take the measures required of him or her by notice, Council may, subject to subsection [4] recover all costs incurred as a result of it acting in terms of paragraph 44 [12] from that person.
- 4) The costs claimed must be reasonable and may include, without being limited to, costs relating to labour, water, equipment, administrative and overhead costs
- 5) If more than one person is liable for costs incurred, the liability must be apportioned among the persons concerned according to the degree to which each was responsible for the situation resulting from their respective failures to take the required measures

46. AUTHENTICATION AND SERVICE OF NOTICES AND OTHER DOCUMENTS

- 1) A notice or other document requiring authentication by Council must be signed by the municipal manager or by a duly authorized officer of Council, such authority being conferred by resolution of Council or by a By- law or regulation, and when issued by Council in terms of these By- laws is deemed to duly issued if it is signed by an officer authorized by Council.
- 2) Any notice or other document that is served on a terms of these by- laws is regarded as having been served –
 - a) when it has been delivered to that person personally;
 - b) when it has been left at that person's place of residence or business in the Republic With a person apparently over the age of 16 years;
 - c) when it has been posted by register or certified mail to that person's last known Residential or business address in the Republic, and an acknowledgment of the Posting thereof the postal service is obtained;
 - d) if that person's address in the Republic is unknown, when it has been served on That Person's agent or representative in the Republic in the manner provided by Paragraphs [a], [b] or [c];
 - e) if that person's address and agent or representative in the Republic is unknown, When it has been posted in a conspicuous place on the property or premises, if any, To which it relates;
 - f) in the event of a corporate, when it has been delivered at the registered office of The business premises of such body corporate; or
 - g) when it has been delivered, at the request of that person, to his or her e-mail Address
- 3) Service of a copy is deemed to be service of the original
- 4) When any notice or other document must be authorized 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 not it is not necessary to name that person.

- 5) A legal process is effectively and sufficient served on Council when it is delivered to the municipal manager or a person in attendance at the municipal manager's office

47. APPEAL

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

48. PENALTIES

A person who has committed an offence in terms of these by- laws is, on conviction, and subject to penalties prescribed in any other law, 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 every day such offence continues, or in default of payment thereof, to imprisonment.

49. SHORT TITLE AND COMMENCEMENT

These By- laws may be cited as the Them isle Municipality Work in Road Reserves By- laws, and come into operation on a determined by Council.

SCHEDULE 1 - APPLICATION FOR INTENDED WORK IN ROAD RESERVE FORM

Application is hereby made by the undersigned to do work in the Road Reserve as detailed below. The applicant undertakes to do the work according to the latest edition of the CODE OF PRACTISE FOR WORK IN THE ROAD RESERVE.

No work may commence before the Wayleaves is issued. All permanent reinstatement (100mm asphalt) will be done by the Road Authority unless specific permission is granted to the applicant to do this wayleaves. All applicable fees are to accompany this application.

APPLICATION

AGENCY/ DEPARTMENT/PRIVATE _____

CONTACT _____

CONTACT TELL _____

CONTRACT FAX _____ E-mail _____

CONTRACTOR _____

PROJECT NO _____

REINSTATEMENT ORDER NUMBER _____

PROVISIONAL DATES

STARTING DATE _____

COMPLETION DATE _____

DRAWING NUMBER: _____

LOCATION OF WORK _____

SUBURB: _____ STREET NAME _____

STREET (FROM): 1 _____ STREET (TO): _____

ERFNO'S
HOUSE NO'S;

PROVISIONAL DATES

STARTING DATE; _____

COMPLETION DATE; _____

DRAWING NUMBER; _____

LOCATION OF WORK (give full details)

SUBURB; STREET NAME;

STREET (FROM); STREET (TO);

ERF NO'S;

HOUSE NO, S;

EXCAVATION DETAILS;

LENGTH OF EXCAVATION;

RIDING SURFACE _____

KERBS _____

ASPH FOOTWAY; _____

INTERNAL BLOOCK _____

UNPAVED FOOWAYS _____

SPECIAL NOTE

For the purpose of planning work done by Service Providers local streets may be regarded as unprotected unless it has newly surfaced and provided that the first 20m from an intersection with any other class road considered to be protected.

THE FOLLOWING AGENCIES ARE AWARE THAT THE APPLICANT WILL BE WORKING WITHIN THE VICINITY OF THEIR SERVICE, HAVE GIVEN THE APPLICANT THEIR CONDITIONS FOR WORKING WITHIN THE VICINITY OF THEIR SERVICES AND THEREFORE HAVE NO OBJECTION TO THEM APPLYING FOR A WAYLEAVE

AGENCY	REMARKS/ SIGNATURE/DATE

CITY	
POWER	
XXX GAS	
XXX WATER	
PARKS	
AGENCY	REMARKS/ SIGNATURE/DATE
TELKOM	
ESKOM	
Water	

Road Authority OFFICE USE:

RECEIVED

NAME OF OFFICIAL

SIGNATURE

PERMISSION TO PERFORM WORK FORM

APPROVED:

YES	NO	WAY LEAVE NO:	
-----	----	---------------	--

UNDERTAKING \INDEMNITY;

I, the undersigned hereby –

Acknowledge the receipt of a brochure containing the procedures and conditions pertaining to wayleave applications and understand that it will be responsibility to contract the relevant Service agencies within and outside the area of jurisdiction of the of the Thembisile Hani Local Municipality, undertake to adhere to the conditions not applicable to this Department, e.g. TELKOM, ESKOM;

Undertake to furnish the relevant Service Agencies with all necessary application form(s) and information obtained as a result of this application, order to obtain final wayleave approval and permission to work within the Road Reserve;

Acknowledge that Service information is given in good faith and that the accuracy of this information is not guaranteed;

Guarantee all backfilling and permanent reinstatement work done by Contractor, for a period of 12 months that will start 14 days after the work is signed off as completed by the ROADS AGENCY Inspector

Accepts responsibility for all costs associated with the, including any damages to other Service, backfilling and reinstatements of trenches, the cost of any tests may be required and claims that may result from the work done by the Contractor until the work is taken over by the Road Authority the permanent reinstatement is completed;

Accept the terms and conditions of the Code of practice for Work in the Road Reserve;

Indemnifies the ROADS AGENCY (Road Authority) against any claim (s), cost or damage or loss of whatsoever nature that may be incurred or sustained by the applicant or any third party and also against all actions, legal proceedings and claims of whatsoever nature that may be instituted or made against the Road Authority arising out of ,by reason of or in any way whatsoever

caused by or connected with the exerting by the applicant of the rights granted by the issuing of the wayleaves as well as in respect of cost which may be incurred by the Road Authority in examining or resisting any such demands, actions, action legal proceedings and claims, instituted by any person or party for injury to person (s) loss of life or damage to loss of property, arising directly from exercising the permission granted with approval of this application until the work is taken over by the Road Authority.

Signature (Applicant)

Signature (Road Authority Officer)

DATE

COMPLETION NOTICE

CERTIFICATE OF INSPECTION AND\ OR COMPLETION

Wayleaves No; _____

The Road Authority Inspector must sign this form. The signature is just for administrative control and by no means implies that the work has been done according to the specifications and conditions of the wayleave. The onus and responsibility of ensuring that the Service has been correctly installed, is that of the applicant.

Description of wayleave; -----

Date; _____

Street on street from street to

----- ----- -----

Suburb -----

Responsible person (for the erection\ installation of the Service)

Name; _____ Company; -----

home No; (_____) _____

COMPLETION NOTICE

The Central wayleave office is hereby informed that;

The work done in terms of the above Wayleave has been completed according to the conditions as prescribed in the Wayleave;

AND

The permanent reinstatement has been done in accordance with the specifications in the Code of Practice for work in the Road Reserve;

OR

A temporary reinstatement has been done and a Reinstatement Order to the amount of

R _____ is attached for the Road Authority to do the permanent reinstatement.

Name _____ Signed; _____

Wayleave Holder; ----- Date; -----

CERTIFICATE OF COMPLETION

COMPLETION CERTIFICATE

It is hereby certified that the site of the work carried out in terms of the above Wayleave was inspected on the above date and that:

The work has been completed; and

The side has been cleared and cleaned; and

The wayleave holder did the permanent reinstatement and the 12 months guarantee period commences from date;

OR

The wayleave holder did a temporary reinstatement and the two- week maintenance
Period commences from above date .A Reinstatement Order was received from the wayleave holder.

SITE INSPECTIONS:

REMARKS:

REINSTATEMENT ORDER NO: _____

The Road Authority waysleave inspector was present when the DUTCH CONE PERETROMETER
tests were done (see site inspection remarks).

NAME: _____ Signed: -----

ROAD AUTHORITY INSPECTOR Date: -----
