

THE PROVINCE OF MPUMALANGA  
DIE PROVINSIE MPUMALANGA

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1 JUNE 2018  
1 JUNIE 2018

No. 2933

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**No FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.**

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# Closing times for **ORDINARY WEEKLY** 2018

## MPUMALANGA PROVINCIAL GAZETTE

*The closing time is **15:00** sharp on the following days:*

- 28 December 2017, Thursday for the issue of Friday 05 January 2018
- 05 January, Friday for the issue of Friday 12 January 2018
- 12 January, Friday for the issue of Friday 19 January 2018
- 19 January, Friday for the issue of Friday 26 January 2018
- 26 January, Friday for the issue of Friday 02 February 2018
- 02 February, Friday for the issue of Friday 09 February 2018
- 09 February, Friday for the issue of Friday 16 February 2018
- 16 February, Friday for the issue of Friday 23 February 2018
- 23 February, Friday for the issue of Friday 02 March 2018
- 02 March, Friday for the issue of Friday 09 March 2018
- 09 March, Friday for the issue of Friday 16 March 2018
- 15 March, Thursday for the issue of Friday 23 March 2018
- 23 March, Friday for the issue of Friday 30 March 2018
- 28 March, Wednesday for the issue of Friday 06 April 2018
- 06 April, Friday for the issue of Friday 13 April 2018
- 13 April, Friday for the issue of Friday 20 April 2018
- 20 April, Friday for the issue of Friday 27 April 2018
- 25 April, Wednesday for the issue of Friday 04 May 2018
- 04 May, Friday for the issue of Friday 11 May 2018
- 11 May, Friday for the issue of Friday 18 May 2018
- 18 May, Friday for the issue of Friday 25 May 2018
- 25 May, Friday for the issue of Friday 01 June 2018
- 01 June, Friday for the issue of Friday 08 June 2018
- 08 June, Friday for the issue of Friday 15 June 2018
- 15 June, Thursday for the issue of Friday 22 June 2018
- 22 June, Friday for the issue of Friday 29 June 2018
- 29 June, Friday for the issue of Friday 06 July 2018
- 06 July, Friday for the issue of Friday 13 July 2018
- 13 July, Friday for the issue of Friday 20 July 2018
- 20 July, Friday for the issue of Friday 27 July 2018
- 27 July, Friday for the issue of Friday 03 August 2018
- 02 August, Thursday, for the issue of Friday 10 August 2018
- 10 August, Friday for the issue of Friday 17 August 2018
- 17 August, Friday for the issue of Friday 24 August 2018
- 24 August, Friday for the issue of Friday 31 August 2018
- 31 August, Friday for the issue of Friday 07 September 2018
- 07 September, Friday for the issue of Friday 14 September 2018
- 14 September, Friday for the issue of Friday 21 September 2018
- 20 September, Thursday for the issue of Friday 28 September 2018
- 28 September, Friday for the issue of Friday 05 October 2018
- 05 October, Friday for the issue of Friday 12 October 2018
- 12 October, Friday for the issue of Friday 19 October 2018
- 19 October, Friday for the issue of Friday 26 October 2018
- 26 October, Friday for the issue of Friday 02 November 2018
- 02 November, Friday for the issue of Friday 09 November 2018
- 09 November, Friday for the issue of Friday 16 November 2018
- 16 November, Friday for the issue of Friday 23 November 2018
- 23 November, Friday for the issue of Friday 30 November 2018
- 30 November, Friday for the issue of Friday 07 December 2018
- 07 December, Friday for the issue of Friday 14 December 2018
- 13 December, Thursday, for the issue of Friday 21 December 2018
- 19 December, Wednesday for the issue of Friday 28 December 2018

















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## PROCLAMATION • PROKLAMASIE

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### PROCLAMATION 24 OF 2018

#### DECLARATION AS AN APPROVED TOWNSHIP

The City of Mbombela declares hereby in terms of Section 103 (1) of the Town-planning and Townships Ordinance, 1986 (Ordinance 15 of 1986), Riverside Park Extension 36 to be an approved township subject to the conditions set out in the schedule hereto.

#### SCHEDULE

**CONDITIONS UNDER WHICH THE APPLICATION MADE BY HL HALL AND SONS PROPERTIES PROPRIETARY LIMITED (HEREINAFTER REFERRED TO AS THE APPLICANT) IN TERMS OF THE PROVISIONS OF CHAPTER III (PART C) OF THE TOWN PLANNING AND TOWNSHIPS ORDINANCE, 1986 (ORDINANCE 15 OF 1986) FOR PERMISSION TO ESTABLISH A TOWNSHIP ON PORTION 121 OF THE FARM, BOSCHRAND 283 JT, HAS BEEN GRANTED**

#### 1. CONDITIONS OF ESTABLISHMENT

##### 1.1 NAME

The name of the township shall be RIVERSIDE PARK EXTENSION 36.

##### 1.2 DESIGN

The township shall consist of erven and streets as indicated on General Plan SG Number: 326/2017.

##### 1.3 ACCESS

Access to the site will be obtained from Nyala Berry Boulevard.

##### 1.4 RECEIPT AND DISPOSAL OF STORM WATER

1.4.1 The township owner shall arrange the storm water drainage of the township in such a way as to fit in with all relevant roads and shall receive and dispose of storm water running off or being diverted from the road.

1.4.1.1 The township owner shall submit to the City of Mbombela, for approval, a detailed scheme complete with plans, sections and specifications, prepared by a civil engineer who is registered with SAACE, for the collection and disposal of storm water throughout the township and for the construction, tar macadamising, kerbing and channelling of the streets therein together with the provision of retaining walls, as may be considered necessary by the City of Mbombela.

1.4.1.2 Furthermore, the scheme shall indicate the route and gradient by which each erf gains access to the street on which it abuts.

1.4.1.3 The township owner shall carry out the approved scheme at its own expense, on behalf of and to the satisfaction of the City of Mbombela, under the supervision of a civil engineer who is a member of SAACE.

1.4.1.4 The township owner shall be responsible for the maintenance of the streets to the satisfaction of Mbombela Local Municipality until the streets have been constructed as set out in sub-clause 2.4.1.1 above.

1.4.1.5 If the township owner fails to comply with the provisions of Paragraphs 2.4.1.1 to 2.4.1.4 above, Mbombela Local Municipality shall be entitled to execute the work at the cost of the township owner.

**1.5 REMOVAL AND/OR REPLACEMENT OF MUNICIPAL SERVICES**

Should it become necessary to remove, alter or replace any municipal services, as a result of the establishment of the township, the cost thereof shall be borne by the township owner.

**1.6 ERECTION OF FENCE OR OTHER PHYSICAL BARRIER**

The township owner shall, at his own expense, erect a fence or other physical barrier to the satisfaction of Mbombela Local Municipality, as and when required by him to do so and the township owner shall maintain such fence or physical barrier in a good state of repair until such time as the responsibility thereof is taken over by Mbombela Local Municipality.

**1.7 REMOVAL OF LITTER**

The township owner shall, at his own expense, have all litter within the township area removed to the satisfaction of Mbombela Local Municipality.

**1.8 REMOVAL AND/OR REPLACEMENT OF ESKOM SERVICES**

Should it become necessary to remove, alter or replace any existing services of Eskom, as a result of the establishment of the township, the cost thereof shall be borne by the township owner.

**1.9 REMOVAL AND/OR REPLACEMENT OF TELKOM SERVICES**

Should it become necessary to remove, alter or replace any existing services of Telkom, as a result of the establishment of the township, the cost thereof shall be borne by the township owner.

**1.10 RESPONSIBILITIES IN RESPECT OF ESSENTIAL SERVICES**

The township owner shall provide all essential services in terms of the provisions of Sections 116 to 121 of Ordinance 15 of 1986, prior to the registration of any stands in the township.

**1.11 PROTECTION OF STAND PEGS**

The township owner shall comply with the requirements with regard to the protection of boundary pegs, as determined by Mbombela Local Municipality, when required to do so by the municipality.

**1.12 DEMOLITION OF BUILDINGS AND STRUCTURES**

The township owner must, at his own cost, demolish all existing buildings and structures that are located within building restriction areas and side spaces of common boundaries to the satisfaction of Mbombela Local Municipality.

**1.13 SIGNAGE**

The application shall, at own expense, erect the required signs, to the satisfaction of Mbombela Local Municipality and shall maintain such signage in a good state of repair until such time as this responsibility is taken over by the municipality.

## 1.14 DISPOSAL AND RETENTION OF EXISTING CONDITIONS OF TITLE

All erven shall be made subject to existing conditions and servitudes, if any:

1.1 **excluding the following servitudes which do not affect the township due to location:**

- 1.1.1 By Notarial Deed K430/1973S dated 19 February 1973 the within mentioned property is subject to a servitude of water furrow 3.15 metres wide indicated by the figure ABCDEFGHJKLMNOPQRSTUVWXYZA, B, C, D, E, F, G, H, J, K, L, M, N, O, P, Q, R, S, T, U, as shown on diagram SG No. 3024/72 in favour of Portion 4 of the farm Sterkspruit 285 JT as will more fully appear from reference to the said notarial deed.
- 1.1.2 By virtue of Notarial Deed of Servitude K1035/1976S dated 26 January 1976:
- 1.1.3.1 the remaining extent of Portion 14 of the farm, Boschrand 283 JT subject to
- i. a perpetual servitude of storage abutment and aqueduct *vide* the figure ABCDEFGHJCLA on diagram SG No. A8/66 annexed to the aforesaid deed of servitude
  - ii. the perpetual servitude of aqueduct and right of way *vide* the figure MNOPQRSTUVWXYZA'M on diagram SG No. A8/66 annexed to the aforesaid deed of servitude
  - iii. Perpetual servitude of aqueduct *vide* the figure B'C'D'E'F'G'H'J'K'L'M'N'O'P'Q'R'S'T'U'V'W'X'Y'Z'A''B''C''D''E''F''G''H''J''B'', K''L''M''O''K and T''U''V''W''X''Y''Z''A'''B'''C'''D'''E'''F'''G'''H'''J'''K'''L'''M'''N'''O'''P'''Q'''R'''S'''T'''U'''T'' for a water furrow on diagram SG. No. A8/66 aforesaid.
  - iv. a perpetual servitude of aqueduct as indicated by the straight lines N''P''Q''R'', R''S'' and V'''W''' on diagram SG No. A/66 aforesaid.
  - v. A perpetual servitude of aqueduct for a water furrow as indicated by the irregular lines ab on diagram SG No. A8/66 aforesaid;
  - vi. A perpetual servitude of right of way as indicated by the irregular lines cde and fg on diagram SG. No. A8/66 aforesaid.
- 1.1.3 By notarial deed of servitude K2514/1979S the within mentioned property is subject to a servitude of pipeline 3 metres wide along the route ABCD as shown on servitude diagram SG. No. A5894/78 in favour of the farm Sterkspruit 285, registration division JT, measuring 445,8414 hectares held under Deed of Transfer T22943/1971.
- 1.1.4 BY virtue of Notarial Deed of Servitude K2652/1997S dated 9 January 1997 the within mentioned property is subject to a servitude of water for domestic and garden purposes in favour of Portion 12 of the farm Boschrand 283 J.T., measuring 2.0900 (Two comma zero nine zero zero) Hectares, as will more fully appear from the said Notarial Deed.
- 1.1.5 By notarial deed No. K3138/1998S dated 19 January 1998 the within mentioned property is subject to a praedial servitude of right of way 10 metres wide the the south of Point B on line AB as indicated on diagram SG. No. 589/1970 in favour of Penryn and also entitled to praedial servitude of right of way over Portion 2 of the Farm Geimans Goeiehoop 291, 10 metres wide to the south of and parallel with the line BCVER on diagram SG. No 5891/70 and also entitled to a praedial servitude over the remaining extent of the Farm Geimans Goeiehoop 291,10 metres wide to the north of and parallel with the line EFGHJKLM on diagram SG. No. 5891/70 as will more fully appear from reference to the aforesaid notarial deed.
- 1.1.6 By notarial deed K3982/2000S dated 18 July 2000 the withinmentioned property is hereby subject to a perpetual servitude for pipeline puposes in favour of the Council, 2116 square metres in extent as indicated by the figure ABCD on Diagram SG No. 5621/1998 and a servitude indicated by

the figures ABCDEE and FGHIJKLM on Diagram SG No. 9785/1999 3 metres wide, with ancillary rights attached thereto, as will more fully appear from the abovementioned notarial deed.

1.2 **excluding the following entitlements which are not passed on to township erven:**

- A. Gedeelte "B" van die plaas, Boschrand voormeld ('n gedeelte waarvan hiermee getranspoteer word) is ONDERWORPE aan die volgende serwitut: -
- (a)(i) "The owner of the said portion "B" and the owner of portion "C" of the said farm, measuring 21,8273 hectares, and transferred to GEORGE ROWLAND HENDERSON CROZIER by deed of Transfer No. 958/1922 dated the 3<sup>rd</sup> of February 1922, shall jointly be entitled to the existing dam in the Nels River on the Remaining Extent of the said farm, measuring as such 2 533, 6902 hectares, and held by William Adolph Joubert, under Deed of Transfer No. 4950/1897, and the existing water furrow leading from such dam (as shown on the diagrams of the said portions "B" and "C") the said portion "B" and "C", as well as to the exclusive use and control of said dam and water furrow; together with the right at any time to enter upon the said Remaining Extent along the line of passage of said water furrow; for the purpose of repairing, enlarging, reconstructing and maintaining, the said furrow and dam.
  - (b) Further the owner of the said portion "B" shall have the right to departure 30 head of cattle or other animals on the veld of the said Remaining Extent of the farm, "Boschrand" but the owner of the said Remaining Extent shall nevertheless have the right to place any portion of the veld or the whole thereof under cultivation and the right of grazing will ipso facto lapse in respect of any portion of the said farm when brought under irrigation or placed under cultivation or under orchards or plantations; and further such right to grazing shall not extend to any ground in the immediate vicinity of any homesteads or buildings on the said farm, nor shall such grazing right prevent the owner of the said Remaining Extent or her successors in title from carrying out any works on the said farm or from constructing any water furrows or other works in connection with irrigation of the said farm or erection of buildings or other works in connection with the development of the said farm.
  - (c)(i) Further the owners of the said portions "B" and "C" shall jointly be entitled to a right of way over the said Remaining Extent along the existing road from portion "B" to Citrus Siding.
- B. Portion "E" aforesaid (the Remaining Extent whereof is hereby transferred) is especially subject and entitled to the servitudes and conditions appearing in the Deeds of Transfer of the following Portions namely: -
- (i) Portions "B" and "C", as held under Deeds of Transfer Nos. 962/1922 and 958/1922 dated 3<sup>rd</sup> February 1922 respectively measuring 27.1492 hectares and 21.8273 hectares respectively:-
    - a) THE owners of Portions "B" and "C" shall jointly be entitled to the existing dam in the Nels River on said Portion "E" and the existing water furrow leading from such dam (as shown on the diagrams of said Portions "B" and "C") to the said Portions "B" and "C" as well as to the exclusive use and control of said dam and water furrow together with the right at any time to enter upon said Portion "E" along the line of passage of said water furrow for the purposes of repairing, enlarging, reconstructing and maintaining the said furrow and dam.
    - b) The owners of the aforesaid portions "B" and "C" shall each have the right to departure 30 head of cattle or other animals on the veld of the said portion "E" but the owner of said portion "E" shall nevertheless have the right to place any portion of the veld or the whole thereof under cultivation, and the right of grazing will ipso facto lapse in respect of any portion of the said farm when brought under irrigation or place under cultivation or under orchards or plantations, and further such right to grazing shall not extend to any ground in the immediate vicinity of any homesteads or buildings on the said farm, nor shall such grazing rights prevent the owner of the said portion "E" or his successors in title from carrying out any works on the said farm or from constructing any water furrows or other

works in connection with irrigation of the said farm or erection of buildings or other works in connection with the development of the said farm.

- c) Further the owners of the said portions "B" and "C" shall jointly be entitled to a right of way over the said portion "E" along the existing road from portion "B" to Citrus Siding.

C. The within property is entitled to the following servitudes over Portion 30 (a portion of the within farm) this day transferred under Deed of Transfer T14478/1971, viz:

- (a) to a servitude of aqueduct 3.15 metres wide;
- (b)(i) to a servitude area for a hydroelectric station and substation;
- (ii) to a power line servitude and right of way to the said servitude area;
- (c) to a servitude of pipeline and right of way 6.30 metres wide;
- (d) the right to erect a turbine and/or pumping plant on a site to be determined;

all as will more fully appear from the said Deed of Transfer and diagram SG No. A 8650/69, annexed thereto.

**1.3 including the following entitlements which must be passed onto all erven in the township:**

- 1.3.1 The withinmentioned property is subject to a water court order dated 1 April 1980 and registered by virtue of K 2165/1980 S.
- 1.3.2 Voormelde plaas Boschrand (waarvan die eiendomme hiermee getranspoteer 'n gedeelte uitmaak) is onderhewing aan die volgende bepaling naamlik: -  
  
Die regte van die Staatspresident soos in Artikel vier-en-dertig van die "Kroongrond Nederzetting Wet, 1912" bepaal, betrekking hebbende op sekere werke op die grond.
- 1.3.3 By Notarial Deed of Servitude No. K668/1954S the right has been granted to Electricity Supply Commission to convey electricity over the property hereby conveyed, together with ancillary rights as will more fully appear on reference to the said Notarial Deed.
- 1.3.4 By Notarial Deed K258/1977S, the right has been granted to ESCOM to convey electricity over the property hereby conveyed together with ancillary rights, and subject to conditions, and as will more fully appear on reference to said Notarial Deed.

## **2 CONDITIONS OF TITLE**

### **2.1 CONDITIONS APPLICABLE TO ALL ERVEN**

- 2.1.1 The erven are subject to a servitude, 2 metres wide, in favour of Mbombela Local Municipality, for sewerage and other municipal purposes along any two boundaries other than a street boundary and in the case of a panhandle erf, an additional servitude for municipal purposes, 2 metres wide, across any access portion of the erf, if and when required by Mbombela Local Municipality, provided that Mbombela Local Municipality may dispense with any such servitude.
- 2.1.2 No building or other structure shall be erected within the aforesaid servitude area and no large rooted trees shall be planted within the area of such servitude or within 2 metres thereof.
- 2.1.3 Mbombela Local Municipality shall be entitled to deposit, temporarily, on the land adjoining the aforesaid servitude area, such material as may be excavated by it during the course of construction,

maintenance or removal of its sewerage mains and other works as it, at its discretion, may deem necessary and, shall further be entitled to reasonable access to the said land for the aforesaid purpose subject to any damage done during the process of the construction, maintenance or removal of such sewerage mains and other works being undertaken by Mbombela Local Municipality.

- 2.1.4 The erven are situated in an area that has soil conditions that could detrimentally affect buildings and structures and be the cause of damage. Building plans which are submitted to Mbombela Local Municipality for approval must contain remedial actions which are in accordance with the recommendations contained in the geo-technical report that was compiled for the township so as to eliminate possible damage to buildings and structures as a result of the unfavourable soil conditions, unless proof can be submitted to Mbombela Local Municipality that such remedial actions are unnecessary or the same result could be achieved in a more effective manner.

**3 CONDITIONS WHICH, IN ADDITION TO THE EXISTING PROVISIONS OF THE RULING TOWN PLANNING SCHEME, HAVE TO BE INCORPORATED IN THE NELSPRUIT TOWN PLANNING SCHEME IN TERMS OF SECTION 125 OF ORDINANCE 15 OF 1986.**

**3.1 ALL ERVEN**

- 3.3.1 The erf is situated in an area that has soil conditions that could detrimentally effect buildings and structures and be the cause of damage. Building plans which are submitted to Mbombela Local Municipality for approval must contain remedial actions which are in accordance with the recommendations contained in the geo-technical report that was compiled for the township so as to eliminate possible damage to buildings and structures as a result of the unfavourable soil conditions, unless proof can be submitted to Mbombela Local Municipality that such remedial actions are unnecessary or the same result could be achieved in a more effective manner.

**Mr N. Diamond**  
Municipal Manager  
Mbombela Local Municipality

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**NELSPRUIT TOWN PLANNING SCHEME, 1989  
AMENDMENT SCHEME 2112**

The Mbombela Local Municipality hereby in terms of the provisions of Section 125 of the Town-Planning and Townships Ordinance, 1986, declares that it has approved an amendment scheme, being an amendment of the Nelspruit Town Planning Scheme, 1989, comprising of the same land as included in the Township of Riverside Extension 36.

Map 3 and the scheme clauses of the amendment scheme are filed with the Executive Department of Co-operative Governance and Traditional Affairs, Nelspruit and the office of the Municipal Manager, Civic Centre, Nel Street, Nelspruit, and are open for inspection at all reasonable times.

This amendment is known as the Nelspruit Amendment Scheme 2112 and shall come into operation on date of publication hereof.

**A copy of this notice will be provided in Afrikaans or Siswati to anyone requesting such in writing within 30 days of this notice.**

**Mr N. Diamond**  
Acting Municipal Manager  
Mbombela Local Municipality



**PROCLAMATION 25 OF 2018****DECLARATION AS AN APPROVED TOWNSHIP**

The City of Mbombela declares hereby in terms of Section 103 (1) of the Town-planning and Townships Ordinance, 1986 (Ordinance 15 of 1986), Riverside Park Extension 35 to be an approved township subject to the conditions set out in the schedule hereto.

**SCHEDULE**

**CONDITIONS UNDER WHICH THE APPLICATION MADE BY HL HALL AND SONS PROPERTIES PROPRIETARY LIMITED (HEREINAFTER REFERRED TO AS THE APPLICANT) IN TERMS OF THE PROVISIONS OF CHAPTER III (PART C) OF THE TOWN PLANNING AND TOWNSHIPS ORDINANCE, 1986 (ORDINANCE 15 OF 1986) FOR PERMISSION TO ESTABLISH A TOWNSHIP ON PORTION 120 OF THE FARM, BOSCHRAND 283 JT, HAS BEEN GRANTED**

**1. CONDITIONS OF ESTABLISHMENT****1.1 NAME**

The name of the township shall be RIVERSIDE PARK EXTENSION 35.

**1.2 DESIGN**

The township shall consist of erven and streets as indicated on General Plan SG Number: 325/2017.

**1.3 ACCESS**

Access to the site will be obtained from Nyala Berry Boulevard

**1.4 RECEIPT AND DISPOSAL OF STORM WATER**

**1.4.1** The township owner shall arrange the storm water drainage of the township in such a way as to fit in with all relevant roads and shall receive and dispose of storm water running off or being diverted from the road.

**1.4.1.1** The township owner shall submit to the Mbombela Local Municipality, for approval, a detailed scheme, complete with plans, sections and specifications, prepared by a civil engineer who is registered with SAACE, for the collection and disposal of storm water throughout the township and for the construction, tar macadamising, kerbing and channelling of the streets therein together with the provision of retaining walls, as may be considered necessary by the Mbombela Local Municipality.

**1.4.1.2** Furthermore, the scheme shall indicate the route and gradient by which each erf gains access to the street on which it abuts.

**1.4.1.3** The township owner shall carry out the approved scheme at its own expense, on behalf of and to the satisfaction of Mbombela Local Municipality, under the supervision of a civil engineer who is a member of SAACE.

**1.4.1.4** The township owner shall be responsible for the maintenance of the streets to the satisfaction of Mbombela Local Municipality until the streets have been constructed as set out in sub-clause 2.4.1.1 above.

- 1.4.1.5 If the township owner fails to comply with the provisions of Paragraphs 2.4.1.1 to 2.4.1.4 above, city of Mbombela shall be entitled to execute the work at the cost of the township owner.

1.5 REMOVAL AND/OR REPLACEMENT OF MUNICIPAL SERVICES

Should it become necessary to remove, alter or replace any municipal services, as a result of the establishment of the township, the cost thereof shall be borne by the township owner.

1.6 ERECTION OF FENCE OR OTHER PHYSICAL BARRIER

The township owner shall, at his own expense, erect a fence or other physical barrier to the satisfaction of the City of Mbombela, as and when required by him to do so and the township owner shall maintain such fence or physical barrier in a good state of repair until such time as the responsibility thereof is taken over by the City of Mbombela.

1.7 REMOVAL OF LITTER

The township owner shall, at his own expense, have all litter within the township area removed to the satisfaction of the City of Mbombela.

1.8 REMOVAL AND/OR REPLACEMENT OF ESKOM SERVICES

Should it become necessary to remove, alter or replace any existing services of Eskom, as a result of the establishment of the township, the cost thereof shall be borne by the township owner.

1.9 REMOVAL AND/OR REPLACEMENT OF TELKOM SERVICES

Should it become necessary to remove, alter or replace any existing services of Telkom, as a result of the establishment of the township, the cost thereof shall be borne by the township owner.

1.10 RESPONSIBILITIES IN RESPECT OF ESSENTIAL SERVICES

The township owner shall provide all essential services in terms of the provisions of Sections 116 to 121 of Ordinance 15 of 1986, prior to the registration of any stands in the township.

1.11 PROTECTION OF STAND PEGS

The township owner shall comply with the requirements with regard to the protection of boundary pegs, as determined by the City of Mbombela, when required to do so by the municipality.

1.12 DEMOLITION OF BUILDINGS AND STRUCTURES

The township owner must, at his own cost, demolish all existing buildings and structures that are located within building restriction areas and side spaces of common boundaries to the satisfaction of City of Mbombela.

## 1.13 SIGNAGE

The application shall, at own expense, erect the required signs, to the satisfaction of the City of Mbombela and shall maintain such signage in a good state of repair until such time as this responsibility is taken over by the municipality.

## 2 DISPOSAL AND RETENTION OF EXISTING CONDITIONS OF TITLE

All erven shall be made subject to existing conditions and servitudes, if any:

2.1 excluding the following servitudes which do not affect the township due to location:

- 2.1.1 By Notarial Deed K430/1973S dated 19 February 1973 the within mentioned property is subject to a servitude of water furrow 3.15 metres wide indicated by the figure ABCDEFGHJKLMNOPQRSTUVWXYZA, B, C, D, E, F, G, H, J, K, L, M, N, O, P, Q, R, S, T, U, as shown on diagram SG No. 3024/72 in favour of Portion 4 of the farm Sterkspruit 285 JT as will more fully appear from reference to the said notarial deed.
- 2.1.2 By virtue of Notarial Deed of Servitude K1035/1976S dated 26 January 1976:
- 2.1.2.1 the remaining extent of Portion 14 of the farm, Boschrand 283 JT subject to
- i. a perpetual servitude of storage abutment and aqueduct *vide* the figure ABCDEFGHJCLA on diagram SG No. A8/66 annexed to the aforesaid deed of servitude
  - ii. the perpetual servitude of aqueduct and right of way *vide* the figure MNOPQRSTUVWXYZA'M on diagram SG No. A8/66 annexed to the aforesaid deed of servitude
  - iii. Perpetual servitude of aqueduct *vide* the figure B'C'D'E'F'G'H'J'K'L'M'N'O'P'Q'R'S'T'U'V'W'X'Y'Z'A''B''C''D''E''F''G''H''J''B', K''L''M''O''K and T''U''V''W''X''Y''Z''A'''B'''C'''D'''E'''F'''G'''H'''J'''K'''L'''M'''N'''O'''P'''Q'''R'''S'''T'''U'''T'' for a water furrow on diagram SG. No. A8/66 aforesaid.
  - iv. a perpetual servitude of aqueduct as indicated by the straight lines N''P''Q''R'', R''S'' and V'''W''' on diagram SG No. A/66 aforesaid.
  - v. A perpetual servitude of aqueduct for a water furrow as indicated by the irregular lines ab on diagram SG No. A8/66 aforesaid;
  - vi. A perpetual servitude of right of way as indicated by the irregular lines cde and fg on diagram SG. No. A8/66 aforesaid.
- 2.1.3 By notarial deed of servitude K2514/1979S the within mentioned property is subject to a servitude of pipeline 3 metres wide along the route ABCD as shown on servitude diagram SG. No. A5894/78 in favour of the farm Sterkspruit 285, registration division JT, measuring 445,8414 hectares held under Deed of Transfer T22943/1971.
- 2.1.4 BY virtue of Notarial Deed of Servitude K2652/1997S dated 9 January 1997 the within mentioned property is subject to a servitude of water for domestic and garden purposes in favour of Portion 12 of the farm Boschrand 283 J.T., measuring 2.0900 (Two comma zero nine zero zero) Hectares, as will more fully appear from the said Notarial Deed.
- 2.1.5 By notarial deed No. K3138/1998S dated 19 January 1998 the within mentioned property is subject to a praedial servitude of right of way 10 metres wide the the south of Point B on line AB as indicated on diagram SG. No. 589/1970 in favour of Penryn and also entitled to praedial

servitude of right of way over Portion 2 of the Farm Geimans Goeiehoop 291, 10 metres wide to the south of and parallel with the line BCVER on diagram SG. No 5891/70 and also entitled to a praedial servitude over the remaining extent of the Farm Geimans Goeiehoop 291, 10 metres wide to the north of and parallel with the line EFGHJKLM on diagram SG. No. 5891/70 as will more fully appear from reference to the aforesaid notarial deed.

- 2.1.6 By notarial deed K3982/2000S dated 18 July 2000 the within mentioned property is hereby subject to a perpetual servitude for pipeline puposes in favour of the Council, 2116 square metres in extent as indicated by the figure ABCD on Diagram SG No. 5621/1998 and a servitude indicated by the figures ABCDEE and FGHJKLM on Diagram SG No. 9785/1999 3 metres wide, with ancillary rights attached thereto, as will more fully appear from the abovementioned notarial deed.

2.2 **excluding the following servitude which only affects Erf 969 and the street:**

By Notarial Deed of Servitude By notarial deed of servitude K.....S dated 3 April 2018 the within mentioned property is subject to a servitude for water pipeline purposes 582 square metres in extent as indicated by the figure f g h 1K j k f consolidation diagram SG. No. 323/2017 in favour of the City of Mbombela Local Municipality, as will more fully appear from reference to the said Notarial Deed.

2.3 **excluding the following entitlements which are not passed on to township erven:**

- A. Gedeelte "B" van die plaas, Boschrand voormeld ('n gedeelte waarvan hiermee getranspoteer word) is ONDERWORPE aan die volgende serwituut: -

- (a)(i) "The owner of the said portion "B" and the owner of portion "C" of the said farm, measuring 21,8273 hectares, and transferred to GEORGE ROWLAND HENDERSON CROZIER by deed of Transfer No. 958/1922 dated the 3<sup>rd</sup> of February 1922, shall jointly be entitled to the existing dam in the Nels River on the Remaining Extent of the said farm, measuring as such 2 533, 6902 hectares, and held by William Adolph Joubert, under Deed of Transfer No. 4950/1897, and the existing water furrow leading from such dam (as shown on the diagrams of the said portions "B" and "C") the said portion "B" and "C", as well as to the exclusive use and control of said dam and water furrow; together with the right at any time to enter upon the said Remaining Extent along the line of passage of said water furrow; for the purpose of repairing, enlarging, reconstructing and maintaining, the said furrow and dam.
- (b) Further the owner of the said portion "B" shall have the right to departure 30 head of cattle or other animals on the veld of the said Remaining Extent of the farm, "Boschrand" but the owner of the said Remaining Extent shall nevertheless have the right to place any portion of the veld or the whole thereof under cultivation and the right of grazing will ipso facto lapse in respect of any portion of the said farm when brought under irrigation or placed under cultivation or under orchards or plantations; and further such right to grazing shall not extend to any ground in the immediate vicinity of any homesteads or buildings on the said farm, nor shall such grazing right prevent the owner of the said Remaining Extent or her successors in title from carrying out any works on the said farm or from constructing any water furrows or other works in connection with irrigation of the said farm or erection of buildings or other works in connection with the development of the said farm.

- (c)(i) Further the owners of the said portions "B" and "C" shall jointly be entitled to a right of way over the said Remaining Extent along the existing road from portion "B" to Citrus Siding.
- B. Portion "E" aforesaid (the Remaining Extent whereof is hereby transferred) is especially subject and entitled to the servitudes and conditions appearing in the Deeds of Transfer of the following Portions namely: -
- (i) Portions "B" and "C", as held under Deeds of Transfer Nos. 962/1922 and 958/1922 dated 3<sup>rd</sup> February 1922 respectively measuring 27.1492 hectares and 21.8273 hectares respectively:-
- a) THE owners of Portions "B" and "C" shall jointly be entitled to the existing dam in the Nels River on said Portion "E" and the existing water furrow leading from such dam (as shown on the diagrams of said Portions "B" and "C") to the said Portions "B" and "C" as well as to the exclusive use and control of said dam and water furrow together with the right at any time to enter upon said Portion "E" along the line of passage of said water furrow for the purposes of repairing, enlarging, reconstructing and maintaining the said furrow and dam.
- b) The owners of the aforesaid portions "B" and "C" shall each have the right to departure 30 head of cattle or other animals on the veld of the said portion "E" but the owner of said portion "E" shall nevertheless have the right to place any portion of the veld or the whole thereof under cultivation, and the right of grazing will ipso facto lapse in respect of any portion of the said farm when brought under irrigation or place under cultivation or under orchards or plantations, and further such right to grazing shall not extend to any ground in the immediate vicinity of any homesteads or buildings on the said farm, nor shall such grazing rights prevent the owner of the said portion "E" or his successors in title from carrying out any works on the said farm or from constructing any water furrows or other works in connection with irrigation of the said farm or erection of buildings or other works in connection with the development of the said farm.
- c) Further the owners of the said portions "B" and "C" shall jointly be entitled to a right of way over the said portion "E" along the existing road from portion "B" to Citrus Siding.
- C. The within property is entitled to the following servitudes over Portion 30 (a portion of the within farm) this day transferred under Deed of Transfer T14478/1971, viz:
- (a) to a servitude of aqueduct 3.15 metres wide;
- (b)(i) to a servitude area for a hydroelectric station and substation;
- (ii) to a power line servitude and right of way to the said servitude area;
- (c) to a servitude of pipeline and right of way 6.30 metres wide;
- (d) the right to erect a turbine and/or pumping plant on a site to be determined;
- all as will more fully appear from the said Deed of Transfer and diagram SG No. A 8650/69, annexed thereto.
- 2.4 **including the following entitlements which must be passed onto all erven in the township:**
- 2.4.1 The within mentioned property is subject to a water court order dated 1 April 1980 and registered by virtue of K 2165/1980 S.
- 2.4.2 Voormelde plaas Boschrand (waarvan die eiendomme hiermee getranspoteer 'n gedeelte uitmaak) is onderhewing aan die volgende bepaling naamlik: -

Die regte van die Staatspresident soos in Artikel vier-en-dertig van die “Kroongrond Nederzettings Wet, 1912” bepaal, betrekking hebbende op sekere werke op die grond.

- 2.4.3 By Notarial Deed of Servitude No. K668/1954S the right has been granted to Electricity Supply Commission to convey electricity over the property hereby conveyed, together with ancillary rights as will more fully appear on reference to the said Notarial Deed.
- 2.4.3 By Notarial Deed K258/1977S, the right has been granted to ESCOM to convey electricity over the property hereby conveyed together with ancillary rights, and subject to conditions, and as will more fully appear on reference to said Notarial Deed.

### **3 CONDITIONS OF TITLE**

#### **3.1 CONDITIONS APPLICABLE TO ALL ERVEN**

- 3.1.1 The erven are subject to a servitude, 2 metres wide, in favour of the City of Mbombela, for sewerage and other municipal purposes along any two boundaries other than a street boundary and in the case of a panhandle erf, an additional servitude for municipal purposes, 2 metres wide, across any access portion of the erf, if and when required by City of Mbombela, provided that the City the Mbombela may dispense with any such servitude.
- 3.1.2 No building or other structure shall be erected within the aforesaid servitude area and no large rooted trees shall be planted within the area of such servitude or within 2 metres thereof.
- 3.1.3 City of Mbombela shall be entitled to deposit, temporarily, on the land adjoining the aforesaid servitude area, such material as may be excavated by it during the course of construction, maintenance or removal of its sewerage mains and other works as it, at its discretion, may deem necessary and, shall further be entitled to reasonable access to the said land for the aforesaid purpose subject to any damage done during the process of the construction, maintenance or removal of such sewerage mains and other works being undertaken by the City of Mbombela.
- 3.1.4 The erven are situated in an area that has soil conditions that could detrimentally affect buildings and structures and be the cause of damage. Building plans which are submitted to the City of Mbombela for approval must contain remedial actions which are in accordance with the recommendations contained in the geo-technical report that was compiled for the township so as to eliminate possible damage to buildings and structures as a result of the unfavourable soil conditions, unless proof can be submitted to the City of Mbombela that such remedial actions are unnecessary or the same result could be achieved in a more effective manner.

### **4 CONDITIONS WHICH, IN ADDITION TO THE EXISTING PROVISIONS OF THE RULING TOWN PLANNING SCHEME, HAVE TO BE INCORPORATED IN THE NELSPRUIT TOWN PLANNING SCHEME IN TERMS OF SECTION 125 OF ORDINANCE 15 OF 1986.**

#### **4.1 ALL ERVEN**

- 4.3.1 The erf is situated in an area that has soil conditions that could detrimentally effect buildings and structures and be the cause of damage. Building plans which are submitted to the City of Mbombela for approval must contain remedial actions which are in accordance with the recommendations contained in the geo-technical report that was compiled for the township so as to eliminate possible damage to buildings and structures as a result of the unfavourable soil conditions, unless proof can be submitted to the City of Mbombela that such remedial actions are unnecessary or the same result could be achieved in a more effective manner.

**Mr N. Diamond**  
Municipal Manager  
Mbombela Local Municipality

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**NELSPRUIT TOWN PLANNING SCHEME, 1989  
AMENDMENT SCHEME 2113**

The City of Mbombela Local hereby in terms of the provisions of Section 125 of the Town-Planning and Townships Ordinance, 1986, declares that it has approved an amendment scheme, being an amendment of the Nelspruit Town Planning Scheme, 1989, comprising of the same land as included in the Township of Riverside Park Extension 35.

Map 3 and the scheme clauses of the amendment scheme are filed with the Executive Department of Co-operative Governance and Traditional Affairs, Nelspruit and the office of the Municipal Manager, Civic Centre, Nel Street, Nelspruit, and are open for inspection at all reasonable times.

This amendment is known as the Nelspruit Amendment Scheme 2113 and shall come into operation on date of publication hereof.

**A copy of this notice will be provided in Afrikaans or Siswati to anyone requesting such in writing within 30 days of this notice.**

**Mr N. Diamond**  
Acting Municipal Manager  
City of Mbombela

**PROCLAMATION 26 OF 2018****DECLARATION AS AN APPROVED TOWNSHIP**

The City of Mbombela declares hereby in terms of Section 103 (1) of the Town-planning and Townships Ordinance, 1986 (Ordinance 15 of 1986), Riverside Park Extension 36 to be an approved township subject to the conditions set out in the schedule hereto.

**SCHEDULE**

**CONDITIONS UNDER WHICH THE APPLICATION MADE BY HL HALL AND SONS PROPERTIES PROPRIETARY LIMITED (HEREINAFTER REFERRED TO AS THE APPLICANT) IN TERMS OF THE PROVISIONS OF CHAPTER III (PART C) OF THE TOWN PLANNING AND TOWNSHIPS ORDINANCE, 1986 (ORDINANCE 15 OF 1986) FOR PERMISSION TO ESTABLISH A TOWNSHIP ON PORTION 121 OF THE FARM, BOSCHRAND 283 JT, HAS BEEN GRANTED**

**1. CONDITIONS OF ESTABLISHMENT****1.1 NAME**

The name of the township shall be RIVERSIDE PARK EXTENSION 36.

**1.2 DESIGN**

The township shall consist of erven and streets as indicated on General Plan SG Number: 326/2017.

**1.3 ACCESS**

Access to the site will be obtained from Nyala Berry Boulevard.

**1.4 RECEIPT AND DISPOSAL OF STORM WATER**

**1.4.1** The township owner shall arrange the storm water drainage of the township in such a way as to fit in with all relevant roads and shall receive and dispose of storm water running off or being diverted from the road.

**1.4.1.1** The township owner shall submit to the City of Mbombela, for approval, a detailed scheme complete with plans, sections and specifications, prepared by a civil engineer who is registered with SAACE, for the collection and disposal of storm water throughout the township and for the construction, tar macadamising, kerbing and channelling of the streets therein together with the provision of retaining walls, as may be considered necessary by the City of Mbombela.

**1.4.1.2** Furthermore, the scheme shall indicate the route and gradient by which each erf gains access to the street on which it abuts.

**1.4.1.3** The township owner shall carry out the approved scheme at its own expense, on behalf of and to the satisfaction of the City of Mbombela, under the supervision of a civil engineer who is a member of SAACE.

**1.4.1.4** The township owner shall be responsible for the maintenance of the streets to the satisfaction of Mbombela Local Municipality until the streets have been constructed as set out in sub-clause 2.4.1.1 above.

**1.4.1.5** If the township owner fails to comply with the provisions of Paragraphs 2.4.1.1 to 2.4.1.4 above, Mbombela Local Municipality shall be entitled to execute the work at the cost of the township owner.



#### 1.5 REMOVAL AND/OR REPLACEMENT OF MUNICIPAL SERVICES

Should it become necessary to remove, alter or replace any municipal services, as a result of the establishment of the township, the cost thereof shall be borne by the township owner.

#### 1.6 ERECTION OF FENCE OR OTHER PHYSICAL BARRIER

The township owner shall, at his own expense, erect a fence or other physical barrier to the satisfaction of Mbombela Local Municipality, as and when required by him to do so and the township owner shall maintain such fence or physical barrier in a good state of repair until such time as the responsibility thereof is taken over by Mbombela Local Municipality.

#### 1.7 REMOVAL OF LITTER

The township owner shall, at his own expense, have all litter within the township area removed to the satisfaction of Mbombela Local Municipality.

#### 1.8 REMOVAL AND/OR REPLACEMENT OF ESKOM SERVICES

Should it become necessary to remove, alter or replace any existing services of Eskom, as a result of the establishment of the township, the cost thereof shall be borne by the township owner.

#### 1.9 REMOVAL AND/OR REPLACEMENT OF TELKOM SERVICES

Should it become necessary to remove, alter or replace any existing services of Telkom, as a result of the establishment of the township, the cost thereof shall be borne by the township owner.

#### 1.10 RESPONSIBILITIES IN RESPECT OF ESSENTIAL SERVICES

The township owner shall provide all essential services in terms of the provisions of Sections 116 to 121 of Ordinance 15 of 1986, prior to the registration of any stands in the township.

#### 1.11 PROTECTION OF STAND PEGS

The township owner shall comply with the requirements with regard to the protection of boundary pegs, as determined by Mbombela Local Municipality, when required to do so by the municipality.

#### 1.12 DEMOLITION OF BUILDINGS AND STRUCTURES

The township owner must, at his own cost, demolish all existing buildings and structures that are located within building restriction areas and side spaces of common boundaries to the satisfaction of Mbombela Local Municipality.

#### 1.13 SIGNAGE

The application shall, at own expense, erect the required signs, to the satisfaction of Mbombela Local Municipality and shall maintain such signage in a good state of repair until such time as this responsibility is taken over by the municipality.

## 1.14 DISPOSAL AND RETENTION OF EXISTING CONDITIONS OF TITLE

All erven shall be made subject to existing conditions and servitudes, if any:

1.1 **excluding the following servitudes which do not affect the township due to location:**

- 1.1.1 By Notarial Deed K430/1973S dated 19 February 1973 the within mentioned property is subject to a servitude of water furrow 3.15 metres wide indicated by the figure ABCDEFGHJKLMNOPQRSTUVWXYZA, B, C, D, E, F, G, H, J, K, L, M, N, O, P, Q, R, S, T, U, as shown on diagram SG No. 3024/72 in favour of Portion 4 of the farm Sterkspruit 285 JT as will more fully appear from reference to the said notarial deed.
- 1.1.2 By virtue of Notarial Deed of Servitude K1035/1976S dated 26 January 1976:
- 1.1.3.1 the remaining extent of Portion 14 of the farm, Boschrand 283 JT subject to
- i. a perpetual servitude of storage abutment and aqueduct *vide* the figure ABCDEFGHJKLA on diagram SG No. A8/66 annexed to the aforesaid deed of servitude
  - ii. the perpetual servitude of aqueduct and right of way *vide* the figure MNOPQRSTUVWXYZA'M on diagram SG No. A8/66 annexed to the aforesaid deed of servitude
  - iii. Perpetual servitude of aqueduct *vide* the figure B'C'D'E'F'G'H'J'K'L'M'N'O'P'Q'R'S'T'U'V'W'X'Y'Z'A''B''C''D''E''F''G''H''J''B', K''L''M''O''K and T''U''V''W''X''Y''Z''A''B''C''D''E''F''G''H''J''K''L''M''N''O''P''Q''R''S''T''U''T'' for a water furrow on diagram SG. No. A8/66 aforesaid.
  - iv. a perpetual servitude of aqueduct as indicated by the straight lines N''P''Q''R'', R''S'' and V''W'' on diagram SG No. A/66 aforesaid.
  - v. A perpetual servitude of aqueduct for a water furrow as indicated by the irregular lines ab on diagram SG No. A8/66 aforesaid;
  - vi. A perpetual servitude of right of way as indicated by the irregular lines cde and fg on diagram SG. No. A8/66 aforesaid.
- 1.1.3 By notarial deed of servitude K2514/1979S the within mentioned property is subject to a servitude of pipeline 3 metres wide along the route ABCD as shown on servitude diagram SG. No. A5894/78 in favour of the farm Sterkspruit 285, registration division JT, measuring 445,8414 hectares held under Deed of Transfer T22943/1971.
- 1.1.4 BY virtue of Notarial Deed of Servitude K2652/1997S dated 9 January 1997 the within mentioned property is subject to a servitude of water for domestic and garden purposes in favour of Portion 12 of the farm Boschrand 283 J.T., measuring 2.0900 (Two comma zero nine zero zero) Hectares, as will more fully appear from the said Notarial Deed.
- 1.1.5 By notarial deed No. K3138/1998S dated 19 January 1998 the within mentioned property is subject to a praedial servitude of right of way 10 metres wide the the south of Point B on line AB as indicated on diagram SG. No. 589/1970 in favour of Penryn and also entitled to praedial servitude of right of way over Portion 2 of the Farm Geimans Goeiehoop 291, 10 metres wide to the south of and parallel with the line BCVER on diagram SG. No. 5891/70 and also entitled to a praedial servitude over the remaining extent of the Farm Geimans Goeiehoop 291,10 metres wide to the north of and parallel with the line EFGHJKLM on diagram SG. No. 5891/70 as will more fully appear from reference to the aforesaid notarial deed.
- 1.1.6 By notarial deed K3982/2000S dated 18 July 2000 the withinmentioned property is hereby subject to a perpetual servitude for pipeline puposes in favour of the Council, 2116 square metres in extent as indicated by the figure ABCD on Diagram SG No. 5621/1998 and a servitude indicated by

the figures ABCDEE and FGHIKLM on Diagram SG No. 9785/1999 3 metres wide, with ancillary rights attached thereto, as will more fully appear from the abovementioned notarial deed.

1.2 **excluding the following entitlements which are not passed on to township erven:**

A. Gedeelte "B" van die plaas, Boschrand voormeld ('n gedeelte waarvan hiermee getransporeer word) is ONDERWORPE aan die volgende serwituut: -

- (a)(i) "The owner of the said portion "B" and the owner of portion "C" of the said farm, measuring 21,8273 hectares, and transferred to GEORGE ROWLAND HENDERSON CROZIER by deed of Transfer No. 958/1922 dated the 3<sup>rd</sup> of February 1922, shall jointly be entitled to the existing dam in the Nels River on the Remaining Extent of the said farm, measuring as such 2 533, 6902 hectares, and held by William Adolph Joubert, under Deed of Transfer No. 4950/1897, and the existing water furrow leading from such dam (as shown on the diagrams of the said portions "B" and "C") the said portion "B" and "C", as well as to the exclusive use and control of said dam and water furrow; together with the right at any time to enter upon the said Remaining Extent along the line of passage of said water furrow; for the purpose of repairing, enlarging, reconstructing and maintaining, the said furrow and dam.
- (b) Further the owner of the said portion "B" shall have the right to departure 30 head of cattle or other animals on the veld of the said Remaining Extent of the farm, "Boschrand" but the owner of the said Remaining Extent shall nevertheless have the right to place any portion of the veld or the whole thereof under cultivation and the right of grazing will ipso facto lapse in respect of any portion of the said farm when brought under irrigation or placed under cultivation or under orchards or plantations; and further such right to grazing shall not extend to any ground in the immediate vicinity of any homesteads or buildings on the said farm, nor shall such grazing right prevent the owner of the said Remaining Extent or her successors in title from carrying out any works on the said farm or from constructing any water furrows or other works in connection with irrigation of the said farm or erection of buildings or other works in connection with the development of the said farm.
- (c)(i) Further the owners of the said portions "B" and "C" shall jointly be entitled to a right of way over the said Remaining Extent along the existing road from portion "B" to Citrus Siding.

B. Portion "E" aforesaid (the Remaining Extent whereof is hereby transferred) is especially subject and entitled to the servitudes and conditions appearing in the Deeds of Transfer of the following Portions namely: -

- (i) Portions "B" and "C", as held under Deeds of Transfer Nos. 962/1922 and 958/1922 dated 3<sup>rd</sup> February 1922 respectively measuring 27.1492 hectares and 21.8273 hectares respectively:-
  - a) THE owners of Portions "B" and "C" shall jointly be entitled to the existing dam in the Nels River on said Portion "E" and the existing water furrow leading from such dam (as shown on the diagrams of said Portions "B" and "C") to the said Portions "B" and "C" as well as to the exclusive use and control of said dam and water furrow together with the right at any time to enter upon said Portion "E" along the line of passage of said water furrow for the purposes of repairing, enlarging, reconstructing and maintaining the said furrow and dam.
  - b) The owners of the aforesaid portions "B" and "C" shall each have the right to departure 30 head of cattle or other animals on the veld of the said portion "E" but the owner of said portion "E" shall nevertheless have the right to place any portion of the veld or the whole thereof under cultivation, and the right of grazing will ipso facto lapse in respect of any portion of the said farm when brought under irrigation or place under cultivation or under orchards or plantations, and further such right to grazing shall not extend to any ground in the immediate vicinity of any homesteads or buildings on the said farm, nor shall such grazing rights prevent the owner of the said portion "E" or his successors in title from carrying out any works on the said farm or from constructing any water furrows or other

works in connection with irrigation of the said farm or erection of buildings or other works in connection with the development of the said farm.

- c) Further the owners of the said portions "B" and "C" shall jointly be entitled to a right of way over the said portion "E" along the existing road from portion "B" to Citrus Siding.

C. The within property is entitled to the following servitudes over Portion 30 (a portion of the within farm) this day transferred under Deed of Transfer T14478/1971, viz:

- (a) to a servitude of aqueduct 3.15 metres wide;
- (b)(i) to a servitude area for a hydroelectric station and substation;
- (ii) to a power line servitude and right of way to the said servitude area;
- (c) to a servitude of pipeline and right of way 6.30 metres wide;
- (d) the right to erect a turbine and/or pumping plant on a site to be determined;

all as will more fully appear from the said Deed of Transfer and diagram SG No. A 8650/69, annexed thereto.

**1.3 including the following entitlements which must be passed onto all erven in the township:**

- 1.3.1 The withinmentioned property is subject to a water court order dated 1 April 1980 and registered by virtue of K 2165/1980 S.
- 1.3.2 Voormelde plaas Boschrand (waarvan die eiendomme hiermee getransporteer 'n gedeelte uitmaak) is onderhewing aan die volgende bepaling naamlik: -  
  
Die regte van die Staatspresident soos in Artikel vier-en-dertig van die "Kroongrond Nederzettings Wet, 1912" bepaal, betrekking hebbende op sekere werke op die grond.
- 1.3.3 By Notarial Deed of Servitude No. K668/1954S the right has been granted to Electricity Supply Commission to convey electricity over the property hereby conveyed, together with ancillary rights as will more fully appear on reference to the said Notarial Deed.
- 1.3.4 By Notarial Deed K258/1977S, the right has been granted to ESCOM to convey electricity over the property hereby conveyed together with ancillary rights, and subject to conditions, and as will more fully appear on reference to said Notarial Deed.

## **2 CONDITIONS OF TITLE**

### **2.1 CONDITIONS APPLICABLE TO ALL ERVEN**

- 2.1.1 The erven are subject to a servitude, 2 metres wide, in favour of Mbombela Local Municipality, for sewerage and other municipal purposes along any two boundaries other than a street boundary and in the case of a panhandle erf, an additional servitude for municipal purposes, 2 metres wide, across any access portion of the erf, if and when required by Mbombela Local Municipality, provided that Mbombela Local Municipality may dispense with any such servitude.
- 2.1.2 No building or other structure shall be erected within the aforesaid servitude area and no large rooted trees shall be planted within the area of such servitude or within 2 metres thereof.
- 2.1.3 Mbombela Local Municipality shall be entitled to deposit, temporarily, on the land adjoining the aforesaid servitude area, such material as may be excavated by it during the course of construction,

maintenance or removal of its sewerage mains and other works as it, at its discretion, may deem necessary and, shall further be entitled to reasonable access to the said land for the aforesaid purpose subject to any damage done during the process of the construction, maintenance or removal of such sewerage mains and other works being undertaken by Mbombela Local Municipality.

- 2.1.4 The erven are situated in an area that has soil conditions that could detrimentally affect buildings and structures and be the cause of damage. Building plans which are submitted to Mbombela Local Municipality for approval must contain remedial actions which are in accordance with the recommendations contained in the geo-technical report that was compiled for the township so as to eliminate possible damage to buildings and structures as a result of the unfavourable soil conditions, unless proof can be submitted to Mbombela Local Municipality that such remedial actions are unnecessary or the same result could be achieved in a more effective manner.

**3 CONDITIONS WHICH, IN ADDITION TO THE EXISTING PROVISIONS OF THE RULING TOWN PLANNING SCHEME, HAVE TO BE INCORPORATED IN THE NELSPRUIT TOWN PLANNING SCHEME IN TERMS OF SECTION 125 OF ORDINANCE 15 OF 1986.**

**3.1 ALL ERVEN**

- 3.3.1 The erf is situated in an area that has soil conditions that could detrimentally effect buildings and structures and be the cause of damage. Building plans which are submitted to Mbombela Local Municipality for approval must contain remedial actions which are in accordance with the recommendations contained in the geo-technical report that was compiled for the township so as to eliminate possible damage to buildings and structures as a result of the unfavourable soil conditions, unless proof can be submitted to Mbombela Local Municipality that such remedial actions are unnecessary or the same result could be achieved in a more effective manner.

**Mr N. Diamond**  
Municipal Manager  
Mbombela Local Municipality

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**LOCAL AUTHORITY NOTICE  
NELSPRUIT TOWN PLANNING SCHEME, 1989  
AMENDMENT SCHEME 2112**

The Mbombela Local Municipality hereby in terms of the provisions of Section 125 of the Town-Planning and Townships Ordinance, 1986, declares that it has approved an amendment scheme, being an amendment of the Nelspruit Town Planning Scheme, 1989, comprising of the same land as included in the Township of Riverside Extension 36.

Map 3 and the scheme clauses of the amendment scheme are filed with the Executive Department of Co-operative Governance and Traditional Affairs, Nelspruit and the office of the Municipal Manager, Civic Centre, Nel Street, Nelspruit, and are open for inspection at all reasonable times.

This amendment is known as the Nelspruit Amendment Scheme 2112 and shall come into operation on date of publication hereof.

**A copy of this notice will be provided in Afrikaans or Siswati to anyone requesting such in writing within 30 days of this notice.**

**Mr N. Diamond**  
Acting Municipal Manager  
Mbombela Local Municipality

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**PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS**

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**PROVINCIAL NOTICE 59 OF 2018****MPUMALANGA DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS****PUBLICATION OF MUNICIPAL BY-LAWS FOR LOCAL MUNICIPALITIES IN TERMS OF  
THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT (ACT NO. 32 OF 2000)**

I, Speed Katishi Mashilo, in my capacity as Member of the Executive Council responsible for Co-operative Governance and Traditional Affairs, in the Mpumalanga Province, hereby publish municipal by-laws for Mkhondo, Chief Albert Luthuli, Lekwa and Emalahleni local municipalities, in terms of Section 13 (a) and (b) of the Local Government: Municipal Systems Act (Act No. 32 of 2000)

The municipal by-laws are concerning the following matters per local municipality, namely:

**Lekwa Local Municipality**

1. Electricity Supply
2. Advertising Signs
3. Encroachment on Municipal Properties
4. Public Participation
5. Street Trading
6. Contaminated Waste
7. Cemetery
8. Taxi
9. Informal Settlements
10. Open Space

**Chief Albert Luthuli Local Municipality**

1. Standing Rules and Orders
2. Electricity Supply
3. Fire Brigade Services
4. Sanitation
5. Waste Management
6. Water Supply

**Emalahleni Local Municipality**

1. Property Rates

**Mkhondo Local Municipality**

1. Credit Control and Debt Collection
2. Control of Outdoor Advertising
3. Encroachment on Municipal Properties

Given under my hand at Mbombela, on 03/04 2018



MR SK MASHILO (MPL)

MEC: DEPARTMENT OF CO-OPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS



**MKHONDO**  
**LOCAL MUNICIPALITY**  
**ENCROACHMENT ON MUNICIPAL**  
**PROPERTY BY-LAWS**



# **MKHONDO LOCAL MUNICIPALITY**

## **ENCROACHMENT ON MUNICIPAL PROPERTY 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 Sections 156 and 162 of the Constitution of the Republic of South Africa Act, 108 of 1996 as amended that the Mkhondo Local Municipal Council has resolved to adopt the following Encroachment on Municipal Property By-laws with effect from date of publication.

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## 1. Interpretation

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

**“Council” means** (a) the Mkhondo Local Municipality established by the Mpumalanga Provincial Notice 28 of 2004 in terms of Section 12 of the Local Government: Municipal Structures Act 117 of 1998, exercising its legislative and executive powers by way of its municipal Council or its successor in title.

- (b) a structure or person delegated to carrying out an instruction, where any power or function in terms of these By-laws has been delegated or sub-delegated as contemplated in Section 59 of the Local Government: Municipal Systems Act, 32 of 2000.

**“encroachment” means** a physical object or structure which intrudes on municipal property.

**“municipal property” means** property which is registered in the Council’s name and which the Council has control over, or property in respect of which a servitude or 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 a section of the public or to which the public or a 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;

- (c) work or an object which forms part of or which is connected with or which belongs to such road, street or thoroughfare, and a road reserve and any word or expression that has been defined in the National Building Regulations 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 and 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 subsections (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;
  - (xiii) a window on a ground storey level, if the window opens over a public place and the window is at any point lower than 2.3m measured vertically from the surface of the level of the public place;
  - (xiv) 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 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 permit, the Council may issue a demolition notice, 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 completed form similar to the form contained in Schedule 1, 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 permit, or may grant a permit, similar to the permit in Schedule 4, which schedule refers, and should the Council grant 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 requirements set out in Schedule 5, which schedule refers.
- (5) The Council may, instead of issuing a permit or demolition notice 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 reserved 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 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.

**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, prescribed fee as specified in Schedule 3, which schedule refers.

**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 notice**

- (1) A person on whom a demolition notice has 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 material and restore the surface of the 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 Municipality may deduct from the proceeds of any materials so disposed of the costs of any such pulling down, removal or demolition and the costs incurred in so disposing of the said materials and the surcharge thereon and shall thereafter pay any balance to the owner of the building removed or demolished.

- (4) The exercise of any powers set forth in subsection (2) and (3) shall not prejudice or diminish the rights of the Municipality to recover in terms of other provisions of these By-laws and other legislations.

**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 to 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 measure 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 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 is confirmed, in whole or 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 13, act in terms of subsection (5).

- (5) The Council may take such measures as it deems necessary to remedy the situation, including legal action 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 of the following persons:
- (a) the owner of the land, building or premises; or
  - (b) the person or occupier in control of the land, building or premises or any person who has or had a right to use the land at the time when the situation came about.
- (2) The costs recovered must be reasonable and may include, without being limited to, costs relating to labour, water, equipment, administrative and overhead costs as well as the legal costs incurred by the Council under section 9(5).
- (3) If more than one person is liable for costs incurred, the liability must be appointed as agreed among the person concerned according to the degree to which each was responsible for the emergency resulting from 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 and costs for remedy to be recovered be regarded to be cost against the property of the owner.

**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 of South Africa 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 of South Africa, 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 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 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 Councillor the Council is the appeal authority.
- (4) The appeal authority must commence with an appeal within six weeks or 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 of a fine of R 500.00 or to such imprisonment without the option or 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 for a period not exceeding ... 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 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 notice as contemplated in section 8.

**15. Availability of By-laws**

- (1) A copy of these By-laws shall be included in the Council's Municipal Code as required in terms of Section 15 of the Local Government: Municipal Systems Act, 32 of 2000.
- (2) A copy of these By-laws shall be made available for inspection at the municipal offices or at the offices of its authorized agent at all reasonable times.
- (3) A copy of these By-laws may be obtained in accordance with the provisions of the Council's Manual on the Promotion of Access to Information Act, 2 of 2002.

**16. Short title and commencement**

These By-laws are called Mkhondo Local Municipality: Encroachment on Municipal Property By-laws, and shall come into effect on the date of publication in the Mpumalanga Provincial Gazette.

**SCHEDULE 1**

(Section 4(2))

**APPLICATION FOR PERMIT****A. PERSONAL PARTICULARS**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone number: \_\_\_\_\_

**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 why encroachment is necessary:

\_\_\_\_\_

- \* The horizontal dimension of the encroachment must be measured parallel to the erf 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 number: \_\_\_\_\_

**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 for existence of encroachment:

\_\_\_\_\_

- The horizontal dimension of the encroachment must be measured parallel to the erf boundary on or over which the encroachment exists.

\_\_\_\_\_  
Signature applicant:

\_\_\_\_\_  
Date:

**SCHEDULE 3****(Section 6 (1))****PRESCRIBED FEE**

1.	Building	R 800 or 5 months
2.	Platform	R 500 or 3 months
3.	Step	R 500 or 3 months
4.	Ramp	R 500 or 3 months
5.	Balcony	R 500 or 3 months
6.	Veranda	R 500 or 3 months
7.	Sign	R 500 or 3 months
8.	Colonnade	R 500 or 3 months
9.	Bay window	R500 or 3 months
10.	Pavement light	R 500 or 3 months
11.	Showcase	R 500 or 3 months
12.	Window	R500 or 3 months
13.	Gate or door	R500 or 3 months

Where a road reserve is encroached by a building or the boundary fence was moved into a road reserve, the annual fee should be based on the valuation of the erf from which the encroachment is taking place or for which an application is received.



## SCHEDULE 4

(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 the \_\_\_\_\_  
\_\_\_\_\_ Municipal Area at the following  
address: \_\_\_\_\_

\_\_\_\_\_ (Address of premises).

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

**OFFICIAL CAPACITY**

## SCHEDULE 5

### (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 2,6m wide;
  - (b) more than 3m from the building line measured to the outside of the column or at less than 3m centre to centre;
  - (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 veranda column at a distance lesser than 600mm 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 supported on columns-
  - (a) the columns may not have a square arris;
  - (b) no base may project more than 50mm beyond the bottom diameter of the column; and
  - (c) the maximum horizontal axial dimensions of a base may not exceed 350mm.
- (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 3m or more than 3,6m in height and not more than 4,5m 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 3m.
- (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 750mm or more than 1,05m above the floor or a balcony.
- (11) The consent 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 lines 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 of less than 3m 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 1,35m over a public street.

- (3) A bay window may not encroach more than 900mm 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 length of the building frontage to that street.
- (5) No part of any window in any bay shall be less than 900mm from any part wall of the building to which it belongs 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 1,2m 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 1m in height is allowed above the level of the floor.
- (8) A dividing wall across a balcony over a public street may not exceed 1m in height or 225mm 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 150mm in diameter, of good architectural design and supporting the roof and upper balcony sufficiently.

- (11) A person may not place or permit or cause to be placed an article upon a balcony 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 1,35m for the full length of the 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 3m above the ground may not exceed the following encroachment over a public street.
  - (a) A pilaster: 450mm: 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 ornamental hood or pediment over a door: 600mm and in any part not less than 2,75m in height above the footway or pavement; and

- (c) a cornice: 1,05m where not exceeding 10,5 m above the footway or pavement and one-tenth of the height from the footway or pavement if exceeding 10,5m with a maximum of 1,8m.

**4. Specific requirements relating to verandas around corners**

- (1) Where a veranda is built around the corner of a public street it must be properly splayed or rounded to follow the curves of the kerb.
- (2) If corrugated iron is used for covering a veranda, its exposed surfaces must be painted.
- (3) A veranda over a public street must correspond in line, height and detail with an existing adjoining veranda.

**5. Specific requirements relating to pavement openings**

- (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 iron or reinforced concrete frames flush with the sidewalk and no single piece of such glass may exceed 160cm<sup>2</sup> in area.
- (4) No pavement opening on any public street may extend more than 1,2m beyond the building line.
- (5) Where flaps are permitted in pavement openings each flap may not exceed 0,75 square metres in area and must open upwards and while open, must be provided with stout iron guard rails and stanchions.

- (6) Flap openings 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 gratings or with metal plates or with wood.

**6. Cat-cranes, lifting cranes and platforms**

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

**PROVINCIAL NOTICE 60 OF 2018****MPUMALANGA DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS****PUBLICATION OF MUNICIPAL BY-LAWS FOR LOCAL MUNICIPALITIES IN TERMS OF  
THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT (ACT NO. 32 OF 2000)**

I, Speed Katishi Mashilo, in my capacity as Member of the Executive Council responsible for Co-operative Governance and Traditional Affairs, in the Mpumalanga Province, hereby publish municipal by-laws for Mkhondo, Chief Albert Luthuli, Lekwa and Emalahleni local municipalities, in terms of Section 13 (a) and (b) of the Local Government: Municipal Systems Act (Act No. 32 of 2000)

The municipal by-laws are concerning the following matters per local municipality, namely:

**Lekwa Local Municipality**

1. Electricity Supply
2. Advertising Signs
3. Encroachment on Municipal Properties
4. Public Participation
5. Street Trading
6. Contaminated Waste
7. Cemetery
8. Taxi
9. Informal Settlements
10. Open Space

**Chief Albert Luthuli Local Municipality**

1. Standing Rules and Orders
2. Electricity Supply
3. Fire Brigade Services
4. Sanitation
5. Waste Management
6. Water Supply

**Emalahleni Local Municipality**

1. Property Rates



**Mkhondo Local Municipality**

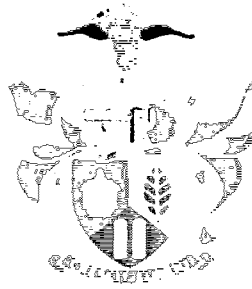
1. Credit Control and Debt Collection
2. Control of Outdoor Advertising
3. Encroachment on Municipal Properties

Given under my hand at Mbombela, on 03/04 2018



MR SK MASHILO (MPL)

MEC: DEPARTMENT OF CO-OPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS



## **MKHONDO LOCAL MUNICIPALITY CREDIT CONTROL AND DEBT COLLECTION POLICY AND BY-LAW**

The Mkhondo Local Municipality hereby publishes the Credit Control and Debt Collection By-Laws set out below. They have been promulgated by the municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996 and in accordance with section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

### **CREDIT CONTROL AND DEBT COLLECTION BY-LAW**

#### **LOCAL, GOVERNMENT: MUNICIPAL FINANCE MANGEMENT ACT, 2003**

Council resolves, in terms of section 111 of the local government municipal finance management Act (No.56 of 2003), to adopt the under- mentioned revised policy as the credit control and debt collection policy of the municipality.

#### **1. INTRODUCTION**

This policy is established in terms of chapter 9 of the municipal systems act. (No.32 of 2000) and section 62(f) (iii) of the municipal finance management act (56 of 2003) which requires that a municipality establish and maintain a credit control and debt control policy.

#### **2. Scope of the policy**

- a. This policy applies to all boundaries within the defined boundaries of the Mkhondo Local Municipality and all persons of these administrations
- b. This policy as approved by council shall be passed into a Municipal bylaw in terms of the local Government: municipal systems Act No 32 of 2000 and such policy will be binding on the public, officials and councillors of the Municipality of Mkhondo and no interference in the process will be permitted.
- c. The policy is applicable until such time as it is reviewed and councils approve the revisions. All acts performed in terms of the above approved policy, until such time as the policy is passed into a municipal bylaw, will not be invalidated due to the timing differences between approval and promulgation.
- d. All acts performed as mentioned in the previous paragraph will be ratified with the promulgation of the related municipal bylaw.

### **3. OBJECTIVES OF THE POLICY**

The objectives of this policy are to:

- 3.1 Define a framework within which the municipality can develop an effective procedure to bill and collect its revenues;
- 3.2 Ensure that all monies due and payable to the municipality are collected in full and used to deliver municipal services in the best interest of the community, residents and ratepayers and in a financially sustainable manner as prescribed by the municipal systems Act, 2000(Act No,32 of 2000), and other applicable legislation;
- 3.3 enable the implementation of this policy throughout the Mkhondo local municipality
- 3.4 effectively and efficiently deal with defaulters in accordance with the terms and conditions of this policy;
- 3.5 promote a culture of payment and instil a sense of responsibility towards the payment of municipal accounts and reduction of municipal debt;
- 3.6 ensure compliance with the National Credit Act.

### **4. PRINCIPLES**

- a. The administrative integrity of the municipality must be maintained at all times
- b. All customers must complete an official application form, formally requesting municipal services. Existing customers may be required to complete new application forms from time to time, as determined by the municipal manager.
- c. A copy of the application form, including conditions of services, must be handed to every new customer on date of application for services. All customers must be informed of the contents of the council's credit control and debt collection policy and bylaws a copy made available to any customer on request.
- d. Billing is to be accurate, timeous and understandable
- e. The customer is entitled to reasonable access to pay points and to a variety of reliable payment methods.
- f. The customer is entitled to an efficient, effective and reasonable response to appeals, and should suffer no disadvantage during the processing of a reasonable appeal.
- g. Enforcement of payment must be prompt, consistent and effective.
- h. Unauthorised consumption, connection and reconnection, the tampering with or theft of meters, service supply equipment and the reticulation network and any fraudulent activity in connection with the provision of municipal services will lead to disconnections, penalties, loss or rights and criminal prosecutions.
- i. Incentives and disincentives may be used in collection procedures.
- j. There must be legal cause between the municipality and its customer, and customer debt must arise out of a legal framework and must be legally collectable.
- k. Debtors may be referred to third party debt collection agencies and may be placed on the National Credit Bureau.
- l. The municipal manager shall on a regular basis report to the executive on the progress made in implementing the policy.
- m. The municipality shall not conduct any business activity with or provide any services to any persons with arrear municipal accounts except as provided for in policy and as determined by the municipality from time to time, nor will any refunds of credits be made to any debtor who is in arrears with their municipal account.

## 5. DEFINITIONS

In this policy word or expression to which a meaning has been assigned in the Local Government: Municipal Systems Act has that meaning, unless the context indicates otherwise-

**"account"** means a notification by means of a statement of account to a ratepayer or customer who is liable for payments of any amount to the municipality and any authorized service provider in respect of the following:-

Electricity that is consumed by a consumer based on a meter reading or an estimated consumption and any service fee;

Water that is consumed by a consumer based on a meter reading or an estimated consumption or water availability fees,

Refuse removal and disposal;

Sewerage services and sewer availability fees;

Rates

Interest;

Connection fees;

Collection charges, miscellaneous and sundry fees; and

Default administration charges.

**"Act"** means the local government: Municipal Systems Act, 2000(Act no. 32 of 2000) as amended from time to time;

**"Actual consumption "** means the measured consumption by a customer of a municipal service;

**"Agreement"** means a contractual relationship between the municipality and a customer that arises, either as a result of the municipality's approval of a written application for municipal services, including any subsequent variation that may be made to that agreement in conformity with this policy , or that is deemed to be an agreement;

**"Applicable charges"** means the rate (including assessment rates), charges, tariffs or subsidies determined by the council;

**"area of supply"** means any area within or partly within the area of jurisdiction of the municipality to which a service is provided;

**"Arrears"** means any amount that is due, owing and payable by a customer in respect of a municipal service provided to such customer that has not been paid on or before the due date reflected on an account rendered in respect thereof;

**"arrangement"** means a written agreement or acknowledgement of debt in terms of which a municipality agrees to the payment over a period of time of a debt that is outstanding;

**Authorised agent** means:

Any person authorized by the council to perform any act, function or duty in terms of or to exercise any power under this policy;

Any person to whom the council has delegated responsibilities, duties or obligations in respect of the provision of revenue collection services; or

Any person appointed by the council, in a written contract, as a service provider for the provision of revenue collection services or a municipal service to customers on its behalf, to the extent authorised by that contract;

**“Average consumption”** means the average consumption by a customer of a municipal service during a specific period, which consumption is calculated by dividing by three the total measured consumption of that service by that customer over the preceding three months;

**“billing”** refers to the process of charging for services provided by issuing a accounts:

**“by law”** means a legislation that is made by a decision taken by the council of the municipality binding in the municipality on the persons to whom it applies and is published in terms of section 13 of the municipal systems act;

**“credit control”** refers to the action/s required to safeguard revenue including disconnections, reconnections, normalising installations and follow-up procedures and data integrity.

**“credit control and debt collection”** is the function relating to the effective collection of any monies due and payable to a municipality;

**“municipal consumer debt”** refers to the non-payment or late payment by consumers of property rates and municipal services (water, electricity, sanitation, refuse removal), traffic fines and rental housing payments, and includes any amounts considered as irrecoverable;

**Council** means the council of the local municipality of Mkhondo. A structure or person exercising delegated authority and power or carrying out an instruction in terms of these by laws or a service provider fulfilling the responsibility under these by-laws;

**Commercial customer** means the point at which a customer gains access to municipal services;

**“connection”** means the point at which a customer gains access to municipal services;

**“customer”** means a person with whom the municipality has concluded or is deemed to have concluded an agreement for the provision of a municipal service;

**“Credit agreement”** means a credit agreement as defined in the national credit act in No.34 of 2005, including an accidental credit agreement;

**“continuous service”** means the supply for consideration of a municipal service with the intent that as long as the agreement to supply the service remains, the municipality will make the service continuously available to be used by the consumer from time to time as determined by the consumer,

**“chief financial officer”** means the official of the municipality responsible for the collection of moneys owed to the municipality and/ or any other staff member to whom he/she has delegated duties and responsibilities in terms of this policy;

**“Defaulter”** means a customer who owes arrears to the municipality;

**“domestic customer”** means a customer who, primarily for residential purposes, occupies a dwelling, structure or premises;

**“due date”** means the date on which an amount payable in respect of an account becomes due, owing and payable by a customer, which date shall not be more than 30 days after the date on which the account has been sent to the customer concerned;

**“Debt collection “** refers to the debt recovery process and includes sanctions( warning, disconnection, adverse credit rating, legal process and/or eviction, etc.) to be applied in the event of non-payment of accounts;

**“Disconnection”** means interrupting the supply of water or electricity to a debtor as a consequence of ignoring a notice for payment;

**Effective disconnection”** includes, inter alia, the physical removal of connections and / or equipment as a consequence of unauthorised reconnection (tampering and/ or by –passing) of the disconnected service.

**“Emergency situation”** means a situation that would , if allowed to continue, pose a substantial risk, threat, impediment or danger to the present or future financial viability or sustainability of the municipality or to a specific municipal service;

**“Estimated consumption”** means the consumption that a customer, whose consumption is not measured during a specific period, is deemed to have consumed and that is estimated by taking into account factors that are considered relevant by the municipality and which may include the consumption of municipal services by the totality of the users of a service within the areas where the service is rendered by the municipality, at the appropriate level of service, for a specific time;

**“Financial year”** means a year ending 30 June;

**“Holistic” or consolidated”** refers to the combining of all debt in order to establish the total obligation the debtor has to the municipality;

**“house hold”** means a family unit that is determined by the municipality to be traditional by taking into account the number of persons in the unit, the relationship between the members of a household, their ages and any other factor that the municipality considers to be relevant;

**“Illegal connection”** means a connection to any system through which a municipal service is provided and that is not authorised or approved by the municipality;

**“incidental credit agreement”** as defined in the National Credit Act No. 34 of 2005 means an agreement, irrespective of its form, in terms of which an account was rendered for utility services that have been provided to a customer and a fee, charge or interest become payable when payment of the amount charged in terms of that account was not made on or before a date which is less than 30 days before such fee, charge or interest was first levied;

**“Principle debt”** means a debt that is owed to the municipality in respect of rates and services. It may include interest, collection charges, default administration charges and connection charges and any other charges;

**“Collection Costs”** means an amount that the municipality can charge with regard to the enforcement of a consumer's monetary obligation, if the service agreement is a credit agreement in terms of the National Credit Act;

**“Default Administration Charges”** means a charge that may be imposed by the Municipality to recover administration costs incurred as a result of a consumer's default, if the agreement is a credit agreement in terms of the National Credit Act;

**“interest”** means a charge levied on all arrear monies and calculated at a rate determined by the Council from time to time as may be prescribed by the Minister of Justice in terms of paragraph 1 of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975) or in terms of the Municipal Property Rates Act or in terms of the National Credit Act No 34 of 2005 in the case of an incidental credit agreement, as may be applicable to any agreement concluded under this policy;

**“Interest on overdue accounts”** is based on a full month and part of a month shall be deemed to be a full month.

**“Indigent customer”** means a domestic customer who is qualified to be and who is registered with the municipality as an indigent in accordance with this policy;

**“Indigent amount”** refers to the applicable value of the indigent subsidy as determined by the Council of the municipality from time to time;

**“infrastructure”** means the facilities, installations or devices required for the rendering of a municipal services or for the functioning of a community including but not limited to facilities, installation or devices relating to water, power, electricity, sewerage, gas and waste disposal;

**“Legal process or procedures and/or legal action”** refers to, inter alia, the process and/ or action described in the Magistrate Courts Act No. 32 of 1944; Supreme Court Act No. 59 of 1959 Adjustment of Fines Act No. 101 of 1991; Debt Collector Act No. 114 of 1998; Criminal Procedure Act No. 51 of 1977; Local Government: Structures: Cross-Boundary Municipalities Act No. 29 of 2000; Local Government: Structures Amendment Act No. 33 of 2000; Local Government: Municipal System Act No. 32 of 2000;

**“Letter of Demand”** means a notice sent prior to the legal process commencing and includes notices sent as part of the monthly statement;

**“Municipality”** means:

- a. the Municipality of Mkhondo a local municipality established in terms of paragraph 12 of the Local Government: Municipal Structures Act No. 117 of 1998 and its successors-in-title; or
- b. subject to the provisions of any other law and only if expressly or impliedly required or permitted by this policy, the Municipal Manager in respect of the performance of any function, or the exercise of any duty, obligation, or right in terms thereof or any other law; or
- c. an authorized agent of the municipality;

**“Municipal Manager”** means the person appointed by the Council as the Municipal Manager of the municipality in term of section 82 of Local Government: Municipal Structure Act No. 117 of 1998 and includes any person to whom the Municipal Manager has delegated a power, function or duty but only in respect of that delegated power, function or duty;

**“Municipal Property Rates Act”** means the Local Government: Municipal Property Rates Act No. 6 of 2004;

**“Municipal Services”** for purposes of this policy, means services provided by the municipality, including refuse removal, water supply, sanitation electricity services and rates either collectively or singularly;

**“Occupier”** means any person who resides on and/or occupies any premises to which municipal services are supplied, regardless of the title under which he/she or it occupies the premises;

**“Owner”** means:

- a. the person in whose name the ownership of the premises is registered from time to time or his agent;
- b. where the registered owner of the premises is insolvent or dead or, for any reason, lacks legal capacity or is under any form of legal disability that has the effect of preventing him/her from being able to perform a legal act on his own behalf, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or legal representative, as the case may be;
- c. Where the municipality is unable to determine the identity of the owner, a person who has a legal right in or the benefit of the use of any premises, building. or any part of building;
- d. Where a lease has been entered into for a period of 30(thirty) years or longer or for the natural life of the lessee or any other person mentioned in the lease or is renewable from time to time at the will of the lessee indefinitely or for a period or periods which, together with the first period of the lease, amounts to 30 years, the lessee or any other person to whom he has ceded his right, title and interest under the lease or any gratuitous successor to the lessee;
- e. In relation to:
  - I. A piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act no 95 of 1986), the developer or the body corporate in respect of the common property, or
  - II. A sectional 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
  - III. A person occupying land under a register held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

**“Parked arrears”** refers to those monies that were put on hold by some of the former councils which now constitute the municipality of Mkhondo

**“payment”** refers to any form of redemption acceptable to the council of Mkhondo Local Municipality from time to time towards the balance on an account;



**“person”** means any person, whether natural or juristic, and includes but is not limited to any 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;

**“premises”** means any piece of land, the external surface boundaries of which are delineated on

- a. A general plan or diagram registered in terms of the land survey act no. 9 of 1927 or in terms of the deeds registries act no. 47 of 1937;
- b. A sectional plan registered in terms of the sectional titles act No 95 of 1986; or
- c. A registered held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

and where the text so requires, includes any building, structure or the like erected on such land;

**“public notice”** means publication in the media including one or more of the following:

- a. publication of a notice, in at least two of the official languages in general use within the province or area in question and, where possible, the notice shall be published in a newspaper appearing predominantly in the language utilised in the publication of the notice.
  - I. In any local news paper or newspapers circulating in the area of supply of the municipality
  - II. In the newspaper or newspapers circulating in the area of supply of the municipality determined by the council as a newspaper of record; or
  - III. On the official website of the municipality;
  - IV. By means of radio broadcasts covering the area of supply of the municipality;
- b. Displaying a notice in or at any premises, office, library or pay-point of either the municipality or of its authorized agent and to which the public has reasonable access; and
- c. Communication with customers through public meetings and ward committee meetings;

**“Prescribed tariff or charge”** a charge prescribed by the municipality;

**Residential debtors”** are classified as those debtors who qualify for and receive free electricity and/ or water;

**“Non-residential debtors”** are classified as those debtors who do not qualify for or receive free electricity and / or water;

**“Shared consumption”** means the consumption by a customer of a municipal service during a specific period and that is calculated by dividing the total metered consumption of that municipal service in the supply zone where the customer’s premises are situated for the same period by the number of customers within the supply zone during that period;

**“Subsidised service”** means:

- a. A municipal service which is provided to a customer at an applicable rate which is less than the cost of actually providing the service and includes services provided to customers at no cost;
- b. An area, as determined by the council, within which all customers are provided with services from the same bulk supply connection; and
- c. The receipt, use or consumption of any municipal service which is not in terms of an agreement or authorised or approved by the municipality;

**“Service”** means a municipal service rendered by the municipality and includes the supply of electricity, water, sanitation and refuse removal;

**“Sundry debt”** refers to any debt other than rates, housing, metered services, sewerage and refuse removal.

**“Supply”** means any metered supply of water or electricity;

**“Tampering”** means the unauthorised reconnection of a supply that has been disconnected for non-payment, the interference with the supply mains or bypassing of the metering equipment to obtain an un-metered service;

**“Total household income or household income”** refers to the total formal and informal gross income of all people living permanently or temporarily on the property on which the account is based;

**“Unauthorised service”** means the receipt, use or consumption of any municipal service which is not in terms of an agreement with or approved by the municipality;

**“Utility”** as defined in the National Credit Act No 43 Of 2005, means the supply to the public of an essential

- a. Commodity, such as electricity, water or gas; or
- b. Service, such as waste removal or access to sewerage lines, telecommunication networks or any transportation infrastructure. Unless the context clearly indicates a contrary intention, an expression which denotes gender shall include a reference to any other gender; the singular shall include a reference to the plural and vice versa

## 6. DUTIES AND FUNCTIONS

### 6.1 Duties and functions of council

- To provide a budget consistent with the needs of communities, ratepayers and residents in line with the financial capability of council
- To impose rates and taxes and to determine service charges, fees and penalties to finance the budget.
- To facilitate sufficient funds to give access to basic services for the poor.
- To provide for a bad debt provision, in line with the payment record of the community, rates payers and residents, as reflected in the financial statements of the municipality
- To set an improvement target for debt collection, in line with acceptable accounting ratios and the ability of the implementing authority.
- To approve a reporting framework for credit control and debt collection.

- To consider and approve bylaws to give effect to the policy
- To monitor the performance of the Mayor (supervising authority) regarding credit control and debt collection.
- To revise the budget should council's targets for credit control and debt collection not be met?
- To take disciplinary and / or legal action against councillor, officials and agents who do not executive council policies and bylaws, or act improperly in terms of such policies.
- To approve a list of attorneys that will act for council in all legal matters relating to debt collection.
- To delegate the required authorities to monitor and executive the credit control and debt collection policy to the mayor and municipal manager and service provider respectively.
- To provide sufficient capacity in the municipality's finance department for credit control and debt collection policy to the mayor and municipal manager and service provider respectively.
- To provide sufficient capacity in the municipality's finance department for credit control and debt collection. Alternatively to appoint a service provider debt collection agent (such service provider must be a registered debt collection agent in terms of legislation).
- To assist the municipal manager in the execution of his duties, if and when required.
- To provide funds for the training of staff.

## **6.2 Duties and Functions of the Mayor, or Executive Committee**

- To ensure that council's budget, cashbook and targets for debt collection are met and executed in terms of the policy and relevant by-laws.
- To monitor the performance of the municipal manager in implementing the policy and bylaws.
- To review and evaluate the policy and bylaws in order to improve the efficiency of council credit control and debt collection procedures, mechanisms and processes.
- To report to council.

## **6.3 Duties and Functions of Ward Councillors**

- To hold regular ward meetings wherein the credit control and debt collection policy and procedures of council are addressed.
- To adhere to and convey council policies to residents and ratepayers and in particular the credit control and debt collection policy and procedure
- To adhere to the code of conduct for councillors
- To act in terms of roles and functions as approved by council and assist in the dissemination and distribution of information.

## **6.4 Responsibilities of all Councillors**

To always pay amounts that are owed in respect municipal rates, taxes and services as required by section 12A of schedule 1 of the municipal systems act and not to default on payments for a period longer than 3months

- The municipality may deduct any outstanding amounts from a councillor's allowance, if the councillor has not paid amounts that are due to the municipality for more than 3months
- The normal credit control procedures shall apply to any arrear account of a councillor.
- All agreements with councillors must not exceed the expiry date of the term of office.

#### **6.5 Duties and Functions of the Municipal Manager**

- The Municipal Manager, as the accounting officer of the municipality, must take all reasonable steps to ensure that-
- The municipality has effective revenue collection systems consistent with Section 95 of the Act and the municipality's Credit Control and Debt Collection bylaws and National Credit Act;
- Revenue due to the municipality is calculated on a monthly basis.
- All money received is promptly deposited into the municipality's primary and other bank accounts;
- The municipality has and maintains a system of internal control in respect of debtors and revenue, as may be prescribed;
- The municipality charges interest and other permissible charges on arrears, except where the council has granted exemptions;
- All revenue received by the municipality, including revenue received by any collecting agent on its behalf, is reconciled regularly;
- The accounting officer must immediately inform the national treasury of any payments due by an organ of State to the municipality in respect of municipal tax or for municipal services, if such payments are regularly in arrears for periods of more than 30 days.

#### **6.6 Responsibilities of all municipal staff**

- To always pay amounts that are owed in respect of municipal rates, taxes and services and not to default on payments for a period longer than 3 months.
- The municipality may deduct any outstanding amounts from a staff member, if the staff member has not paid amounts that are due to the municipality for more than 3months
- The normal credit control procedures shall apply to any arrear account of a councillor.
- Where the municipality provides temporary employment to members of the community who are in arrears with payments for municipal rates and services they will be required to enter an agreement to pay 20% of their gross remuneration towards these arrears of debt.

#### **6.7 Duties and Functions of Communities, Ratepayers and Residents**

The responsibilities of communities, rates payers and residents are to

- Pay deposits, service fees, rates on property and other taxes, levies and duties imposed by the municipality.
- Observe the mechanisms and processes of the municipality in exerting their rights
- Allow municipal officials reasonable access to their property to execute municipal functions at a time that is agreeable by the consumer and municipal officials;
- Comply with the bylaws and other applicable legislation;
- Refrain from tampering with municipal services and property.

## **7. CUSTOMER CARE**

In terms of section 95 of the local Government Municipal Systems Act 2000, in relation to the levying of rates and other taxes by a municipality and charging of fees for municipal services, a municipality must, within its financial and administrative capacity.

- Establish a sound customer management system that aims to create a positive and reciprocal relationship between persons liable for these payments and the municipality itself;
- Establish mechanisms for users of services and rates payers to provide feedback to the municipality or other service provider regarding the quality of the services and the performance of the service provider.
- Take reasonable steps to ensure that users of services are informed of the costs involved in service provision, the reasons for the payment of service fees, and the manner in which monies raised from the service are utilised.
- Where the consumption of services have to be measured, take reasonable steps to ensure that the consumption by individual users of services is measured through accurate and verifiable metering systems;
- Ensure that persons liable for payments receive regular and accurate accounts and indicate the basis for calculating the amounts due;
- Provide accessible mechanisms for those persons to query or verify accounts and metered consumptions, and appeal procedures which allow such persons to receive prompt redress for inaccurate accounts;
- Provide accessible mechanisms to monitor the responsible time and efficiency in complying with the above point; and
- Provide accessible pay points and other mechanisms for settling accounts or for making pre-payments for services.

## **CREDIT CONTROL**

### **8. APPLICATION FOR MUNICIPAL SERVICES**

- 8.1 Customers who require a service must enter into a written service agreement with the municipality. In the event that the occupant is not the owner of the property, service agreements will only be entered into the lawful owner of the property to which the services are to be provided.
- 8.2 The process must occur at least five (5) working days prior to taking occupation of the premises, so that the municipality can ensure that a meter reading is taken on the appropriate day and that the services are available when occupation is taken. Failure to adhere to the timeframe may result in customers not having the services available when occupation is taken.

- 8.3 Applications for municipal services may be checked for credit-worthiness including banking details and information from credit bureaus, other local authorities, trade creditors and employers. This will require the provision of an identity document, binding lease agreement, title deed and other supporting documents as required by council from time to time.
- 8.4 Applications for services from businesses, including but not limited to trusts, companies, close corporations and partnerships must include a resolution delegating authority to the applicant to apply for the relevant service and furnishing, if applicable, the business entity's registration number or IT number, the names, addresses and all relevant contact particulars of all business' directors, members, trustees, proprietors or partners.
- 8.5 An applicant must provide any information and documentation which the municipality requires.
- 8.6 If an applicant for municipal service is an existing customer of the municipality in respect of any other municipal service and such customer has an outstanding amount that is due and payable to the municipality:
- The arrears must be paid; or
  - An agreement for payment of arrears must be concluded with the municipality before an application for services can be approved.
- 8.7 The municipality will render the first account after the first meter reading cycle to be billed following the date of signing the service agreement.
- 8.8 customers who illegally consume services without this agreement will be subject to punitive action.
- 8.9 **PROPERTY DEVELOPMENTS**
- a. A property developments must inform the municipality of the nature and extent of the municipal services or services that will be provided as well as the measuring devices that will be used.
  - b. A property developer who fails to comply with the provisions of sub-paragraph (a) shall be liable for the payment of all the applicable charges that would have been payable by customers in respect of municipal services that have been used or consumed by such customers.

## **9. TERMINATION OF SERVICES**

- 9.1 It is the responsibility of the consumers to notify the municipality when municipal services are no longer required due to the sale of the property or other reasons.
- 9.2 Failure to comply with the provision of paragraph 10.1 above renders the consumer liable for all service charges and interest thereon accumulated from the date when the premises are vacated to the date when council becomes aware of such vacation.
- 9.3 A customer may terminate an agreement for the supply of municipal services by giving at least 21 (twenty-one) days written notice to the municipality of such termination.
- 9.4 The municipality may terminate an agreement for the supply of municipal services by giving at least 21 (twenty-one) days' written notice to a customer where:
- a. Municipal services were not utilised by such customer for a consecutive period of 2 (two) months and without an arrangement, to the satisfaction of the municipality, having been made for the continuation of the agreement; or

- b. Premises' have been vacated by the customer concerned and no arrangement for the continuation of the agreement has been made with the municipality provided that, in the event of the customer concerned not being the registered owner of the premise, a copy of the aforesaid notice shall also be served on such registered owner.
- 9.5 A customer shall remain liable for all arrears and applicable charges that are payable for municipal services rendered prior to the termination of an agreement.

## **10. PAYMENT OF A DEPOSIT**

- 10.1 Every consumer must, on application for the provision of municipal services, pay a deposit to the municipality prior to the provision of any municipal services, the amount of which shall be determined by the council of the municipality by resolution from time to time.
- 10.2 The Council may require a consumer to whom services are provided and who was not previously required to pay a deposit, for whatever reason, to pay a deposit on request, within a specified period.
- 10.3 The Council may from time review the sum of money deposited by a consumer in terms of this section and, in accordance with such review
- a. Require that an additional amount be deposited by the consumer; or
  - b. Credit the account of the consumer with such amount as may be held by the municipality in excess of the reviewed deposit.
- 10.4 The municipality shall give the owner or occupier of premises where municipal services are rendered reasonable notice of any increase of the deposit.
- 10.5 An aggrieved owner or occupier of property where municipal services are provided may within the prescribed time lodge an objection to any increase of the deposit.
- 10.6 An amount deposited with the municipality in terms of this section shall not be regarded as being in payment or part payment of an account due for services rendered.
- 10.7 No interest shall be payable by the municipality on the amount of a deposit held by it in terms of this section.
- 10.8 An agreement for the provision of services may contain a condition that a deposit shall be forfeited to the municipality or its authorised agent if it has not been claimed within 12 (twelve) months of the termination of the agreement.
- 10.9 The municipality may accept in lieu of a deposit a bank guarantee as a deposit.
- 10.10 The municipality must ensure that the use of the deposit that is given by the consumer complies with Section 124 of the National Credit Act for all agreements that fall under the Act

- 10.11 On termination of the supply of the municipal services the consumer shall be paid the amount deposited less any payments due to the municipality.

## **11 RECOVERY OF ADDITIONS COSTS**

- 11.1 The municipality may , in addition to any charge, tariff, levy or payment of any kind referred to in this policy, recover from a customer any reasonable costs incurred by it in this policy, including but not limited to:
- a. All legal costs, including attorney and client costs incurred in the recovery of arrears which shall be debited against such customer as arrears in his account; and
  - b. The costs incurred in demanding payment from such customer and for reminding him/her, by means of telephone, fax, email , letter or otherwise that payment is due, provided that, in respect of an incidental credit agreement, default administration and collection charges may only be charged on condition that they do not exceed the applicable limit permissible in terms of the National Credit Act, No. 34 Of 2005 in the event of the customer concerned defaulting on a payment obligation under such agreement and provided that proper notice in terms of this Act has been given.

## **11. PAYMENT FOR MUNICIPAL SERVICES PROVIDED**

- 12.1 A customer shall be responsible for the payment of all municipal services accounts rendered to him/her from the commencement date of the agreement until the account has been paid in full and the municipality shall be entitled to recover all payments due to it from the customer concerned.
- 12.2 If a customer uses a municipal service for a use other than that for which it is rendered by the municipality in terms of an agreement and if he is charged an amount lower than the applicable prescribed charge, the municipality may alter the amount so charged and recover from him/her the difference between the altered charge and the amount initially charged to him/her.
- 12.3 if amendments to the applicable charge become operative on a date between measurements and/or meter readings for the purpose of rendering an account for services rendered,
- a. It shall be deemed that the same quantity of municipal services was provided to the customer for each period of twenty-four (24) hours during the interval between the measurements and/ or metered readings as the case may be, and
  - b. Any fixed charge shall be calculated on a pro-rata basis in accordance with the charge that applied immediately before such amendment and such amended applicable charge

### **12.4 “Full and final settlement ‘of an amount**

Where an account is not settled in full, any lesser amount tendered to and accepted by the municipality shall not constitute a full and final settlement of such an account despite the fact that the payment was tendered in full and final settlement unless the municipal manager or his nominee or the manager of the municipality’s authorised



agent expressly accepts such payment in writing as being in full and final settlement of the amount reflected on the relevant account.

#### **12.4 Responsibilities for payment of amounts due and payable**

- a. Notwithstanding any other provision in this policy, an owner of premises shall be liable for the payment of any amount that is due and payable to the municipality by a customer who is a lessee or occupier of such premises to which municipal services have been provided for the preceding two years, if the municipality, after having taken reasonable steps to recover from such customer any amount due and payable by him/her, could not do so;
- b. Subparagraph (1) must not be construed as absolving the municipality from its responsibility to collect outstanding amounts in respect of municipal services provided to premises from the customer who has benefited there from nor for timeously informing the owner of the premises concerned that the occupying customer has defaulted in making payments due to the municipality in respect of rendered municipal services.
- c. Despite subparagraph (1) but subject to any law governing prescription, the municipality may collect amounts owing to it for a period in excess of two years through due legal process.

#### **12.5 Dishonoured Payments**

- a. If the drawer of the cheque, or the consumer who received value from the depositing of the cheque, is an existing consumer of council, the reversal and penalty fee may be debited to an account of the drawer or beneficiary and a letter of notification must be sent to the consumer. Such fee shall be deemed to be a tariff charge and shall be recovered from the consumer. Council reserves the right to refuse to accept further cheques from the drawer or beneficiary, to place the matter on the National Adverse Credit Listing and also institute legal action which may include criminal charges against the offender
- b. If the drawer of the cheque is not an existing debtor of Council, then a sundry debtor account is opened and the debit and penalty is raised. Once the account is submitted and the debtor fails to honour the cheque and pay the penalty within 14 days of receipt, a final demand is generated and submitted. If there is still no response, then the matter shall be handed over for placement on the National Adverse Credit Listing and/or legal action that may include criminal charges being instituted against the offender.
- c. If the drawer of the cheque, or the debtor who received value from the depositing of the cheque, is an existing debtor of Council, the reversal and penalty fee may be debited to an account of the drawer or beneficiary and a letter of notification must be sent to the debtor. Such fee shall be deemed to be a tariff charge and shall be recovered from the debtor. Council reserves the right to refuse to accept further cheques from the drawer or beneficiary and also institute legal action which may include charges against the offender.
- d. Unpaid cheques in respect of motor vehicle licensing and payment of fines shall be dealt with in accordance with paragraph 12.6 or be forwarded to the relevant authority for further action.

#### **12.6 Incentive Schemes**

Where a municipality offers a discount to consumers in the form of schemes, the municipality has to comply with all the requirements of the national credit act, as this discount agreement is treated as a credited agreement by the Act.

- a. The council may, by resolution, approve incentive schemes to encourage prompt payment of charges for services rendered and to reward customers who pay their accounts regularly and on time.
- b. The aforementioned incentive schemes may include the conclusion of a written agreement with the employer of a customer in terms of which such employer undertakes to deduct outstanding rates and service charges or to settle regular monthly accounts, through deductions from the relevant customer's salary or wages, in exchange for a monetary reward either by way of payment of a commission or the grant of a rebate on the charges owing by the employer concerned to the municipality in respect of services rendered to such employer.

#### **12.7 Pay Points and Payment Methods**

- a. A customer must pay his account at pay points specified by the municipality or by an approved agent of the municipality.
- b. The municipality must inform customers of the location of specified pay- points and the identity of approved agents who may receive payments on its behalf in respect of services rendered to customers.
- c. Subparagraphs (a) and (b) must not be construed as prohibiting a customer from paying amounts due to the municipality or its authorised agent by means of electronic payment methods provided that the date of receipt of a payment shall be the date such payment appears on or is reflected in the banking account of the municipality.

### **13 PAYMENT OF INTEREST**

13.1 Except where expressly provided to the contrary in this policy, the municipality may levy interest on all arrears at a rate prescribed by the Council from time to time in accordance with prevailing law. The applicable interest rate for the financial year will be prime plus xxxx, subject to review as part of the budget review process.

13.2 The following categories of arrear debt shall not attract interest on arrears:

- a. Arrear debt
- b. Closed accounts
- c. Deceased estates
- d. Insolvent estates
- e. Debtor under administration ( administration portion only)
- f. The first 30 days after delivery date for all service.

13.3 Interest on arrear debt shall be calculated for each for which such payment remains unpaid and part of the month shall be deemed to be a month.

13.4 Interest will not be raised on "Parked Arrears". Parked arrears must be, however, be included in arrangements and notwithstanding anything to the contrary contained in

this policy, parked arrears must be collected in full before transfer of the property to a new purchaser is authorised.

- 13.5 If a transaction falls under the national credit act, interest shall be limited to the prescribed limit in terms of section 101 of the National Credit Act.
- 13.6 If a transaction falls under the National Credit Act, the Municipality shall comply with Section 103 of the National Credit Act which states that the variation must be in terms of a fixed relationship to a reference rate which is stipulated in the consumer agreement.
- 13.7 If an agreement falls under the National Credit Act and the interest that is payable varies, the municipality shall provide the notice that is required in terms of Section 104 of the National Credit Act every time the interest varies. The notice must stipulate the new rate.
- 13.8 If an agreement falls under the National Credit Act, the municipality, in addition to the interest charged, can only charge collection costs and default administration charges.
- 13.9 The interest that is payable cannot exceed the capital amount that is owed by the consumer at any time.
- 13.10 If an agreement is a credit agreement in terms of the National Credit Act, the interest and all permissible charges cannot exceed the capital amount owned at any time.

#### **14 ACCOUNTS AND BILLING**

- 14.1 A municipality shall provide every person liable to pay for municipal services assessment rates and taxes with a account in respect of every property for which that person is liable and all services rendered in respect of that property at the address last recorded with the municipality.
- 14.2 Failure by the municipality to render an account does not relieve a consumer of the obligation to pay any amount due and payable. The onus shall be on the consumer to obtain a copy of the account before the due date.
- 14.3 If a municipal service agreement constitutes a credit agreement in terms of the National Credit Act, the form and content of the account must comply with Section 109 of the National Credit Act, which provides guidance on the form and content of statement of account.
- 14.4 An account rendered by the municipality for services provided to a customer shall be paid not later than the last date for payment specified in such account, which date will not be more than 30 (thirty) days after the date of the account.
- 14.5 If payment of an account is received after the date referred to in Sub-Section 14.4, interest as may be prescribed by the municipality, must be paid by the debtor to the municipality.
- 14.6 Accounts will be rendered on a monthly basis in cycles of 30(thirty) days and shall be payable on the due date as indicated on the account.
- 14.7 Any amount which remains due and payable after the due date shall attract interest. Before charging any interest or charge with regard to outstanding amounts, the municipality shall ensure that it complies with section 4(6)(b) and paragraph 103-103 of the national credit act, where applicable.

- 14.8 Payments shall be deemed to be late unless received on or before the due date by the municipality. Electronic payments and payments made through agents must be received in a municipal bank account by the close of business on the due date.
- 14.9 The municipality may consolidate any separate accounts for which a customer is liable for payment. The municipality may not consolidate debt that is constituted by amounts that fall under the national credit act and those that do not fall under the national credit act and those that do not fall under the national credit act, unless the municipality ensures that the consolidated debt will comply in all respects with the national credit act.
- 14.10 If the consumer agreement for the supply of municipal services constitutes a credit agreement in terms of the National Credit Act, any amount that is received from the consumer shall be used to firstly satisfy any due or unpaid interest charges, secondly to satisfy any due or unpaid fees and finally to reduce the principal debt (even if the principal debt is consolidated).
- 14.11 In all other instances where the National Credit Act does not apply, the municipality can allocate the payment as it deems fit unless the consumer has expressly instructed otherwise.
- 14.12 Accounts must contain at least the following:
- The consumption or estimated consumption of water and electricity;
  - As determined for the measuring or consumption period;
  - The measuring or consumption period for water and electricity;
  - The amount due based on the measured or estimated consumption;
  - The amount due and payable for any other municipal service;
  - The applicable tariff;
  - The amount due in terms of the consumption;
  - The amount in arrears, if any;
  - The interest payable on any arrears, if any;
  - Collection charges if any;
  - The final date for payment;
  - The methods, places and approved agents where payment may be made.
- 14.13 Accounts may be accompanied by a notice stating that-
- The consumer may conclude an agreement with the municipality for payment of arrear amount in instalments at the municipality 5 (five working days before the final date for payment, if a consumer is unable to pay the full amount due and payable;
  - If no such agreement is entered into, the municipality may, in accordance with the policy contained herein, limit the water services to the consumer by installing a water restrictor;
  - Legal action may be instituted against any consumer for the recovery of any arrear amount in terms of the policy contained herein;
  - The defaulting consumer's name may be listed with a credit bureau or any other equivalent body as a defaulter;
  - The account may be handed over to a debt collector for collection;
  - Proof of registration, as an indigent consumer, in terms of the municipality's indigent policy must be handed in before the final date for payment.

## 15 DISPUTES, QUERIES AND COMPLAINTS

15.1 in this Section “**Dispute**” refers to when a consumer questions the corrections of any account rendered by the municipality to such consumer and the consumer lodges an appeal with the council in accordance with this section. A consumer may lodge a query or a complaint in respect of any amount that is due and payable by him/her before or on the due date for payment specified in the account concerned or as soon as reasonable possible thereafter.

15.2 Procedures to be followed:  
In order for a dispute to be registered with the municipality, the following procedures must be followed:

**a. By the consumer:**

- i. The consumer must submit the dispute in writing to the municipal manager of the municipality before or on the due date for payment specified in the account concerned or as soon as reasonably possible thereafter.
- ii. No dispute will be registered verbally whether in person or over the telephone.
- iii. The consumer must furnish his full personal particulars including in the correspondence referred to above.
- iv. The onus will be on the consumer to ensure that he receives a written acknowledgement of receipt from the municipality.

**b. By the council:**

On receipt of the dispute, the following actions are to be taken:

- i. An authorised official must register the query or complaint and provide the consumer with a reference number. An authorised controlling official will keep custody of the register and conduct a daily or weekly check or follow-up on all disputes as yet unresolved.
- ii. The following information should be entered into the register:
  - Consumer 's Account Number
  - Consumer's name
  - Consumer's address
  - Full particulars of the dispute
  - Name of the official to whom the dispute is given to investigate
  - Actions that have been/were taken to resolve the dispute
  - Signature of the controlling official.
- iii. A written acknowledgement of receipt of the dispute must be provided to the consumer.
- iv. The municipality should not institute enforcement proceedings against the consumer for an amount or an account entry that is in dispute until it has resolved the dispute.
- v. If an agreement is a credit agreement in terms of the of the national credit act, the municipality must deliver without charge and at the request of the consumer the following:
  - The current balance of the account
  - The amounts credited or debited during the period specified in the request

- Any amount currently overdue and when such amount became due
  - Any amount currently payable and the date when it became it became payable.
- vi. All investigations regarding disputed amounts must be concluded by Council's Chief Financial Officer within 21(twenty-one) calendar days from receipt thereof.
- vii. The consumer shall be advised in writing of the findings

### **15.3 Appeal against finding**

- a. A consumer may, in writing, appeal against a finding of the municipality.
- b. An appeal shall be in writing and shall set out the reasons for the appeal and lodged with the municipal manager within 21(twenty-one) days from the consumer is advised of the findings of the investigation.
- c. An appeal must be decided by the council of the municipality at its first ordinary meeting held after the appeal was lodged.
- d. The decision of the council shall be final and the consumer must pay any amounts due and payable in terms of such decision within 14 (fourteen) days of him/her being advised of the Council's decision.
- e. The Council may, in its sole discretion, condone the late lodging of an appeal or other procedural irregularity.
- f. If the consumer is not satisfied with the outcome of the appeal, he may, under protest, pay the amount in dispute and redress his action in a court of law.

## **16 ARREARS**

- 16.1 A consumer of municipal services and am owner of property must pay any monies owed to the municipality within the period or before the due date that is indicated on the account.
- 16.2 if a consumer fails to pay the amount/s due and payable on or before the final date for payment, the unpaid amount is in arrear and a final demand notice may be hand delivered or sent , per registered mail, to the most recent recorded address of the consumer, thin 7 (seven) working days.
- 16.3 If an agreement falls under the National Credit Act, the municipality should send a letter in terms of Section 129 of the Act advising the consumer about the default and proposing that the consumer refer the matter to a debt councillor, alternative dispute resolution agent, consumer court or ombudsman within jurisdiction, with the intention that the parties resolve the dispute under the agreement or develop and agree on a plan to bring the payments under the agreement up to date.
- 16.4 Failure to deliver or send a final demand notice within 7(seven) working days does not relieve a consumer from an obligation to pay such arrears.
- 16.5 The final demand notice must contain the following statements:
- a. The amount in arrears and any interest payable;

- b. The consumer may conclude an agreement with the municipality for payment of the arrear amount in instalments' within 14( fourteen ) days of the date of the final demand notice;
  - c. That, if no payments is received and no such agreement is entered into within the stated period, services to the consumer will be limited and that legal action may be instituted against such consumer for the recovery of any amounts owing in accordance with the policy contained herein;
  - d. That the consumer's name may be listed with a credit bureau or any other equivalent body as defaulter;
  - e. That the account may be handed over to a debt collector for collection;
  - f. That proof of registration, as an indigent consumer, in terms of the municipality's indigent policy must be submitted before the final date of the final demand notice;
  - g. That an indigent consumer is only entitled to 6kl(8kl) free water services and that such a consumer will be liable for payment in respect of water services used in excess of the quantity of basic services.
- 16.6 If an agreement falls under the National Credit Act, the municipality may not commence legal proceedings before sending a letter as prescribed but Section 129 of the Act. The municipality may also not institute legal proceedings against the consumer unless the consumer has been in default for a period of 20 (twenty) business days and at least 10(ten) business days have lapsed since the municipality delivered the section 129(1) notice to the consumer.
- 16.8 if an agreement falls under The National Credit Act, the municipality can proceed with action against the consumer, unless the consumer is under debt review and counselling or if the consumer has not respond to the notice in terms of Section 29(1) or has responded to the notice by rejecting the municipality's proposals.
- 17 AGREEMENT FOR THE PAYMENT OF ARREARS IN INSTALMENTS**
- 17.1 Only a consumer with positive proof of identity or a person authorised in writing by that consumer, will be allowed to enter into an agreement for the payment of arrears in instalments.
- 17.2 The offer by the consumer to settle arrear amounts plus accrued interest thereon shall be embodied in a written agreement signed by the parties. The aforesaid agreements shall include an acknowledgement of debt signed by the consumer and a copy of the agreement shall be made available to the consumer. The cost of preparation of the agreement plus any incidental costs associated therewith shall be borne by the consumer.
- 17.3 A consumer will, in the agreement, assume liability for any administration fees, costs incurred in taking action for the recovery of arrears and any penalties, including the payment of a higher deposit.
- 17.4 A consumer may be required to complete a debit order for the payment of arrears.

- 17.5 No agreement for the payment of arrears including accrued interest thereon will be longer than 24(twenty-four) months, unless the circumstances referred to in subsection 17.6 and sections 18 to 21 prevail.
- 17.6 The municipality may, on an individual basis, allow a longer period than 24(twenty-four) months for the payment of arrears if special circumstances prevail that, in the opinion of the municipality, warrants such an extension and which the consumer reasonably could not prevent or avoid. Documentary proof of any special circumstances must be furnished by the consumer on request by the municipality.
- 17.7 In concluding an agreement with a consumer, the arrangement criteria referred to in Sections 16 to 19 shall be applied and, as far as possible, be incorporated into the agreement referred to in this section.
- 17.8 The municipality may, in exercising its discretion under subsection (17.6) have regard to a consumer's
- a. Credit record;
  - b. Consumption;
  - c. Level of service;
  - d. Previous breaches of agreements for the payment of arrears in instalments; and
  - e. Any other relevant factors.
- 17.9 should a consumer fail to comply with an agreement for the payment of arrears in instalments, the total of all outstanding amounts, including the arrears, any interest thereon, administration fees, costs incurred in taking relevant action, and penalties, including payment of a higher deposit, will immediately be due and payable, without further notice or correspondence.
- 17.10 A consumer may, in the sole discretion of the chief financial officer, be allowed to enter into a new agreement for the payment of arrears in instalments where that consumer has failed to honour a previous agreement for the payment of arrears in instalments, entered into after the receipt of a discontinuation notice. In the event of such further agreement been permitted, then the arrangements mentioned in section 21 shall be applied to such consumer on the basis of primary arrangements.
- 17.11 Where a body corporate is responsible for the payment of any arrear amount to the municipality in respect of a sectional title development, the liability of the body corporate shall be extended to the members thereof, jointly and severally and the agreement shall reflect this status accordingly.
- 17.12 A copy of the agreement will, on request, be made available to the consumer.
- 18 LIMITATION AND DISCONTINUATION OF SERVICE DUE TO FAILURE TO COMPLY WITH FINAL DEMAND**
- 18.1 The municipality shall, within 7(seven) working days after the expiry of the 14-day period allowed for payment in terms of the final demand:
- a. Limit the provision of services to the defaulter; and



- b. Hand deliver or send per registered mail, to the last recorded address of the consumer , a discontinuation notice informing him/her that the provision of services will be disconnected within 14(fourteen) days of the date of the discontinuation notice if-
  - I. No payment is received within the allowed period;
  - II. No agreement is entered into for the payment of arrears in instalments ;or
  - III. No proof of registration as indigent is handed in within the 14-day period allowed.

**18.2 A discontinuation notice must contain**

- a. The amount in arrears and any interest payable
- b. A statement that the consumer may conclude an agreement with the municipality for payment of the arrears amount in instalments, within 14 (fourteen) days of the date of the discontinuation notice;
- c. That if no such agreement is entered into within the stated period , the municipality may discontinue the provision of services with immediate effect, notwithstanding any legal action instituted or in the process of being instituted against the consumer for the recovery of the arrear amount; and
- d. Proof of registration, as an indigent consumer, in terms of the municipality's indigent policy must be handed in within 14(fourteen) days of the date of the discontinuation notice.

**18.3 The municipality may, within 10(ten) working days after the expiry of the 14-day period allowed for payment in terms of the discontinuation notice, discontinue the provision of services to the defaulting consumer, if**

- a. No payment was received within the allowed period;
- b. No agreement was entered into for the payment of arrears in instalments;
- c. No proof of registration as indigent was furnished within 14-day period allowed.

**19 LIMITATIONS AND DISCONTINUATION OF SERVICE DUE TO COMPLY WITH AGREEMENT TO PAY ARREARS IN INSTALMENTS**

**19.1 in the event of a consumer failing to make payment in terms of an agreement referred to in Section 22 a notice shall be served on the consumer informing him/her:**

- a. That payments in terms of the agreement have not been received
- b. Of the full amount outstanding in terms of the agreement;
- c. That unless full payment of the outstanding instalments are received within a period of 14 days from the date of such notice, the municipality reserves the right to cancel the agreement, claim all outstanding amounts from the consumer and discontinue the service in respect of which the agreement was concluded.

**19.2 in the event of the consumer failing to respond to the aforesaid notice within the stipulated period, the municipality may discontinue the provision of services to the defaulting consumer without further notice.**

**20. RESTORATION OF SERVICES**

- 20.1 After a consumer settles arrear amounts owing to the municipality following continuance of service, the discontinued service will be restored within 7(seven) working days according to the type of service the consumer elected in terms of the agreement for the provision of services.

**21 DISCRETION: NEGOTIABLE AMOUNTS**

- 21.1 Discretion in terms of negotiable amounts as per this policy is delegated to the Chief Financial Officer with the right to sub-delegate.
- 21.2 Officials with delegated powers may use discretion as a final tool by which decisions can be made in accordance with this policy.
- 21.3 At all times, and at all levels, discretion will only be used so as to apply the principles embodied in the policy and to ensure that some form of payment acceptable to council is forthcoming from negotiations with the consumer.

**22 ARRANGEMENTS**

- 22.1 Notwithstanding that all debts should be treated holistically, certain categories of debt may be subject to category specific repayment parameters.
- 22.2 Current charges must be paid in full and cannot be negotiated.
- 22.3 The consumer may be required to prove levels of income and must agree to a monthly payment towards arrears based on his ability to pay or based on his total liquidity, if council so requires.
- 22.4 All negotiations with the consumer should strive to result in an agreement that is sustainable and is most beneficial to council.
- 22.5 Interest will be charged on arrears at an interest rate that shall be determined by council from time to time.
- 22.6 Interest on arrears in arrears in respect of all services and rates may, at the option of the council, be frozen whilst the consumer adheres to the conditions of an arrangement.
- 22.7 Debtors, excluding housing debtors, who default on three (3) occasions in respect of arrangements made, will be denied the privilege of making further arrangements and the full amount becomes due and payable.
- 22.8 All arrangements should be subject to periodic review.
- 22.9 All services may disconnected and legal action will be taken against consumers as provided for in this policy and/ or such debt may be referred to third party debt collectors, for recovery.

**23 ARRANGEMENT CRITERIA FOR RESIDENTIAL DEBTORS**

- 23.1 All consumers who are in arrears and apply to make arrangements to reschedule their debt will, subject to Section 16, be obliged to make the following minimum payment requirements at the time of entering into such arrangement:
- a. Current account, plus
  - b. An initial payment towards arrears with the minimum payment being equal to a monthly instalment which will liquidate the arrear amount plus accrued interest thereon within a period of 24(twenty-four) months.
  - c. Each following month the consumer will be required to pay:
  - d. Current account, plus
  - e. An instalment as determined in (b) above.
  - f. Should the consumer default, payments will be as follows:
    - a. First default- current account + the monthly payment as determined in (b) above increased by 25% of that payment.
    - b. Second default-current account +50% the monthly payment as determined in (b) above.
    - c. Final default – current account + full arrears.
  - g. In all cases, failure to respond to notices will result in normal credit control procedures and/or legal processes being followed.

**24. ARRANGEMENT CRITERIA FOR NON-RESIDENTIAL DEBTORS.**

- 24.1 Non-residential debtors may make arrangements to liquidate their arrears where it would be financially beneficial to the council for them to do so.
- 24.2 The final decision to make these arrangements will rest with the financial officer with the authority to sub-delegate.
- 24.3 If any non-residential debtor wishes to make an arrangement for a period of not longer than six (6) months and will pay the first instalment immediately, interest on the arrangement amount may be suspended as long as the terms of the arrangement are maintained.

**25 LISTING OF DEBTOR WITH CREDIT BUREAU**

- 25.1 Where an account rendered to a consumer remains outstanding for more than 90 (ninety) days-.
- a. The defaulting consumer's name may, at the option of the municipality, be listed with a credit bureau of any other equivalent body as defaulter, provided that the agreement for the provision of services provide therefore; and
  - b. May be handed over to a debt collector or an attorney for collection unless the consumer is under debt review in terms of the National Credit Act.

**26. TERMINATION, LIMITATION AND DISCONTINUATION OF SERVICES**

- 26.1 A consumer may terminate an agreement for the provision of services by giving to the municipality not less than thirty (30) calendar day's notice in writing of the consumer's intention to do so.
- 26.2 The municipality may, after having given notice, terminate an agreement for services if a consumer has vacated the premises to which such agreement relates.
- 26.3 The municipality may, subject to the conditions contained in this policy, limit or discontinue services provided in terms of this policy-
- a. On a failure by the consumer to pay the prescribed tariffs or charges on the date specified and response from the consumer;
  - b. On the failure of the consumer to comply with the provisions of any agreement entered into with the municipality in terms of this policy;
  - c. On failure by the consumer to comply with any other provisions of this policy and after due notice has been given to the consumer.
  - d. At the written request on a consumer;
  - e. If the agreement for the provision of services has been terminated and the municipality has not received an application for subsequent services to the premises within a period of 90( ninety) days of such termination;
  - f. If the building on the premises to which services were provided has been demolished;
  - g. If the consumer has interfered with a limited or discontinued service; or
  - h. Obstructs the efficient supply of electricity, water , gas or any other municipal services to another customer
  - i. Supplies such municipal service to a consumer who is not entitled thereto or permits such service to continue;
  - j. Causes a situation, which in the opinion of the municipality is dangerous, or a contravention of relevant legislation;
  - k. Is placed under provincial sequestration, liquidation or judicial management, or commits an act of solvency in terms of the Insolvency Act, 1936(Act 24 of 1936);
  - l. Is subject to an administration order granted in terms of section 74 of the Magistrate's Court Act, 1944 (Act 32 of 1944) in respect of such user;
  - m. Is subject to a debt revenue/debt rearrangement in terms of the National Credit Act in an emergency.
- 26.4 The municipality will not be liable for any damages or claims that may arise from the limitation or discontinuation of services provided in terms of this section.
- 26.5 the right of the Council or any duly appointed agent to limit or discontinue water to any premises or customer, shall be subject to the provisions of Section 3 and 4 of the Water Services Act, 1997( Act 108 Of 1997)
- 26.6 The right of the Council to discontinue the provision of electricity of electricity to any consumer shall be subject to the provisions of the electricity Act, 1987(Act 41 of 1987).
- 26.7 the right of the council or any duly appointed agent to limit the supply of municipal services to a customer shall be subject to the provisions of the Health Act, 1997( Act 63 of 1997), and the regulations made there under.

**27. RESTRICTION OF SERVICES**

If the municipal manager is of the opinion that the termination of services, in the case of a particular property in respect of which the account is in arrear, is not in the best interests of the community-specifically because of the potential endangerment of the life of any person, whether resident in or outside the property concerned- the municipal manager may appropriately restrict rather than terminates the services in question.

**28. SERVICES NOT RECONNECTED OR REINSTATED AFTER FOUR (4) WEEKS**

If services have been terminated or restricted in the case of a property in respect of which the account is in arrear, and the account holder has not paid such arrears, including the interest raised on such account, or made an acceptable arrangement with the municipal manager for the payment of the arrear account, including the interest raised on such account, within a period of 28(twenty-eight) calendar days after the date of termination or restriction of the services(s) concerned, the municipal manager shall forthwith hand such account over for collection and such further action as is deemed necessary to the municipality's attorneys or any debt collecting agency appointed by the council.

Such further action shall include, if necessary, the sale in execution of such property to recover arrear property rates and service charges (if the account holder is also the owner of the property). All legal expenses incurred by the municipality shall be for the account of the defaulting account holder.

**29. NOTICES AND DOCUMENTATION**

29.1 An order, notice or other document issued by the municipality in terms of this Policy shall be deemed to be duly authorised by the Council of the municipality if signed by the Municipal Manager or by a duly authorised employee of the Council.

29.2 Any notice other document served on a person by a municipality in terms of any other legislation is regarded as having been served-

- a. By delivery the notice to him/her personally or to his duly authorised agent; or
- b. By delivering the notice at his residence or place of employment to a person apparently not less than sixteen (16) years of age and apparently residing or employed there;
- c. If he has nominated an address for legal purposes, by delivering the notice to such an address; or
- d. If he has not nominated an address for legal purposes, delivering it to the address given by him/her in his application for the provision of water services, for the reception of an account for the provision of water services;
- e. By sending it by pre-paid registered or certified post addresses to his last known address;
- f. In the case of a body corporate, by delivering it to the registered office or the business premises of such a body corporate;
- g. If service cannot be effected in terms of the aforesaid sub-sections by affixing it to the principal door of entry to the premises, or displaying it on a conspicuous place.

29.3 In the case where complicated with a notice is required within a specified number of working days, such period shall be deemed to commence on the date of delivery or sending of such notice.

29.4 Delivery of a copy of the document shall be deemed to be delivery of the original.

**30. UNAUTHORISED RECONNECTION OF WATER /ELECTRICITY SUPPLY (TAMPERING)**

30.1 The unauthorised reconnection of, or tampering with supply is prohibited and shall constitute a criminal offence that will result in legal action being taken against the person responsible for such unauthorised reconnection or tampering. Where this has occurred, the service reconnected without authorisation or tampered with will affectively disconnected.

30.2 The full amount of arrears plus any unauthorised consumption, and any applicable reconnected tariffs, will be payable prior to reconnection. Should exceptional circumstances exist, adequate payment arrangements may be permitted at the sole discretion of the financial officer with the right to sub-delegate?

**31 UNOCCUPIED PREMISES**

31.1 When a consumer terminates a service agreement and no new service agreement is entered into with the municipality, the property shall be deemed to be unoccupied.

31.2 Whenever water and/ or electricity consumption is recorded at a property that is deemed to be unoccupied, an account will be raised and forwarded to the owner of the property for payment.

31.3 Notwithstanding the above, the municipality shall have the power to invoke the relevant provisions of section 30

**32 INSTALLATION OF PREPAID METERS**

32.1 The installation of prepaid meters, with the written permission of the owner, should be encouraged, but those consumers whose electricity supply has been disconnected three (3) times for non-payment will be compelled to install a prepaid meter before the supply is connected. All prepaid meters are installed at the owner or tenant's expense.

**33 ALLOCATION OF PREPAID PURCHASES TO ARREARS**

33.1 A minimum of 20% to a maximum of 50% of the value of units purchased for electricity shall be allocated in the first instance to electricity arrears and thereafter to any another arrears. This action will be by prior arrangement with the consumer and shall remain unchanged unless by default.

**34 RIGHT OF ACCESS**

- 34.1 An authorised representative of the municipality must, at all reasonable hours, be given unrestricted access to the consumer's premises in order to read, inspect, install or repair any meter, service or service connection for reticulation, or to disconnect, stop or restrict the provision of any service.
- 34.2 Any person who contravenes Section 34.1 above will be deemed to have contravened the provisions of section 101 of the local government: municipal systems act, 2000 as amended, and will be charged with the commission of an offence which, if proven, may attract the penalties referred to Section 119 of the Act.
- 34.3 Failure to comply with Clause 34.1 could result, *inter alia*, in any of the consumer's services being disconnected or terminated.

### 35 EMPLOYEE DEDUCTIONS

- 35.1 The council may, subject to an employee's consent, enter into a written agreement with any employer within the council's area of jurisdiction to deduct outstanding rates and service charges or to settle regular monthly accounts through deductions from salaries or wages of its employees.
- 35.2 The municipality may, from time to time, provide special rebates, incentives of benefits to the employer or employees in the event of such an agreement, subject to the provisions of the Local Government: Municipal Property Rates Act, 6 of 2004, and any other applicable legislation.

### 36. RATES

- 36.1 Annual rates (and other annual levies)
- Interest will be charged on all overdue accounts at an interest rate that shall be determined by the council from time to time.
  - If an account is not paid by the due date as displayed on the account, a notice shall be issued
  - If an account is not settled or there is no response from the consumer to make acceptable arrangements to repay the debt, summons shall be issued and the legal process followed.
  - In instances where the rates debt is in respect of municipal property sold by suspense sale agreement, the collection thereof will be undertaken in terms of the deed of sale or any subsequent applicable written agreement between the council and the consumer.
  - At any stage while the debt is outstanding, all reasonable steps shall be taken to ensure that the ultimate sanction of a sale –in execution is avoided or taken only as a last resort. The council, however, has total commitment to a sale –in – execution should the consumer fail to make use of the alternatives provided for by the council from time to time
  - Any consumer may be granted the opportunity of converting to a monthly rates payment arrangement for the following financial year.

### **36.2 Monthly Rates**

- a. Interest will be charged on all overdue accounts at an interest rate that shall be determined by council from time to time.
- b. Consumers may make application to the council before 31 May each year to pay current and future rates monthly, the approval of which is at the sole discretion of the chief financial officer with the right to sub-delegate.
- c. The monthly amount payable for current annual rates plus interest will be calculated to allow the total balance of such amount to be paid in equal instalments by the end of that financial year.
- d. Should the consumer's rates arrears equal the amount of any three monthly instalments or more, the full balance of the annual rates will become due and payable and the account status will be converted from monthly to annual.

### **36.3 Rates Clearance Certificate**

No rates clearance certificate will be issued by the municipality contrary to the provisions of section 118 of the Local Government: Municipal Systems Act, 2000, where an undertaking is submitted by an attorney to the municipality to pay all outstanding debt on receipt of the purchase price of the property, the municipality may issue a rates clearance certificate, valid for 90(ninety) days, after the relevant fee for the certificate was deposited in the municipality's primary account. If the attorney would default to pay the outstanding debt, he will forfeit this arrangement. Debt prior to (two) years that remain unpaid shall remain as a charge against the property and the new owner shall become liable therefore.

### **36.4 Determination of Collection of Rates**

The provisions of the Municipal Ordinance 20 of 1974, the Transkei Municipalities Act and the relevant provisions of the Local Government Transition Act, 1993 and the Municipal Systems Act 2000 shall, until repealed or replaced, continue to apply in respect of the determination, application and collection of rates owing to the municipality as well as the seizure and sale of property in execution.

## **37 INDIGENT MANAGEMENT POLICY**

- 37.1 The Council shall adopt an Indigent Management Policy which shall provide for the procedures and guidelines for the provision of indigent benefits to indigent households in its municipal area.
- 37.2 The object of the Indigent Support Policy will be to ensure:
  - (a) The provision of basic services to the community in a sustainable manner within the financial and administrative capacity of the Council; and
  - (b) the provision of procedures and guideline for the subsidisation of basic service charges to indigent households.



- 37.3 The verified gross monthly income of all occupants over 18 (eighteen) years of age may not exceed the amount approved by Council from time to time during the budget process.
- 37.4 The register of indigent must be the full-time occupant or owner of the property concerned, and may not own any other property, whether in or out of the municipal area. This includes cases where the occupant rents the property.
- 37.5 Consumption may not exceed a predetermined level as provided for in the municipality's Indigent Management Policy.
- 37.6 The benefit shall be limited to service charges for water, refuse removal, electricity and sewerage disposal and consumers may be required installing water management devices and prepaid electricity meters to avoid further escalation of debt.
- 37.7 The subsidy will only be valid for 12 (twelve) months where after the beneficiaries must reapply.
- 37.8 No further legal action will be taken on indigent arrears.

## 38 HOUSING

- 38.1 Interest may be charged on all overdue accounts at an interest rate that shall be determined by Council from time to time.
- 38.2 Interest charges on arrears may be frozen subject to a rescheduled debt arrangement being consistently honoured.
- 38.3 A debt rescheduling arrangement requires the payment of the current account plus an acceptable amount towards the arrears each month.
- 38.4 The first payment of the debt should be made at the time the debt rescheduling arrangement is entered into.
- 38.5 If an arrangement is not honoured, the debt collection process/legal action will resume from where it was suspended and not restart at the beginning of the administrative process.
- 38.6 The Ward and Proportional Representative (PR) Council will be informed of defaulting consumers following the issuing of a Letter of Demand to and Judgement Order against the occupant.
- 38.7 Home visit will be undertaken by officials or representatives on behalf of Council following the issue of the Letter of Demand to the consumer and again, once a Judgement Order has been granted. The visiting official or representative will make every effort to encourage the defaulting consumer to pay his current account and enter into an arrangement for the payment of arrears.

- 38.8 The consumer is responsible for all legal costs and will have to pay such costs before any legal action may be stopped. An acceptable debt rescheduling agreement must also be entered into before any action may be stopped
- 38.9 The following minimum payments are required from the consumer prior to cessation of the legal process:
- (a) Following issue of Summons—3 x total monthly housing charge
  - (b) Following issue of Judgement Order—6 x total monthly housing charge
  - (c) One day of eviction—12x total monthly housing charge
  - (d) In each case, the payment required will be limited to the lesser of the outstanding Balance or the amount calculated above.
- 38.10 If the consumer defaults on an arrangement made on the day of eviction, a re-issued Warrant of Ejectment will be obtained and the subsequent eviction process may only be stopped if all outstanding arrears, plus any legal costs, are paid.
- 38.11 Once an eviction has been carried out by the Sheriff of the Court, no re-instatement of the evicted consumer will be considered.
- 38.12 Home-ownership Schemes
- (a) Loan instalments and other housing charges are payable by due date.
  - (b) If payment is not received by the due date, a first Contact Letter must be served on the consumer requesting payment and offering the consumer an opportunity to make an arrangement for payment within 14 (fourteen) days from the date of such letter.
  - (c) If there is no response to the First Contact Letter, a Letter of Demand must be issued, allowing the defaulter 7 (seven) days as a final opportunity to make an arrangement for payment.
  - (d) If the consumer fails to respond to this notice, the legal collection process will commence and the consumer will be responsible for all legal costs incurred by the Council.
  - (e) If the amount due on the day of eviction is not paid, repossession of property will take place and arrangements must be made for resale of the property.

### **39 IRRECOVERABLE DEBT**

The municipal Council may, on recommendation from the Municipal Manager, or any duly delegated official, write off any debt or portion thereof, provided that the municipal Council is satisfied that the debt or portion thereof is irrecoverable or that it will be in the best interest of the municipality to accept part payment of the debt in full and final settlement.

The Executive Mayor may recommend to the municipal Council that any outstanding debt or portion thereof be written off, if in his opinion it would be in the best interest of the municipality, and that the writing off of the debt will not be contrary to the provisions of the Local Government: Municipal Finance Management Act, No 56 of 2003

**39.1 Debt will be regarded as irrecoverable if:**

- (a) all reasonable notifications and cost-effective measures to recover a specific outstanding amount have been exhausted; or
- (b) If the amount to be recovered is too small to warrant further endeavours to collect it; or
- (c) The cost to recover the debt does not warrant further action, i.e. to summons in another country; or
- (d) The amount outstanding is the residue after payment of a dividend in the Rand from an insolvent estate; or
- (e) A deceased estate has no liquid assets to cover the outstanding amount; or
- (f) It has been proven that the debt has prescribed; or
- (g) The consumer is untraceable or cannot be identified so as to proceed with further action; or
- (h) It is impossible to prove the debt outstanding; or
- (i) the outstanding amount is due to an administrative error by council.

**39.2 Authorisation**

- (a) As rates are deemed to be recoverable in all instances, all requests to write off debt in respect of rates must be presented as individual items to the Chief Financial Officer.
- (b) In respect of other debt, schedules indicating the consumer account number, the consumer's name, the physical address in respect of which the debt was raised, erf number, if applicable, amount per account category as well as the steps taken to recover a debt and a reason to write off the amount, must be compiled and submitted to the Council for consideration with a view to writing off such debt as irrecoverable.
- (c) Notwithstanding the above, Council or its authorised officials will be under no obligation to write off any particular debt and will always have the sole discretion to do so.
- (d) An accounting officer must ensure that all debts written-off are done in accordance with a write-off policy determined by the accounting.

**40 ARREARS WHICH HAVE ARISEN PRIOR TO THE ADOPTION OF THE PRESENT POLICY**

The Council shall separately consider arrears which arose prior to the adoption of the present policy, and shall advise account holder of their respective obligations in regard to such arrears. In determining such obligations, the Council shall have regard to the quantum of such arrears, to the period over which the default occurred, and to whether the account holder concerned has registered as an indigent in terms of the municipality's policy on indigent management.

The Council shall further consider incentive schemes which will appropriately encourage account holder to settle all or a stated percentage of these arrears.

**41 OFFENCES AND PENALTIES**

41.1 The Council acknowledges that, in terms of Section 119 of the Local Government: Municipal System Act 2000, it is an offence for any person who-

- a. Fails to give the access required by a duly authorised representative of the municipality in terms of this policy;
- b. Obstructs or hinders a duly authorised representative of the municipality in the exercise of his or her powers or performance of function or duties in terms of the policy;
- c. Unlawfully uses or interferes with municipal equipment or the consumption of services supplied to any customer;
- d. Tampers with or breaks any seal on a meter or on any equipment belonging to the municipality, or causes a meter not to register properly the service used;
- e. Fails, or refuse, to give a duly authorised representative of the municipality such information as he or she may reasonably require for the purpose of exercising or performing his or her powers or functions in terms of this policy, or gives such representative false or misleading information, knowing it to be false or misleading; or
- f. Contravenes, or fails to comply with a provision of this policy, shall be guilty of an offence.

41.2 Upon conviction in a court, an offender shall be liable for a fine not less than the cost of repairing the damage or any such cost determined by the municipality, or to imprisonment for a period not exceeding 12 (twelve) month, or both such a fine and imprisonment, and may be charged for consumption, as determined by the Chief Financial Officer, and based on average monthly consumption, or as determined by resolution of the municipality from time to time.

#### **42 PUBLICATION OF POLICY**

The Municipal Manager shall, within 14 (fourteen) days from the date of adoption of this Policy by the Council, by public notice draw the attention of the public to its broad contents and method of application.

#### **43 CONFLICTION BY-LAWS**

If there is any conflict between these by-laws and any other by-laws of the Municipality, these by-laws will prevail.

#### **44 Application**

This By-law shall be binding on all persons who own and/or occupy immovable property or any premises within the area of jurisdiction of the Municipality.

#### **44 Short title**

This By-law is called the Mkhondo Local Municipality: Credit Control and Debt Collection By-law.

**PROVINCIAL NOTICE 61 OF 2018****MPUMALANGA DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS****PUBLICATION OF MUNICIPAL BY-LAWS FOR LOCAL MUNICIPALITIES IN TERMS OF  
THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT (ACT NO. 32 OF 2000)**

I, Speed Katishi Mashilo, in my capacity as Member of the Executive Council responsible for Co-operative Governance and Traditional Affairs, in the Mpumalanga Province, hereby publish municipal by-laws for Mkhondo, Chief Albert Luthuli, Lekwa and Emalahleni local municipalities, in terms of Section 13 (a) and (b) of the Local Government: Municipal Systems Act (Act No. 32 of 2000)

The municipal by-laws are concerning the following matters per local municipality, namely:

**Lekwa Local Municipality**

1. Electricity Supply
2. Advertising Signs
3. Encroachment on Municipal Properties
4. Public Participation
5. Street Trading
6. Contaminated Waste
7. Cemetery
8. Taxi
9. Informal Settlements
10. Open Space

**Chief Albert Luthuli Local Municipality**

1. Standing Rules and Orders
2. Electricity Supply
3. Fire Brigade Services
4. Sanitation
5. Waste Management
6. Water Supply

**Emalahleni Local Municipality**

1. Property Rates

**Mkhondo Local Municipality**

1. Credit Control and Debt Collection
2. Control of Outdoor Advertising
3. Encroachment on Municipal Properties

Given under my hand at Mbombela, on

03/04

2018



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MR SK MASHILO (MPL)

MEC: DEPARTMENT OF CO-OPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS

**THE EMALAHLENI LOCAL MUNICIPALITY****PROPERTY RATES BY-LAW(s)**

**(Emalahleni Local Municipality)**, hereby, in terms of section 6 of the Local Government Municipal Property Rates Act, 2004, has by way of resolution no. A.080/17 adopted the Municipality's Property Rates By-law set out hereunder.

**PREAMBLE**

**WHEREAS** section 229(1) of the Constitution requires a municipality to impose rates on property and surcharges on fees for the services provided by or on behalf of the municipality.

**AND WHEREAS** section 13 of the Municipal System Act read section 162 of the Constitution require a municipality to promulgate municipal by-laws by publishing them in the gazette of the province.

**AND WHEREAS** section 6 of the Local Government: Municipal Property Rates Act, 2004 requires a municipality to adopt by-laws to give effect to the implementation of its property rates policy; the by-laws may differentiate between the different categories of properties and different categories of owners of properties liable for the payment of rates;

**NOW THEREFORE BE IT ENACTED** by the Council of the Emalahleni Local Municipality, as follows:

**1. DEFINITIONS**

In this by-law, any word or expression to which a meaning has been assigned in the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), shall bear the same meaning unless the context indicates otherwise.

'Municipality' means (name of the municipality);

'Property Rates Act' means the Local Government: Municipal Property Rates Act, 2004 (Act No 6 of 2004);

'Rates Policy' means the policy on the levying of rates on rateable properties of (Emalahleni Local Municipality), contemplated in chapter 2 of the Municipal Property Rates Act.

**2. OBJECTS**

The object of this by-law is to give effect to the implementation of the Rates Policy as contemplated in section 6 of the Municipality Property Rates Act.

### **3. ADOPTION AND IMPLEMENTATION OF RATES POLICY**

- 3.1. The Municipality shall adopt and implement its Rates Policy consistent with the Municipal Property Rates Act on the levying of rates on rateable property within the jurisdiction of the municipality; and
- 3.2. The Municipality shall not be entitled to levy rates other than in terms of its Rates Policy

### **4. CONTENTS OF A RATE POLICY**

The Rates Policy shall, *inter alia*

- 4.1. Apply to all rates levied by the Municipality pursuant to the adoption of its Annual Budget;
- 4.2. Comply with the requirements for:
  - 4.2.1. the adoption and contents of a rates policy specified in section 3 of the Act;
  - 4.2.2. the process of community participation specified in section 4 of the Act; and
  - 4.2.3. the annual review of a Rates Policy specified in section 5 of the Act.
- 4.3. Provide for principles, criteria and implementation measures that are consistent with the Municipal Property Rates Act for the levying of rates which the Council may adopt; and
- 4.4. Provide for enforcement mechanisms that are consistent with the Municipal Property Rates Act and the Local Government: Municipal System Act, 2000 (Act No. 32 of 2000).

### **5. ENFORCEMENT OF THE RATES POLICY**

The Municipality's Rates Policy shall be enforced through the Credit Control and Debt Collection Policy and any further enforcement mechanisms stipulated in the Act and the Municipality's Rate Policy.

### **6. SHORT TITLE AND COMMENCEMENT**

This By-law is called the Municipality Property Rates By-law, and takes effect on 1 July 2017



**RESOLUTION ON LEVYING PROPERTY RATES IN TERMS OF SECTION 14 OF THE GOVERNMENT: MUNICIPAL PROPERTY RATES ACT, 2004 (ACT NO 6 OF 2004)**

**Municipal Notice No.1**

**Date: 2018/01/28**

**EMALAHLENI LOCAL MUNICIPALITY**

**RESOLUTION ON LEVYING PROPERTY RATES FOR THE FINANCIAL YEAR 1 JULY 2017 TO 30 JUNE 2018**

Notice is hereby given in terms of Section 14 (1) and (2) of the Local Government Municipal Property Rates Act, 2004: that the Council resolved by way of council resolution number 808/17 of May 2017 to levy the rates on property reflected in the schedule below with effect from 1<sup>st</sup> July 2017.

<b>CATEGORY OF PROPERTY</b>	<b>CENT AMOUNT IN THE RAND RATE DETERMINED FOR THE RELEVANT PROPERTY CATEGORY</b>
RESIDENTIAL PROPERTY	0.009990
BUSINESS AND COMMERCIAL PROPERTY	0.015817
INDUSTRIAL PROPERTY	0.016649
AGRICULTURAL PROPERTY	0.001665
MINING	0.016649
PUBLIC SERVICE INFRASTRUCTURE	0.000000
PUBLIC BENEFIT ORGANISATION	0.000000
PROPERTIES OWNED BY AN ORGAN OF STATE AND USED FOR PUBLIC SERVICE PURPOSES	0.016649
MUNICIPAL PROPERTY	0.000000
WORSHIP	0.000000
PRIVATE ROADS	0.000000
PUBLIC ROADS	0.000000
VACANT LAND	0.016649

Full details of the Council resolution and rebates, reduction and exclusions specific to each category of owners of properties or owners of a specific category of properties as determined through criteria in the Municipality's Rates Policy are available for inspection on the municipality's offices, website ([www.emalahleni.gov.za](http://www.emalahleni.gov.za)) and all public libraries.

Enquiries relating to this matter must be made to Vilakazi NF Tel.: 013 690 6432 E-mail: [vilakazinf@emalahleni.gov.za](mailto:vilakazinf@emalahleni.gov.za)



**NAME: MAFISELA H S**

**DESIGNATION: ACTING MUNICIPAL MANAGER**

## PROVINCIAL NOTICE 62 OF 2018

**MPUMALANGA DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS****PUBLICATION OF MUNICIPAL BY-LAWS FOR LOCAL MUNICIPALITIES IN TERMS OF  
THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT (ACT NO. 32 OF 2000)**

I, Speed Katishi Mashilo, in my capacity as Member of the Executive Council responsible for Co-operative Governance and Traditional Affairs, in the Mpumalanga Province, hereby publish municipal by-laws for Mkhondo, Chief Albert Luthuli, Lekwa and Emalahleni local municipalities, in terms of Section 13 (a) and (b) of the Local Government: Municipal Systems Act (Act No. 32 of 2000)

The municipal by-laws are concerning the following matters per local municipality, namely:

**Lekwa Local Municipality**

1. Electricity Supply
2. Advertising Signs
3. Encroachment on Municipal Properties
4. Public Participation
5. Street Trading
6. Contaminated Waste
7. Cemetery
8. Taxi
9. Informal Settlements
10. Open Space

**Chief Albert Luthuli Local Municipality**

1. Standing Rules and Orders
2. Electricity Supply
3. Fire Brigade Services
4. Sanitation
5. Waste Management
6. Water Supply

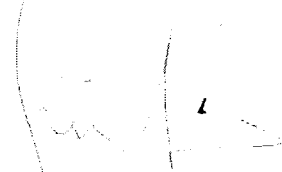
**Emalahleni Local Municipality**

1. Property Rates

**Mkhondo Local Municipality**

1. Credit Control and Debt Collection
2. Control of Outdoor Advertising
3. Encroachment on Municipal Properties

Given under my hand at Mbombela, on 03/04 2018



MR SK MASHILO (MPL)

**MEC: DEPARTMENT OF CO-OPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS**



# **MKHONDO LOCAL MUNICIPALITY**

## **BY-LAWS FOR THE CONTROL OF OUTDOOR ADVERTISING**

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**BY-LAWS FOR THE CONTROL OF OUTDOOR ADVERTISING IN THE  
MKHONDO LOCAL MUNICIPAL AREA**

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## 58. REPEAL OF PREVIOUS BY-LAW

**PART A: INTRODUCTORY PROVISIONS****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, has the same meaning when used in these By-laws, and -:

**“advertisement”** means any visible representation of a word, name, letter, figure, object, mark, symbol, abbreviation, light, or any combination thereof with the object or transferring information, which is visible from any street or public place, but it does not include a road traffic sign;

**“advertisement for sale of goods or livestock”** means an advertisement announcing such a sale on land or premises not normally used for commercial purposes and may include an advertisement announcing auctions of household goods on residential properties, or livestock or game on farms;

**“advertisement for sponsored road traffic projects”** means an advertisement relating to the sponsoring of a specific project aimed at the provision of road services, the promotion of road safety or the management and conservation of roadside environments;

**“advertisement on street furniture”** means a poster which does not exceed 2,2 square metres in area, which is attached to street furniture and which has been approved by the municipality;

**“advertiser”** means the person or organization whose product or service is being advertised, or whose name or image is mentioned or promoted in an advertisement;

**“advertising”** means the act or process of notifying, warning, informing, making known or any other act of transferring information in a visible manner;

**“advertising sign”** means any screen, fence, wall, device or any other physical structure or object erected to display an advertisement or which is in itself an advertisement or used to display an advertisement;

**“advertising structure”** means any physical structure erected to display an advertisement;

**“aerial advertisement”** means an advertisement that is exhibited, displayed or performed in the air with the aid of balloons, searchlights, aircraft or similar means;

**“approved”** means approved by the municipality and **“approval”** has a corresponding meaning;

**"arcade"** means a pedestrian thoroughfare whether or not located at ground level passing wholly or partly through a building or buildings and to which the public normally has regular and unrestricted access;

**"arterial road"** means a road which in the opinion of the municipality functions as a main carrier of traffic within an urban area;

**"animated"** means the visibility or message of an advertisement is enhanced by means of moving units, flashing lights or similar devices, or that an advertisement contains a variable message;

**"area of advertisement"** means the area in square metres of the smallest rectangle that will encompass the extreme limits of the advertisement or combined advertisement, together with any material or colour forming an integral part of the background of the advertisement or used to differentiate the advertisement from the structure or building against which it is placed;

**"areas of maximum control"** means natural area, rural areas and urban of maximum control.

**"balcony or under awning advertisement"** means an advertisement –

- (a) affixed flat onto or painted on a parapet wall, balustrade or railing;
- (b) affixed flat on or painted on a fascia;
- (c) affixed flat or painted on the fascia or a roof structure without walls;
- (d) affixed to or painted on a pillar, column or post supporting a roof structure without walls;
- (e) painted or printed on the fabric of a blind;

**"banner"** means a piece of cloth (or similar material) maximum 6m<sup>2</sup>, upon which an advertisement is displayed in such a manner as to be fully legible in windless conditions, attached to one or more ropes, poles or flag staff projecting vertically, horizontally or at an angle, or attached to builds or to special structures, but excludes banners carried as part of a procession;

**"billboard"** means any screen or board larger than 4,5m<sup>2</sup>, supported by a free standing structure, which is to be used or intended to be used for the purpose of posting, displaying or exhibiting an advertisement and which is also commonly known as an advertising hoarding. The main function of a billboard it to advertise non-locality bound products, activities or services;

**"bit"** means the basic unit for measuring the length of advertising messages and may consist of letters, digits, symbols, logos, graphics or abbreviations. For the purposes of these regulations bit values shall be calculated as follows:

Words of up to eight letters, inclusive	1,0 bit
Words of more that eight letters	2,0 bits
Numbers of up to four digits, inclusive	0,5 bit
Numbers of five to eight digit	1,5 bit
Symbol or abbreviation	0,5 bit



Large logos and graphics	2,0 bit
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**“candela”** means a unit of luminance as determined from time to time by the International Commission on Illumination.

**“centre of economic activity”** means an enterprise or a group of enterprises outside of urban areas and which may include farm stalls, services facilities, accommodation facilities, food services, industries and cottage industries, as well as shops and other commercial facilities.

**“clear height”** means the minimum vertical distance from the ground, road or surface level, as the case may be, to the advertisement.

**“charge determined by the municipality”** means the appropriate charge either fixed as set forth in these by-laws or reviewed and determined annually by the municipality;

**“combination advertising sign”** means an advertisement comprising a number of smaller, individual advertisements, usually displaying different products or services, placed next to each other on a single structure specifically designed to accommodate more than one advertisement.

**“construction site advertising sign”** means an advertisement affixed flat against or on top of a fence or wall forming the boundary of a construction site;

**“direction sign”** means a sign indicating the way to any place, undertaking or activity for the purpose of advertising or attracting public attention as contemplated in the definition of “advertisement”

**“development advertising sign”** means an advertising sign describing (including pictorial representation of) the type of development being carried out on a construction site;

**“education institutions”** means any primary or secondary or tertiary education institution;

**“electronic billboard”** means a billboard which has an electronically controlled, illuminated display surface which allows all or a portion of the advertisement to be changed animated or illuminated in different ways;

**“engineer”** means an engineer registered in terms of the Engineering Profession of South Africa Act, 1990 (Act No. 114 of 1990);

**“entertainment area”** means an area the main purpose of which is to be used as a park, sports field, barbecue area or for other recreational purposes;

**“erf”** means an erf, stand, lot, plot, agricultural holding or similar land entity registered in a deed registry;

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

**"estate agents' board"** means an advertisement that are temporarily displayed to advertise the fact that land, premises, development or other forms of fixed property are for sale or to let and includes a private seller;

**"flag"** means a piece of cloth (or similar material) upon which an advertisement is displayed and which is attached to a **single** rope, pole of flag staff projecting vertically in such a way that its contents are normally not readable in windless conditions. Flags exclude:

- (a) national flags that do not carry any advertisement in addition to the design of the flag or flag staff, and
- (b) flags carried as part of a procession;

**"forecourt"** means an outdoor area forming a functional part of a building housing an enterprise, and may include the area of a filling station where the pumps are situated, or a terrace in front of a restaurant, enclosing fences, walls, screens or similar structures, excluding sidewalk areas in front of business premises intended for pedestrian circulation;

**"forecourt advertising sign"** means an advertising sign on a forecourt of business premises, being an advertisement displayed in such forecourt to draw attention to commercial services, goods for sale or other services available at the premises, but does not include a combination advertising sign at a filling station or roadside service area;

**"free standing sign"** means a sign that stand on its own or has its own support 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;

**"flashing sign"** means a sign in which a symbol, figure, message or illustration intermittently appears and/or disappears and/or is illuminated with light of varying colour or intensity;

**"flat sign"** means any sign which is affixed to any external wall of a building used for commercial, office, industrial or entertainment purposes, but excluding a parapet wall, balustrade or railing of a veranda or balcony of any such building, which at no point projects more than 300mm from the surface of such a wall and which may consist of a panel or sheet or of individual numbers, letters or symbols;

**"freeway"** means a national road that has been designated as a freeway by an appropriate road traffic sign in terms of the National Road Traffic Act;

**"functional public advertisement"** means an advertisement displayed only for announcement or direction of the functions of municipalities or parastatal bodies that cannot be displayed under any other class of advertisement;

**"gantry billboard"** means a billboard fixed to an overhead structure, usually spanning a road;

**"gore"** means the area immediately beyond the divergence of two roadways, bounded by the edges of those roadways;

**“height”** means the maximum vertical distance from the ground, road surface, or surface level to the top of the advertising sign;

**“height zone”** means a “zone” indicating restrictions as to the height of buildings;

**“illuminated”** in relation to an advertisement means that it has been installed with electrical or other power for the purpose of illuminating it, either continuously or intermittently;

**“large billboard”** means any billboard ranging in size from 18m<sup>2</sup> to 36m<sup>2</sup> in area of advertising sign;

**“large electronic billboard”** means an advertising sign that is an electronic billboard larger than 18 square metres in area;

**“light not intended for illumination”** means a flashing, flickering or continuous light source, beam of light or a number of such sources or beams, aimed or moved in such a manner as to attract attention, without being primarily for the purpose of illuminating an area or object;

**“locality bound”** means an advertisement displayed on a specific erf or premises and referring to an activity, product, service or attraction located, rendering or provided on that erf or those premises or inside that building;

**“m”** means metre;

**“mm”** means millimeter;

**“mobile or transit sign”** means an advertisement attached to or displayed on a vehicle vessel or craft on land, or water or in the air.

**“municipal area”** means the jurisdiction area of the municipality;

**“municipality”** means the Mkhondo Local Municipality )”or any officials, committee or employees of the municipality to whom any of its power under these By-laws has been delegated to, in terms of the provisions of Part 3, section 59 of the Local Government: Municipal System Act 32 of 2000;

**“National Road Traffic Act”** means the National Road Traffic Act, 1996 (Act 93 of 1996);

**“natural area”** means an area of the rural or non-urban environment which is in unspoilt natural state or is of high scenic value, and includes, but is not limited to national parks, game reserves, nature reserves, marine reserves, wilderness areas, areas of extensive agricultural and scenic areas;

**“on-premises business advertising sign”** means an advertising sign aimed at identifying and locating business enterprises and industries, and excludes a residential or community advertising sign,

**“owner”** in relation to an advertisement means the person who owns the advertising structure, or will own the advertising structure, or will own the

structure once it has been erected, or any person who has a right to or share in the ownership of the advertising structure;

**“outdoor advertising”** means the act or process of notifying, warning, informing, making known or any other act of transferring information in a visible manner and which takes place out of doors;

**“performing arts”** means any live entertainment and/or performances performed by artists or entertainers;

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

**“policy”** means the by-laws for the Control of Outdoor Advertising, the South African Manual for Outdoor Advertising Control (SAMOAC), the relevant Town Planning Scheme applicable in the municipal area, the application of the National Building Standard Act, 1977 (Act 103 of 1997), Council resolutions and the relevant department policy and/or guidelines.

**“poster”** means any placard announcing or attracting public attention to any meeting, event, function, activity or undertaking or to the candidature of any person nominated for election to parliament, the local government or similar body or to a referendum;

**“product replica or three-dimensional advertising sign”** is a replica or device used for advertising that may be free-standing or attached to a structure, and includes an inflatable object that is not an aerial advertisement;

**“project board”** means any sign displaying the involvement of a contractor or consultant in a construction project;

**“projected sign”** means any sign projected by cinematograph or other apparatus, but does not include a sign projected onto the audience’s side of a drive-in cinema screen during a performance;

**“projecting sign”** means any advertising sign which is affixed to a main wall of a building which is used for commercial, office, industrial or entertainment purposes and which project more than 300mm from the surface of the main wall and is affixed at a right angle to the street line.

**“public place”** means any road, street, thoroughfare, bridge, subway, foot pavement, footpath, sidewalk, line, square, open space, garden, park or enclosed space vested in the municipal area;

**“pylon sign”** means any sign whether stationary or actuated, displayed on or forming an integral part of pylon, mast, tower or similar structure other than a building or an advertising hoarding;

**“residential or community advertising signs”** includes a variety of small notices and advertising signs displayed on premises used for residential – orientated purposes and for community services, and include advertising signs in urban areas and also places of residence in natural and rural areas, but are limited to-

- (a) identification, direction and warning signs with regard to residence, for examples-
- (i) names of houses, flat complexes, farms and smallholdings;
  - (ii) signs such as "beware of the dog", "no parking" and "close the gate";
  - (iii) signs indicating the nature of or main activity on farms and smallholdings;
- (b) signs showing the name or nature of the business, practice or enterprise or the owners or practitioners of small business, enterprise in urban residential premises and buildings constructed or used for community purposes or premises on urban, but not rural, smallholdings;
- (c) signs showing the name and nature of the facility or of the proprietor or partners, on small scale accommodation facilities;
- (d) signs showing the name and nature of the institution, the names of practitioners and nature and extent of services on community services and institutions, such as religious, cultural, educational and recreational institutions and medical institutions related to those purposes;

**"road island"** means an area demarcated on a roadway by means of painted lines, stones, kerbs or by other means with the intention of preventing vehicles from standing or being operated in that area;

**"road median"** means the area separating traffic lanes on a roadway;

**"road reserve"** means the full width of a national, provincial or existing public road, and includes roadways, shoulders, and sidewalks and the air space above such roadways, shoulders and sidewalks and all other areas within the road reserve boundary;

**"road reserve boundary"** means the proclaimed boundary forming the outer edge of the road reserve;

**"roadside service area"** means an area with direct access from a national road in which facilities and services such as petrol and diesel sales, restaurants, fast food outlets, toilets, playgrounds and picnic spots may be provided for motorists;

**"road traffic sign"** means any road traffic signs as defined in the National Road Traffic Act and the Road Traffic Ordinance, 1996 (Ordinance 21 of 1996);

**"roadway"** means a roadway as defined in the National Road Traffic Act;

**"roof sign"** means a sign on the main roof of a building lower than the height zone of a building and which building is used or partly used for commercial, office, industrial or entertainment purposes;

**"rotating sign"** means a sign which rotates about any axis;

**"rural area"** means an area forming a transition between urban areas and unspoilt natural areas and includes intensive agricultural, subsistence agriculture

and peri-urban small holdings of a predominantly rural nature and with relatively low population densities;

**“SAMOAC”** means the South African Manual for Outdoor Advertising Control compiled and published by the Department of Environmental Affairs and Tourism in conjunction with the Department of Transport, April 1998;

**“security advertisement”** means an outdoor advertisement for neighbourhood watch, farm watch and similar schemes, and an advertisement containing the name, address and telephone number of a security company contracted to protect the premises on which the advertisement is displayed;

**“services facility advertising sign”** means an advertising sign at a filling station or roadside rest and service area;

**“shoulder”** means the shoulder of a national road, provincial road or existing public road as defined in the National Road Traffic Act, the Road Traffic Ordinance or the relevant Town Planning Scheme.

**“sidewalk”** means a sidewalk of a national road, provincial road or existing public road as defined in the National Road Traffic Ordinance or relevant Town Planning Scheme.

**“sidewalk poster or notice”** means a temporary advertisement attached to an electrical light standard within a road reserve to advertise public and charitable events, functions, occasions, meetings or campaigns of a religious, educational, cultural, political, social, sporting or recreational nature, and includes a poster displayed for an election or referendum campaign;

**“sign”** means any device or article with writing, letters, numbers or illustrations on it, or non-physical sign projected on buildings 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 a street or public place for the purpose of advertising, providing information, or attracting the public to any place for the purpose of advertising, providing information, or attracting the public to any place, public display, article or merchandise for sale, and the surface or structure of such device, article or non-physical sign is attached to or forms part of a building, or is fixed to the ground or to a pole, tree, screen or boarding, or is displayed in any other way, excluding information on the commodities that are exhibited;

**“sky sign”** means a very large sign between 75m<sup>2</sup> to 300m<sup>2</sup> on top of a skyscraper in a metropolitan area 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;

**“small billboard”** means billboard smaller than 18 square metres in area of advertisement;

**“sponsored road traffic project”** means a project specifically intended for the benefit of road users involving the provision of road services, the promotion of

road safety or the management and conservation of road environments, agreed to between the municipality and the sponsor of the sponsored road traffic project;

**“street furniture”** means public facilities and structures which are not intended primarily for advertising and includes seating benches, planters, sidewalk litter bins, pole mounted bins, bus shelters, sidewalk clock and drinking fountains, but excludes road traffic signs, traffic lights, street lights or any other road-related structures;

**“street name advertising sign”** means a pole-mounted advertising sign that may be illuminated, that is displayed in combination with a street name sign;

**“streetscaping” or “ streetscape”** means the coherence between street furniture and other features on a national road, provincial road or existing public road;

**“suburban advertising sign”** means a pole mounted location advertising sign at the entrance to a town or suburb that carries an advertising sign beneath the road traffic sign bearing the name of the town or suburb;

**“super billboard”** means a massive billboard larger than 36m<sup>2</sup>;

**“storey”** means that space within a building which is situated between one floor level and the next floor level above or ceiling or roof above;

**“street”** means any street, road or thoroughfare shown on a general plan of township, agricultural holding or any other division of land or in respect of which the public have acquired a prescriptive or other right of way and which vests in the municipality;

**“temporary sign”** means a sign that may be displayed for a maximum of 14 days or any other period approved by the municipality;

**“the person”** means a lessor, lessee, a legal or illegal occupant or a usufructuary of private, state or Municipal land on which a sign was or is being erected and/or displayed, or the 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, and if the municipality is unable to determine the identity of the owner, an 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 the person's authorized agent, “the person” in the above context includes both a natural and a legal person;

**“tourism sign”** means a road traffic sign having a trapezoidal shape and white on brown colour, the main objective of which is to inform and guide tourists in the final stages of their journeys;

**“tower, bridge and pylon advertising sign”** means a billboard affixed to or painted on a tower, bridge or pylon that is not used primarily for advertising purposes;

**“tower structure”** means a structure used for advertising in a parking area of a shopping centre and at an important transport node such as an airport, railway station or bus or taxi station;

**“traffic sign”** means a road traffic sign contemplated in the National Road Traffic Act or a rail traffic sign or signal;

**“trailer advertising”** means any transport trailer that is used for the purpose of advertising;

**“urban area”** means a human settlement with a population of more than 2500 people.

**“urban areas of maximum control”** include, but are not limited to, natural open spaces and urban conservation areas, interface of natural landscape with built-up areas, bodies of water, rivers, ridges, forests, open recreational areas, characteristic vistas, heritage sites or building, special tourist areas, skylines, residential areas, and visual zones along freeways in urban areas, unless the municipality, after obtaining a strategic environmental assessment designates areas along such freeways as areas of partial or minimum control;

**“urban areas of minimum control”** are areas which require minimum control such as areas of concentrated economic activity where business is the main focus, commercial districts, central shopping centre, central office precincts, commercial enclaves and shopping centres in industrial areas and industrial parks, entertainment district or complexes and prominent transport nodes excluding nodes of an exceptional historical architectural value;

**“urban areas of partial control”** are areas characterized by a greater degree of integration and complexity of land use which require a lesser degree of control, such as high density residential areas, in transition and residential areas where office and commercial encroachment have taken place and low density suburbs, small commercial enclaves in residential areas, suburban shopping centres and office parks, ribbon development along main street, educational institutions, sports field or stadia, commercial squares, government enclaves and smallholdings of an urban nature with a higher population density than rural small holdings;

**“vehicular advertising”** means advertising on self-driven vehicles which are normally driven on land or water and which are normally moving.

**“vehicle”** means a motor vehicle as defined in the National Road Traffic Act or the Road Traffic ordinance;

**“verandah”** means a structure in the nature of a roof attached to or projecting from the façade of a building and supported along its free edge by columns or posts;

**“visual zone”** refers to a zone considered to be an area of maximum control, visible from an urban freeway, extending a distance of 250 metre in any direction from the freeway reserve boundary, but which excludes all visually isolated space which cannot be seen from such a freeway;

**“window signs”** means signs of which the area is permanently painted on or attached to the window-glass of a building;



**“zone”** has the meaning assigned to it in the relevant Town Planning Scheme of the municipality, that is revised from time to time, and **“use zones”** has the same meaning.

**2. SCOPE OF THIS BY LAWS**

- (1) These by-laws are designed to regulate outdoor advertising on or visible from roads within the municipal area, whether or not such sign is erected on private property.
- (2) Unless these by-law provide specifically that the approval of the municipality is required for a particular advertising sign, such approval is not required, but all of the conditions of these by-law applicable to that type of advertising sign must be complied with.

**3. DESIGNATION OF AREA**

- (1) The municipality may-
  - (a) Designate areas outside of urban areas as either natural areas or rural areas;
    - (i) urban areas of maximum control;
    - (ii) urban areas of partial control;
    - (iii) urban areas of minimum control.

**PART B: PROVISIONS APPLICABLE TO ALL ADVERTISING SIGNS****4. AMENITY AND DECENCY**

- (1) No sign shall in the opinion of the municipality-
  - (a) be detrimental to the environment or the amenity of a human living environment by reason of size, shape, colour, texture, intensity of illumination, quality of design or materials or for any other reason;
  - (b) be in its content objectionable, indecent or suggestive of indecency or prejudicial to the public morals; or
  - (c) unreasonably obscure, partially or wholly, any sign owned by another person previously erected and legally displayed.

**5. SAFETY**

- (1) No advertisement or advertising sign shall, subject to the discretion and approval of the municipality or the appropriate roads authority
  - (a) constitute a danger to any person or property;
  - (b) be so placed or contain an element which distracts the attention of drivers in a manner likely to lead to unsafe driving conditions;
  - (c) be illuminated to the extent that it causes discomfort to or inhibits the vision of approaching pedestrians or drivers;
  - (d) be attached to a road traffic sign or signal, combined with a road traffic sign or signal (unless specifically provided for in the South African Road Signs Manual), obscure a road traffic sign or signal, create

confusion with a road traffic sign or signal, interfere with the functioning of a road traffic sign or signal or create a road safety hazard in the opinion of the municipality or the appropriate roads authority;

- (e) obscure a pedestrian's or driver's view of pedestrians, road or rail vehicles and features of the road, railway or pavement such as junctions, bends and changes in width;
  - (f) project over a pedestrian or cycle circulation route, unless the clear height of such sign exceeds 2,4m;
  - (g) obstruct fire escape or means of egress to fire escapes;
  - (h) be placed closer than the minimum clearance with regard to overhead power lines as prescribed by any law;
- (2) Signs or advertisements positioned along roads and specifically targeting the road user shall be concise and legible and shall comply with the following requirements:
- (a) Street numbers indicating specific premises shall have a minimum size of 150mm and a maximum size of 350mm.
  - (b) No message shall be spread across more than one sign or sign panel.

## 6. DESIGN AND CONSTRUCTION

- (1) Any sign-
- shall subject to the satisfaction and approval of the municipality:
- (a) be neatly and properly constructed and executed and finished in a workmanlike manner;
  - (b) not be detrimental to or have a negative aesthetic impact on the urban design' streetscapes or the character of the surrounding area by way of the design of the structure or device
  - (c) have a neat appearance and shall consist of durable materials in accordance with the function, nature and permanence of the advertisement, sign or structure and materials such cloth, canvas, cardboard, paper or synthetic cardboard should be used only when essential to the nature and function of a particular sign;
  - (d) not deface building facades with electrical services provisions and other accessories;
  - (e) be rigidly and securely attached, supported or anchored in a safe manner and so that unwanted movement in any direction is prevented;
  - (f) be capable of effectively securing, supporting and maintaining not less than twice its mass with the addition of any force to which the sign may be subjected, including wind pressure;

- (g) wherever necessary in accordance with the nature of the sign and when attached to brickwork, masonry or concrete, be securely and effectively attached thereto by means of bolts securely embedded in such brickwork, masonry or concrete or passing through the same and secured on the opposite side;
- (2) Any advertiser or contractor shall-
  - (a) not use water soluble adhesive, adhesive tape or similar material to display or secure any sign or advertisement elsewhere than on a billboard, board or any structure provided for this purpose;
  - (b) have all exposed metalwork of any sign painted or otherwise treated to prevent corrosion and all timber treated to prevent decay; and
  - (c) have measure taken to prevent the entry of water into and the accumulation of water of moisture on or in any sign or any part of its supporting framework, brackets or other members.
- (3) All glass used in signs shall-
  - (a) other than glass tubing used in neon and similar signs, be safety glass at least 3mm thick;
  - (b) glass panels used in signs shall not exceed 0,900m<sup>2</sup> in area, each panel being securely fixed in the body of the sign, structure or devise independently of all other panels
- (4) Every illuminated sign and every sign in which electricity is used shall –
  - (a) have power cables and conduit containing electrical conductors positioned and fixed so that they are not unsightly in the opinion of the municipality;
  - (b) be constructed of material which is not combustible;
  - (c) be provided with an external switch in an accessible position whereby the electricity supply to the sign may be switched off; and
  - (d) be wired and constructed in accordance with and subject to the provisions of the Council's Electricity Code of Practice.
- (5) Damage to property
  - (e) No person shall, in the course of erecting or removing any sign, advertisement structure or device, cause damage to any tree, electrical standard or service or other public installation or property.

## 7. MAINTENANCE

- (1) Any sign shall-
  - (a) where possible, be located at a height that discourage vandalism;
  - (b) be serviced on a regular basis; and

- (c) be maintained in good repair and in a safe condition and according to the highest standards as regards quality of structure, posting and sign writing
- (2) The owner of any land or building on which sign is displayed or erected, or to which a sign is attached, and the owner of any such sign shall be jointly and severally responsible for the maintenance in a safe and proper condition and for cleaning and the repainting of any such sign.
- (3) The provisions of the National Building Regulations made in terms of the National Building Regulations and Building Standards Act, 1977, shall apply mutatis mutandis to every sign, advertising board and its supporting structure.

#### **8. POSITION**

- (1) Signs shall not, except where specifically authorized by these by –laws: -
  - (a) Cause any obstruction to a motorist's view of the roadway or its approaches, regardless of the direction the motorist is traveling;
  - (b) Be positioned on a road island or road median;
  - (c) Be suspended across a road;
  - (d) Be erected within or suspended above a road reserve of main arterial roads;

#### **9. ILLUMINATION**

- (1) Illumination is permitted on an advertisement only if it does not lead to unsafe driving conditions, and where it is specifically not prohibited;
- (2) The maximum luminance level as determined by the International Commission of Illumination and provided in SAMOAC is permitted;
- (3) The light source emanating from floodlights shall not be visible to traffic traveling in either direction.
- (4) Floodlighting shall be positioned to ensure effective distribution and minimize light wastage or "spill"
- (5) No person that shall erect or display any animated or flashing sign, the frequency of the animations or flashers or other intermittent alteration, of which disturbs the residents or occupants of any building or is a source of nuisance to the public.

### **PART C: TYPES OF ADVERTISING SIGNS AND CONDITIONS OF THEIR ERECTION OR DISPLAY**

**10. ELECTRONIC BILLBOARD**

- (1) No person may erect an electronic billboard without first obtaining the written approval of the municipality.
- (2) An environmental impact assessment shall be required for any electronic billboard. Such environmental impact assessment shall include visual, social and traffic safety aspects.
- (3) Any electronic billboard permitted by the municipality shall not exceed a maximum size of 18m<sup>2</sup> and a maximum height of 7,5m.
- (4) An electronic billboard must be displayed perpendicular to oncoming traffic;
- (5) No electronic billboard shall be erected within a radius of 300m from the centre of an intersection on an arterial road or within a radius of 100m from the centre of an intersection on any lower order road in such a manner as to be oriented towards such an intersection.
- (6) No one may erect an electronic billboard in a visual zone in an area other than urban area of partial or minimum control.
- (7) No more than one electronic billboard shall be allowed on any site and an electronic billboard shall not be erected closer than 1,5 kilometres to another electronic billboard.

**11. SUPER BILLBOARD**

- (1) No super billboards are allowed in the municipal area.

**12. GANTRY BILLBOARDS**

- (1) No person may erect a gantry billboard without first obtaining the written approval of the municipality;
- (2) Gantry billboard shall only be permitted for the dual purposes of providing space and of creating a branded entrance to specific areas identified by the municipality and must incorporate the branding and identify elements approved by the municipality.

**13. LARGE BILLBOARD AND CUSTOM-MADE BILLBOARDS**

- (3) No person may erect a large billboard or custom-made billboard without first obtaining the written approval of the municipality.
- (4) At a road intersection, a maximum of only two large billboard or custom-made billboards per intersection shall be permitted
- (5) A large billboard or custom-made billboard permitted by the municipality shall not exceed a maximum of 36m<sup>2</sup> and maximum height of 9mm from ground level, with a clear height of 2,4m.

- (6) A large billboard or custom-made billboard shall be displayed perpendicular to or at an angle of 30° to the direction of on-coming traffic.
- (7) No large billboard or custom-made billboard shall be permitted within a radius of 100m from the centre of an intersection of any lower order road.
- (8) No more than one large billboard or custom-made billboard shall be allowed on any site.
- (9) A large billboard or custom-made billboard shall be spaced as follows:

On an urban freeway or expressway or arterial road where a speed limit of more than 80 km/hour has been imposed	At least 250 metres apart and at least 250 metres from any product replica or three dimensional sign when in view of each other or of such product replica or three dimensional sign and on the same side of the road, and at least 200m from any road traffic sign.
On an urban freeway or expressway or arterial road where a speed limit of more than 60 and up to 80km/hour has been imposed	At least 200 metres apart and at least 200 metres from any product replica or three dimensional sign when in view of each other or of such product replica or three dimensional sign and on the same side of a road, and at least 100m from any road traffic sign.
On an urban freeway or expressway or arterial road where a speed limit of 60 km/hour or less has been imposed	At least 120 metres apart and at least 120 metres from any product replica or three dimensional sign when in view of each other or of such product replica or three dimensional sign and on the same side of a road, and at least 50m from any road traffic sign.

#### 14. SMALL BILLBOARD AND TOWER STRUCTURE

- (1) No person may erect small billboard or tower structure without first obtaining the written approval of the municipality.
- (2) A small billboard or tower structure shall not exceed a maximum size of 6m<sup>2</sup> and a maximum height of 4m and shall have a clear height of not less than 2,4m.
- (3) Small billboard and tower structure shall be permitted only in urban areas of minimum and partial control.
- (4) No panel of tower structure shall exceed a maximum size 4,5m<sup>2</sup> and the clear height of a tower structure shall not be less than 2,4m with a maximum height of 5m from ground level.
- (5) Small billboards and tower structures shall primarily be aimed at users within the activity centre.

- (6) Small billboards and tower structures must harmonize aesthetically with buildings and streetscape.

#### **15. ADVERTISEMENT ON STREET FURNITURE**

Street furniture signs:

- (1) are not allowed in natural or rural areas.
- (2) Shall not be placed so as to obstruct pedestrian movement.
- (3) Shall require the specific consent of the municipality.
- (4) May be illuminated but not animated.
- (5) May not be displayed on a road median or road island.
- (6) Shall not exceed 2,2m<sup>2</sup> in area of sign on a single.
- (7) May be used for commercial advertising.

#### **16. BANNERS**

- (1) A banner may be used only for-
  - (a) locality-bound advertising of functions or events conducted for religious, educational, social, welfare, animal welfare, sporting, civic, cultural or performing arts purposes or function relating to municipal, provincial or parliamentary elections or referenda;
  - (b) locality-bound advertisement displaying of the name, corporate symbol and nature of enterprises;
  - (c) Streetscaping urban areas such as pedestrians malls and gateways.
  - (d) Non locality-bound advertising of functions or events at locations specified by the municipality.
- (2) A banner is not permitted in a natural area.
- (3) Banners mentioned under (1)(c) and (d) shall not be displayed without the written approval of the municipality, subject to such conditions, as the municipality may deem expedient.
- (4) Every person to whom permission has been granted in terms of subsection (1)(d) for the display of an advertisement on a banner shall ensure that the following requirements are complied with:
  - (a) banners may be permitted at intersections in urban areas as defined in terms of municipal policy;
  - (b) not more than four(4) banners per identified road intersection shall be displayed in respect of one function or event and for the purpose of



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this subsection an "intersection" means all four corners of the intersection excluding the median;

- (c) not more than one banner per corner of the intersection shall be displayed;
  - (d) every banner shall be attached to or suspended between poles to be provided by the applicant;
  - (e) every banner shall be so attached as not to interfere with or constitute a danger to passing vehicular or pedestrian traffic; and
  - (f) no banner shall be displayed for more than two weeks before the date of the function or event advertised, nor shall any such advertisement be permitted to remain in position for more than one day after the conclusion of such function or event;
  - (g) No banner shall exceed a maximum size of 6m<sup>2</sup> and a maximum height of 2m.
  - (h) A banner must bear an official stamp or sticker from the municipality, which displays the expiry date prominently, and may not be displayed without such a stamp or sticker.
  - (i) The advertising of commercial products, services or events by means of a banner is prohibited.
  - (j) A banner for the advertising of live entertainment, or performing arts functions, or events is permitted subject to specific consent of the municipality and provided that the wording and / or logo used to advertise the venue of such function or event shall be less conspicuous than the name of the entertainer or performance artist and may not exceed 20% of the banner.
- (5) The municipality may enter into a concession agreement with a private institution in respect of the control of banners mentioned under (1)(c) and (d), subject to the provisions of these by-laws;

**17. FLAGS**

- (1) A flag may be used only once for-
- a) locality – bound advertising of functions or events conducted for religious, educational, social, welfare, sporting, civic, natural or performing arts purposes, or functions, or events relating to municipal, provincial or parliamentary elections or referenda;
  - b) locality-bound advertisements displaying of the name, corporate symbol and nature of enterprises;
  - c) street scaping urban areas such as pedestrian malls and gateways;

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- d) non-locality bound advertisements, or campaigns, or events at locations specified by the municipality;
- (2) Flags mentioned in (1)(a),(c) and (d) above shall not be displayed without the written approval of the municipality;
- (3) A flag is not permitted in a natural area;
- (4) The lowest point of a flag displayed in terms of (1)(d) may not be lower than two-thirds of the vertical length of pole.
- (5) A flag may not be attached in such a manner as to interfere with or constitutes a danger to passing pedestrians or traffic.
- (6) A maximum of only ten (10) flags shall be permitted per shopping centre;
- (7) The municipality may enter into a concession agreement with a private institution in respect of the control of flags mentioned under (1)(c) and (d), subject to the provisions of these by-laws;

**18. SUBURBAN ADVERTISING SIGNS**

- (1) No suburban advertising sign shall be displayed without the written approval of the municipality, subject to such conditions, as the municipality may deem expedient.
- (2) A suburban advertising sign must be rectangular, and must be not more than 0,4 metres in height and not wider than the suburb name sign. It must be less conspicuous than the suburb name sign.
- (3) A suburban advertising sign may not bear colour that may cause confusion with road traffic signs and may not be illuminated or animated.
- (4) Suburban advertising signs must comply with the requirements of the suburb name GL2 sign as prescribed in the National Road Traffic Act.

**19. ESTATE AGENTS BOARDS**

- (1) An estate agents' board may not contain information other than the words "for sale", "to let" or "sold", "sole mandate" and the name, logo, and telephone number of the selling or letting agents.
- (2) An estate agents' board is permissible in any area, but not more than one such board per estate agent may be erected on any erf and not more than three agents may display their boards simultaneously on the same erf.
- (3) An estate agents' board may only be a single board or two duplicate boards joined together.
- (4) The maximum size of an estate agents' board shall be-

Natural and rural areas	2,0m <sup>2</sup>
Urban areas of maximum or partial control	0,55m <sup>2</sup>
Urban areas of minimum control	2,8m <sup>2</sup>

- (5) An estate agents' board must be attached to the boundary fence of the property concerned or displayed within the boundaries of premises.
- (6) An estate agents' board must be removed not later than 30 days after conclusion of a contract of sale or lease of the property in question.
- (7) No illumination or animation of estate agents' board is allowed.

## 20. TEMPORARY DIRECTION INDICATORS FOR SHOW HOUSES

- (1) Only an estate agent, who is a registered member of the recognized Estate Agent's Board or institutes, may display direction indicators for show houses;
- (2) Direction boards indicating the position of a property (known as "trail blazer boards"), shall be subjected to the following:
  - (i) direction signs to show houses may be displayed over weekends only from Friday 10h00 until Monday morning 10h00 and in the case of public holidays from 6h00 to 18h00 on the public holiday;
  - (ii) each face of a sign shall not be larger than 600mm x 600mm;
  - (iii) the selling or letting agent shall not display more than 15 signs per show or property, irrespective of the number of routes to the show house or property of which such signs may be double-sided;
  - (iv) no signs shall be displayed on the N4/11 National Road;
  - (v) direction signs shall:
    - a. not be displayed on the middle island of all roads;
    - b. be displayed within a maximum distance of 20 metres from an intersection;
    - c. be displayed at a minimum distance of 5m from such intersection, 2m from edge of kerb, with a maximum height of one metre; provided that only one indicator (per direction) per estate agent shall be permitted.
  - (vi) signs shall use only an arrow to indicate the direction of the show premises;
  - (vii) only the estate agents' name and the words " show house/skouhuis" shall appear on the signs;

- (viii) the selling or letting agent shall register with the municipality or the appointed agent of the municipality before being allowed to erect signs in the municipal area;
  - (ix) a registration fee as determined from time to time by the municipality is payable annually;
  - (x) the selling or letting agent who disregards any of the restrictions forfeits the registration deposit and the agent, his/her principal and/or agency will be considered unregistered
  - (xi) no signs shall be placed on traffic circles, traffic medians, traffic islands, traffic lights, road traffic signs, power masts, trees, pillars, fencing, electrical substations, bridges or any similar structures;
- (3) The municipality may, without prior notice to anybody, remove any temporary advertisement in respect of the sale or letting of removable property, which is erected in contravention these by-laws, and the person who displayed the advertisement or permitted or allowed it to be displayed, will be responsible for the costs of removal.
- (4) The municipality may withdraw/cancel a registered agents' right to display direction boards if, in the opinion of the municipality, the registered agent fails to comply with provision of these by-laws.

## **21. ADVERTISEMENTS FOR SALE OF GOODS OR LIVESTOCK**

- (1) Only one advertisement for sale of goods or livestock per sale shall be allowed.
- (2) The size of such an advertisement may not exceed two square metres in natural or rural area or an urban area of maximum or partial control, and 2,8 square metres in an urban area of minimum control, and no part of the advertisement shall be higher than three metres above the ground.
- (3) Such an advertisement may be displayed only on the premises or property where the advertised sale is to take place, or be attached to the boundary fence of such a property or premises.
- (4) No illumination of such an advertisement shall be allowed.
- (5) Such an advertisement may be erected no earlier than one day before the sale in question and must be removed not later than one day after such sale, and advertisements of a permanent nature are not allowed.

## **22. AUCTION POSTERS**

- (1) Auction posters shall not be larger than 900mm x 600mm.
- (2) Auction posters require specific consent of the municipality.

- (3) Auction posters shall only be displayed for 7 days prior to and including the date of the auction.
- (4) Only one auction poster per street block is allowed, with a maximum of six signs per auction per urban area.
- (5) No auction poster shall be displayed on a road intersection but shall be placed at least 50m from the intersection.
- (6) Auction posters shall not be erected on tarred or paved surface.
- (7) Auction posters shall not be higher than 1m and shall not cause an obstruction or pose a danger to pedestrian- or other traffic.
- (8) Auction posters shall use an arrow to indicate the direction of the auction.
- (9) The auctioneer's name, the word "auction" and details of the auction must appear on the signs.
- (10) A copy of the relevant court order with the case number must accompany the application for consent.
- (11) The case number must be clearly displayed in characters of not less than 50mm in height at the bottom of the signs.
- (12) All information on the poster shall have a minimum letter size of 50mm (including the lower case letter size).
- (13) No signs shall be placed on traffic circle, traffic medians, traffic islands, traffic lights, road traffic signs, power masts, trees, pillars, fencing, electrical substations, bridges or any similar structures.

## **23. POSTERS**

- (1) a poster may be displayed only in an urban area of partial or minimum control;
- (2) no person may erect a poster without first obtaining the written approval of the municipality;
- (3) A poster may only be displayed on a structure which is provided for the express purpose of pasting or affixing the poster or notice, and may not be attached or affixed to a road traffic sign or a signal, wall column or post of a veranda or balcony, electricity box, tree or bridge.
- (4) A poster may not be illuminated or animated.
- (5) Only one poster may be displayed per post or standard, except that in the case of election or referendum, not more than three posters per post or standard shall be allowed.

- (6) The name of the institution, body or organization, the date of the function or event and the venue thereof must appear on each poster.
- (7) A poster may not exceed a size of 600mm x 1m in area.
- (8) Anyone displaying a poster advertisement must pay a deposit to the municipality. Should the advertiser not conform to the above, the deposit would be used to enable the municipality to remove the advertisement. If the owner concerned removes the advertisements as prescribed, deposit would be refunded.
- (9) A poster, except for an election or referendum poster, must bear an official stamp or sticker from the municipality which displays the expiry date prominently, and may not be displayed without such a stamp or sticker.
- (10) A parliamentary, provincial or municipal election or referendum poster, may not be erected before the date on which the notice or proclamation in the Government Gazette or provincial gazette announcing the election or referendum is published and must be removed not later than 7 days after the date of the election or referendum.
- (11) A poster, except for an election or referendum poster, may not be erected more than 14 days before the relevant event and must be removed not later than three days thereafter.
- (12) Posters may not be displayed on the road reserve or road reserve boundaries of freeways, national roads or provincial roads.
- (13) The advertising of commercial products, services or events by means of a poster is prohibited.
- (14) The advertising of live entertainment or performing arts functions or events is permitted subject to specific consent of the municipality and provided that the wording and or logo use to advertise the venue of such function or event shall be less conspicuous than the name of the live entertainer or performing artist and may not exceed 20% of the poster.

#### **24. PROJECT BOARDS**

- (1) A project board must be approved by the relevant developer or employer, and may display only:
  - (a) a description of the building or structure being erected or other work or activity being carried out;
  - (b) the name and the company symbols or logos of the contractors or consultants;
  - (c) the branches of their industry or profession;

- (d) a description of the development being carried out;
- (2) Only one combined project board listing contractors and consultants shall be allowed per street front of a site.
- (3) A project board shall not exceed 1,5 square metres in area of advertisement per consultant or contractor, and may not exceed a total area of 9 square metres;
- (4) A project board may be erected on a road reserve, only if there is insufficient space on the development site, but a board concerning road construction may be positioned in any road reserve.
- (5) A project board may not be illuminated or animated.
- (6) A project board may be displayed only while the relevant works are actually taking place on the site and until such time that an occupation certificate has been issued.

## **25. DEVELOPMENT ADVERTISEMENT SIGNS**

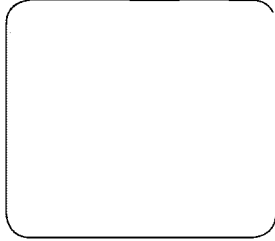
- (1) No person may erect a development advertising sign board without first obtaining the written approval of the municipality.
- (2) A development advertising sign board must be approved by the relevant developer or employer, and may display only:-
  - (a) a description of the building or structure being erected or other work or activity being carried out;
  - (b) a description of the development being carried out;
  - (c) where relevant, details of the name, address and telephone number of the developer or the agent of the developer.
- (3) Only one advertising sign describing the type of development shall be allowed.
- (4) An advertising sign describing a type of development may not exceed three metres in height. It may not exceed 6.0 square metres in area of advertisement in an area of maximum control and 12 square metres in any other area.
- (5) Development advertising signs may be illuminated but not animated.
- (6) A development advertising sign may only be displayed for a maximum period of one year after the date of approval of such development, after written approval of the municipality has been obtained.

## **26. CONSTRUCTION SITE ADVERTISING SIGNS**

- (1) A construction site advertising sign is permitted in all areas of control.

**CONTINUES ON PAGE 130 - PART 2**





THE PROVINCE OF MPUMALANGA  
DIE PROVINSIE MPUMALANGA

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- (2) No person may erect or display a construction site advertising signs without first obtaining the written approval of the municipality, unless the advertising sign does not exceed 6,0 square metres in size.
- (3) Construction site advertising signs may be erected only for the duration of the relevant construction works.
- (4) Construction site advertising signs may not exceed a vertical dimension of 3,0 metres and a total area of advertisement of 18 square metres.
- (5) Construction site advertising signs may be illuminated but not animated.

## **27. STREET NAME ADVERTISING SIGNS**

- (1) A street name advertising sign shall be permitted only in an urban area on a road other than a freeway.
- (2) A street name advertising sign, which omits the street name shall not be permitted.
- (3) No one may erect a street name advertising sign without first obtaining the written approval of the municipality.
- (4) Where illuminated, the illuminated portion of the advertisement must be above the level standard pole-mounted traffic lights and may not extend over the road surface.
- (5) A street name advertising sign may be erected only at an intersection and may be erected on a road reserve or road median.
- (6) Only four street name advertising signs will be permitted per intersection.
- (7) The street name advertising sign shall comply with the requirements for the street name GL1 sign as prescribed in the National Road Traffic Act.

## **28. SECURITY ADVERTISEMENTS**

- (1) A security advertisement must refer only to the existence and operation of a commercial security service, burglar alarm system, neighbourhood watch or similar system or scheme and may only be displayed on the premises where such security service is rendered.
- (2) A security advertisement may not exceed 0,25 square metres in area of advertisement, except a farm advertisement, which may not exceed 1,5 square metre in area of advertisement. All such advertisements may not exceed a height of three metres above ground level.
- (3) In an urban area, only one security advertisement per street boundary of the premises on which such security service is rendered may be erected and must be firmly affixed to the building, boundary wall, fence or gate on the street frontage or within the boundaries of the erf.

- (4) A security advertisement on a farm may be displayed at the intersection of a national road or provincial road with a private access road or at the entrance property. Only one advertisement per farm or holding shall be allowed. The advertisement may be erected within a road reserve other than a freeway, but not on a road –island or median
- (5) A security advertisement may not be illuminated or animated.

## **29. PRODUCT REPLICAS AND THREE –DIMENSIONAL SIGNS**

- (1) A product replica and three –dimensional advertising sign shall be permitted in a shopping centre or other commercial or in an entertaining or industrial area situated in an area of partial or minimum control.
- (2) The highest point of a free-standing product replica or three-dimensional advertising sign above ground level shall not exceed 4 metres in an urban area of partial control and 7,5 metres in an urban area of minimum control.
- (3) A product replica or three-dimensional advertising sign may only be displayed within the boundaries of the site, and may only be displayed at the premises where the business is conducted.

## **30. SKY SIGNS**

- (1) No person shall erect or display a sky sign or cause or allow a sky sign to be erected or displayed in the municipal area.

## **31. ROOF SIGNS**

- (1) No one may erect a roof sign without first obtaining the written approval of the municipality.
- (2) A roof sign shall be permitted in areas of partial and minimum control.
- (3) Only locality-bound roof signs shall be permitted.
- (4) The bottom of the roof sign shall not be more than 120mm above the closest portion of the roof beneath it.
- (5) The main axis of a roof sign shall be horizontal
- (6) A roof shall not exceed areas set out below:

Height of sign above the ground	Maximum area of sign
<6m	2m <sup>2</sup>
6m < 9m	4m <sup>2</sup>
9m < 12m	8m <sup>2</sup>
12m < 18m	12m <sup>2</sup>
18m+	18m <sup>2</sup>

- (7) A roof sign shall not exceed 300mm in thickness.
- (8) Roof signs shall, if required by the municipality be placed so as not to form part of the skyline of buildings.
- (9) A roof sign shall not extend beyond the roof of the building in any direction.

### **32. FLAT SIGNS**

- (1) Flat signs shall only be allowed in urban areas of minimum, partial and maximum control and at centres of economic activity in rural and natural area of maximum control, but shall be limited to buildings utilized for commercial, industrial, or entertainment purposes and larger accommodation facilities.
- (2) Only locality bound flat signs shall be allowed.
- (3) An environmental impact assessment regarding the visual, social and traffic safety aspects shall be required for any flat sign in excess of 36m<sup>2</sup>

### **33. PROJECTING SIGNS**

- (1) Projecting signs shall only be allowed in urban areas of minimum, partial and maximum control, but shall be limited to buildings utilized for commercial, industrial, or entertainment purposes and larger accommodation facilities.
- (2) Only locality bound projecting signs shall be allowed in the municipal area.
- (3) Only one projecting sign shall be allowed per enterprise façade.

### **34. BALCONY OR UNDERAWNING ADVERTISING SIGNS**

- (1) A balcony or under awning advertising signs may be erected only on premises used for commercial, office, industrial or entertainment purposes.
- (2) In the case of an advertisement contemplated in paragraph (a), (b) or (c) of the definition of "balcony or under awning advertising sign"-
  - (a) no advertising sign may project at any point more than 100 millimetres from the surface to which it is affixed;
  - (b) no advertising sign may exceed a vertical dimension of 750mm and a horizontal dimension of 2400mm;
  - (c) no advertising sign may extend above or below of beyond any extremity of a parapet wall, balustrade, railing, beam or fascia;

- (3) In case of an advertising sign contemplated in paragraph (d) of the definition of "balcony or under awning advertising sign"
  - (a) the advertising sign must be painted on or affixed flat onto the supporting column, pillar or post;
  - (b) no advertising sign may extend beyond any extremity of the column, pillar or post;
  - (c) an advertising sign affixed flat onto a non-rectangular supporting structure must be curved to fit the form of such a structure;
  - (d) only one advertising sign per column, pillar or post is allowed;
- (4) A balcony or under awning advertising sign may be suspended above a sidewalk or road reserve and no part of such advertising sign shall be less than 2,4m above the surface of the sidewalk or ground level immediately below it.
- (5) No illuminated advertising sign or advertisement designed to reflect light may be attached to or displayed on a splayed or rounded corner of a balcony at a street intersection, unless the bottom of the advertising sign is at least six metres above the street immediately below it.

### **35. SIGNS PAINTED ON BUILDINGS, BOUNDARY WALLS AND ROOFS**

- (1) Signs painted on buildings, boundary walls and roofs shall be permitted only in urban areas of partial and minimum control.
- (2) Signs painted on the façade of a building shall not cover more than 20% of such façade of the building, boundary wall or roof of the enterprise to which such sign pertains.
- (3) Not more than one sign per enterprise shall be allowed while no more than one locality-bound sign per building, boundary wall or roof shall be allowed.
- (4) Signs painted on the façade of a building shall be allowed only at a position below the lower edge of any visible second-floor window.

### **36. WINDOW SIGNS**

- (1) Window signs are permitted in all urban areas of control and at centres of economic activity in natural and rural areas of maximum control.

### **37. FORECOURT ADVERTISING SIGNS**

- (1) A forecourt advertising sign may be displayed only in an urban area. In any other area, it may only be displayed in a centre of economic activity;
- (2) A forecourt advertising sign may not be displayed in a road reserve and may not interfere with pedestrian circulation.

- (3) A forecourt advertising sign may not be animated.

### **38. RESIDENTIAL OR COMMUNITY ADVERTISING SIGNS**

- (1) A residential or community advertising sign may be affixed flat or painted on a gate or wall, or on a pole mounted advertising sign or an advertisement with supporting structures forming a visual structure around the sign panel.
- (2) In the case or the name of a proprietor or practitioner, one advertising sign per premises is allowed, that may not exceed the following sizes: provided that where there is more than one entrance to the same premises on different road frontages, two advertising signs may be displayed, each on a different frontage:

Consent use	Permissible size
Guest house	1,5m x 1,5m
Home business	420mm x 300mm
Day mothers / play group	420mm x 300mm
Pre-school	1,5m x 1,5m

- (3) In the case of a residential or community advertising sign, a name or logo of a sponsor of the advertising sign may not be displayed except on the name of a farm or smallholding. The sponsor advertisement may not exceed one third of the total advertisement area.
- (4) A residential or community advertising sign may be displayed only on the premises to which it refers, or on the boundary wall, fence or gate of such premises;
- (5) A farm or smallholding name sign must be displayed next to the entrance of the access road thereto or affixed to the gate at the entrance of such access road. Where more than two farms or smallholdings share an unnumbered or private access road, a direction traffic sign must be used to indicate the access road;
- (6) A free standing residential or community advertising sign is allowed only where it is not aesthetically or practically acceptable to attached a sign to a building or boundary wall, fence or gate, and may not be erected in a road reserve;
- (7) A residential or community advertising sign may not be animated, and may be illuminated only in an urban area. It must harmonise with the buildings and other structures on the premises as to materials, colour, texture, form, style and character.

### **39. ON-PREMISES BUSINESS ADVERTISING SIGNS**

- (1) An on-premises business sign must be locality bound and shall only provide information on the name and nature of the enterprise, the brand-

name and nature of goods sold or produced and the nature of services provided and the name of the proprietor(s) or practitioner(s).

- (2) An on-premises business sign may be a combination sign for a variety of businesses in the same locality and may also be free-standing.
- (3) An on-premises business sign shall only be displayed if:
  - (i) signs affixed to the building may not be noticed by passing pedestrian or motorists due to the position of the building;
  - (ii) it is not structurally possible or visually feasible to affix appropriate signs to a building;
  - (iii) the sign is needed to locate the entrance to business premises or the private access road to a business;
- (4) An on-premises business sign requires the specific consent of the municipality and/or the relevant road authority.
- (5) In the case of a combination sign, -
  - (a) the design must harmonise with the architecture of the particular building or other adjacent building or structures;
  - (b) message on individual panels of the sign must be concise and legible;
  - (c) the content of individual panels of such a sign must be harmonious in terms of form letter types and colour.
  - (d) Combination signs must be harmonious in terms of form, letter types and colour.
  - (e) Combination signs shall be designed and located so as not to create a traffic safety hazard.
- (6) Only one on-premises business sign shall be allowed per enterprise, unless there is more than one entrance on different road frontages, in which case two will be allowed, one per frontage.
- (7) In an area of maximum control the sign shall be a maximum of 6m<sup>2</sup> in area and 7,5m in height.
- (8) In an area of partial or minimum control, the sign shall be a maximum of 12m<sup>2</sup> in area and 7,5m in height.
- (9) A height increase to 10m can be considered subject to a height restriction relaxation in terms of the relevant Town Planning Scheme as amended from time to time.
- (10) The name or logo of the sponsor of the on-premises business sign may be displayed if it refers to product or services available at that specific

enterprise, but shall not occupy more than one third of the total area of the sign.

- (11) An on-premises business sign may be placed closer to the road reserve boundary than the ruling building line, subject to a building line relaxation being obtained in terms of the relevant Town Planning Scheme as amended from time to time.
- (12) An on-premises business sign may be illuminated.
- (13) An on-premises business sign shall not be animated in areas of maximum control.
- (14) An on-premises business sign shall not obstruct the view from any adjacent building.

#### **40. TOWER, BRIDGE AND PYLON ADVERTISING SIGNS**

- (1) No person may erect or display a tower, bridge or pylon advertising sign in a natural area, or an urban area of maximum control, or over a freeway in any area.
- (2) No one may erect or display a tower, bridge or pylon advertising sign in an urban area of partial or minimum control without first obtaining the written approval of the municipality, or if necessary the written approval of the South African National Road Agency.
- (3) The maximum area of advertising sign on tower, bridge and pylon advertising signs per structure shall not exceed 36 square metres.
- (4) The clear height of pylon advertising sign may not be less than 2,4m.
- (5) The clear height of bridge sign shall not be less than 6m.
- (6) A sign shall not project more than 300mm from the main supporting structure.
- (7) No person may erect or display a tower, bridge or pylon advertising sign that is illuminated or animated except in an urban area of minimum or partial control, and then only if-
  - (a) it is not a safety hazard;
  - (b) it does not cause undue disturbance;
  - (c) the source of the illumination is concealed from oncoming traffic;
- (8) No person may attach an advertisement to pylon unless the pylon is independently supported without the aid of guys, stays, brackets or other restraining devices, and is properly secured to an adequate foundation in the ground,



- (9) The sign shall form an integral part of the design of the structure.

**41. ADVERTISEMENT FOR SPONSORED ROAD TRAFFIC PROJECTS**

- (1) A sign for sponsored road traffic projects may contain the name and the details of the project and the name(s), logo(s) and message(s) of the sponsor, which shall not exceed 20% of the area of the sign.
- (2) A sign for sponsored road traffic projects requires the specific consent of the municipality.
- (3) A sign for sponsored road traffic projects shall not exceed 4,5m<sup>2</sup> in area of sign and the total height of the sign shall not be more than 3m above ground level.
- (4) The municipality may approve conditionally, or unconditionally, or reject proposal for sponsored road traffic projects at its discretion;
- (5) No advertisement for a sponsored road traffic project may be combined with or be attached to a road traffic signs;
- (6) No road traffic sign, or symbol used in any road traffic sign, may be used in an advertisement for a sponsored road traffic project.
- (7) An advertisement for a sponsored road traffic project may not be animated.

**42. ADVERTISING SIGNS AT EDUCATION INSTITUTIONS**

- (1) No person may erect a free-standing advertising sign at an educational institution without first obtaining the written approval of the municipality.
- (2) A free-standing sign at educational facilities and at institutions may indicate the name and nature of the facility or institution and the name of sponsor/s.
- (3) A maximum total sign area of 18m<sup>2</sup> is allowed, provided that this area may be divided into panels of equal size, form and construction incorporated into one individual combination free-standing sign.
- (4) Only one individual free-standing sign shall be permitted per vehicle entrance.
- (5) Illumination of free-standing signs at educational facilities and at institutions will only be allowed with the specific consents of the municipality.
- (6) Free-standing signs at educational facilities and at institutions shall not, in the discretion of the municipality, in any way detrimentally affect the residential character and amenity of the neighbourhood or any other amenities of the area and/or the surroundings.

- (7) Only small billboard and tower structure which are "internally orientated" shall be permitted at educational facilities and at institutions.

#### **43. SERVICES FACILITY ADVERTISING SIGNS**

- (1) No person may erect a service facility advertising sign without first obtaining the written approval of the municipality.
- (2) A service facility advertising sign may refer only to the name or logo of a business providing a service, and the type of service provided;
- (3) A service facility advertising sign must be locality-bound and may be erected or displayed only in service facilities adjacent to and directly accessible from national, provincial or urban roads at which the advertisement is directed. Only one such advertising sign per direction of traffic flow will be allowed;
- (4) No service facility advertising sign may exceed the following dimensions:

Natural areas and urban freeways	10mm in height and 3m in width
Other urban areas	7m in height and 2m in width
Rural areas	20m in height and 6m in width

- (5) The municipality may stipulate requirements for the positioning of the advertising sign;
- (6) A service facility advertising sign may not be animated, and illumination is allowed only while the services concerned are being provided;
- (7) No advertisement shall be allowed in a roadside service area except a service facility advertising sign permitted under these by-laws, unless used for internal direction and orientated and aimed at motorist within the facility;
- (8) No person may erect a service facility advertising sign within a road reserve without the approval of the municipality;
- (9) No person may erect a service facility advertising sign in the road median or on an island.

#### **44. TOURISM SIGNS**

- (1) No person may erect a tourism sign without first obtaining the written approval of the municipality.
- (2) Tourism signs are permitted in all areas of control;
- (3) Tourism signs may be displayed within all road reserve, except road medians and road island;

- (4) Tourism signs must have a distinctive white and brown colour and must use symbols according to the specifications in terms of the Road Traffic Signs Manual and the Road Traffic Act (Act 93 of 1996);
- (5) Only one tourism sign may be erected at only the nearest intersection to the tourist facility within urban areas, subject to (6);
- (6) No tourism sign is permitted at an intersection with a major arterial road as classified by the relevant roads authority;
- (7) Tourism signs shall be erected by the municipality or by any other relevant authority at the cost of the applicant.

**45. AERIAL ADVERTISEMENTS**

- (1) No person shall display an aerial advertisement in a natural or a rural area.
- (2) An aerial advertisement may not be illuminated or animated, except that an airship may be illuminated;
- (3) With the exception of a moored airship, an aerial advertisement may be displayed only in daylight hours;
- (4) No aerial advertisement shall be displayed for a period exceeding two weeks in any calendar year;
- (5) Any requirement or conditions prescribed by the Department of Civil Aviation must be adhered to.

**46. TRAILER ADVERTISING**

- (1) Trailer advertising, whether stationery or not, is not permitted in the municipality area.

**47. PAMPHLETS**

- (1) The distributing company shall register with the municipality before allowed to distribute pamphlets.
- (2) A registration fee as determined from time to time by the municipality is payable annually.
- (3) The distributing company shall upon registration provide a list of client that intends to advertise by means of the distribution of pamphlets in the municipal area.
- (4) Pamphlets may only be distributed in post boxes at residential dwelling units or parked vehicles at demarcated parking spaces.
- (5) No one may distribute pamphlets to motorists in the moving traffic within public roads.

**48. PROHIBITED SIGNS**

- (1) Any sign type not covered by these by-laws shall be regarded as an illegal sign unless the specific consent of the municipality has been obtained;
- (2) No person shall erect or display any of the following signs or causes or allow any such sign to be erected or displayed:
  - (a) any animated or flashing sign the frequency of the animation or flashes or other intermittent alterations of which disturbs the residents or occupants of any building or is a source of nuisance to the public;
  - (b) any swinging sign;
  - (c) any moveable or transit sign, or trailer advertising sign whether stationery or not;
  - (d) any poster pasted onto supporting columns, pillars or any poster pasted otherwise than on a hoarding legally erected for the purpose of accommodating such poster;
  - (e) super billboards;
  - (f) sky signs;
  - (g) the distribution of pamphlets at road intersections;
  - (h) any sign to be suspended across a street;
  - (i) street pole ads for advertising of commercial products, services or events by means of pavement posters and notices attached to electrical light poles;
  - (j) combination industrial signs within road reserves;
  - (k) advertising signs on land situated in an area of maximum control, except where otherwise provided for in terms of these by-laws;
  - (l) any permanent sign of which the maximum display period has expired;
  - (m) gantry billboards, except the gantry billboards erected in terms of Section 12(8).

**PART D: GENERAL PROVISIONS****49. APPROVAL BY MUNICIPALITY**

- (1) Any application for approval required by these by-laws must be made by completing the prescribed application form and lodging the completed form with the application fee determined by the municipality from time to time;

- (2) The municipality may refuse to consider an application where the relevant form has not been completed properly or the relevant fee has not been paid;
- (3) An application in terms of subsection (1) must be signed by the owner of the proposed structure or device upon which the advertising sign will be displayed and by the owner of the land on which it is to be erected or displayed, or by the agent of such persons authorized in writing, and must be accompanied by any additional information or documents requested by the municipality;
- (4) The municipality, when granting approval for any advertising, or structure upon which an advertisement is to be displayed in an urban area, must make its approval conditional on the applicant also obtaining the approval of any other relevant authority;
- (5) The municipality may grant approval subject to conditions, which must be complied with by the owner of the advertisement, the owner of the structure upon which an advertisement is to be displayed, the person or persons who erect or display it, the owner of the land on which it is displayed or erected and any occupier or other person in charge of such land;
- (6) Where the municipality has granted approval for the erection or display of an advertisement, the advertisement may not be moved or re-erected nor shall any alteration be made to the electric wiring system thereof, except for the purpose of maintenance, without first obtaining the further written approval of the municipality;
- (7) Approvals granted in terms of these by-laws may be renewed after expiry of the period for which the approval was granted by-
  - (a) making application for such renewal to the municipality;
  - (b) lodging the application form with the renewal fee determined by the municipality;
- (8) The municipality may reject an application for renewal of an approval that does not comply with subsection (7);
- (9) Where an approval has so lapsed, application may be made afresh on compliance with subsections (1), (2) and (3);
- (10) The owner of the land on which an advertising sign is erected or displayed in terms of an approval obtained under this by-laws, must retain certified copies of all documentation relating to the application and the approval issued by the municipality and any renewal thereof for as long as the advertising sign is erected or displayed, and must present it to any person authorized by the municipality on request. The owner of the advertising sign, if not also the owner of the land, must provide the owner of the land with certified copies of all relevant documentation;

- (11) Approvals granted by the municipality in terms of these by-laws shall be additional to, and not in substitution of, consent or approval required by any other law;
- (12) The municipality may withdraw any approval given under this by-laws where the relevant advertising sign does not or ceases to comply with these by-laws, or a condition imposed in such approval has not been complied with,;
- (13) In respect of temporary advertisements applied for in terms of Section 16, 17 and 23 welfare organizations organizing large community events has an economic benefit for the municipal area, may by means of written application to the municipality, only pay 50% of the prescribed applications fees and the applicable deposit.

**50. REFUSAL, WITHDRAWAL OR AMENDMENT OF APPROVAL AND APPEAL PROCEDURE**

- (1) The municipality may refuse, withdraw or amend at any time an approval if in the opinion of the municipality-
  - (a) It will be or becomes detrimental to the environment or the amenity of the neighbourhood by reason of size, intensity of illumination, quality of design or materials or for any other reason;
  - (b) It will constitute or became a danger to any persons or property;
  - (c) It will obliterate or obliterates other signs, natural features, architectural or visual lines of civic or historical interest.
  - (d) It will be in its content objectionable, indecent or suggestive of indecency or prejudicial to the public morals;
  - (e) It will be or becomes illegal as a result of the changing urban structure.
- (2) Appeal procedure
  - (a) Any person may appeal to municipality against any decision of the municipality in terms of these by-laws, given by an official of the municipality under delegated powers within 30 days of receipt of notice of such decision;
  - (b) Such appeal shall be made by lodging a notice setting out the nature and grounds of the appeal within the period contemplated in subsection (a) with the municipality.
  - (c) The municipality shall hear the appeal including any oral or written submission from either party, and inform the applicant of its decision, which shall be final, and the reasons therefore.

- (3) The criteria for the final decision of the municipality will be based on the guidelines and requirements and conditions in terms of municipal policy.

#### **51. ERECTION AND MAINTENANCE OF ADVERTISING SIGNS**

- (1) The provisions of the National Building Regulations made in terms of the National Building Regulation and Building Standards Act, 1977 (Act 103 of 1977) shall apply mutatis mutandis to every sign, advertisement hoarding and its supporting structure;
- (2) The municipality may, if in its opinion an emergency exists, instead of serving a notice, itself carry out or appoint a contractor to carry out the removal of sign or do other work which it may deem necessary and may recover the cost thereof from the owner of the sign or owner of the land on which it is displayed or erected;
- (3) No person shall intentionally, in the course of erecting or removing any sign, advertising hoarding, poster or banner cause any damage to any tree, electric standard or service or other municipal installation or property;

#### **52. TRANSITIONAL PROVISIONS**

- (1) Any advertising sign that was erected or displayed on the date of commencement of these by-laws that is prohibited by these by-laws, and is not an advertising sign for which the municipality may grant approval, must be removed within 90 days of such date of commencement;
- (2) Where an advertising sign has been erected or displayed on the date of commencement of these by-laws, which, in terms of these by-laws, may not be so erected or displayed without the approval of the municipality or other authority, the owner of the advertising sign must apply to the municipality or the other authority, as the case may be, for such approval, within 90 days of such date of commencement, failing which the advertising sign must be removed forthwith. No such application may be made in respect of an advertising sign contemplated in subsection (1).
- (3) If approval for an advertising sign contemplated in subsection (2) has been refused, the owner must remove it within 30 days of receipt of notification of such refusal. Where such a notification has been posted by registered post, the owner will be deemed to have received it eight days after posting thereof;
- (4) All approved signs already in existence on the publication of these by-laws shall within a period of one (1) year after such promulgation, be removed or corrected to comply with the said by-laws.

#### **53. ENTRY AND INSPECTION**

- (1) The municipality shall be entitled, through its duly authorized officers, to enter into and upon any premises, at any reasonable time for the purpose of carrying out any inspection necessary for the proper administration and enforcement of the provisions of these by-laws.

#### **54. OFFENCE**

- (1) Any person who:
  - (a) contravenes or fails to comply with any provision of these by-laws;
  - (b) contravenes or fails to comply with any requirement set out in a notice issued and served on a person in terms of these by-laws;
  - (c) contravenes or fails to comply with any conditions imposed in terms of these by-laws;
  - (d) knowingly makes a false statement in respect of any application in terms of these by-laws;

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding R 500.00 or, in default of payment, to imprisonment for a period not exceeding twelve months, and in the case of a continuing offence to a fine not exceeding R1000.00 for every day during the continuation of such offence , and for a second or subsequent offence shall be liable on conviction to a fine not exceeding R 1500.00 per day or in default of payment, to imprisonment for a period not exceeding three months.

#### **55. RESPONSIBLE PERSONS**

- (1) If any person charged with an offence referred to in section 53, relating to any sign, advertising or poster:
  - (a) it shall be deemed that such person either displayed such sign, advertising hoarding or poster or caused or allowed it to be displayed;
  - (b) the owner of any land or building on which any sign, advertising hoarding or poster was displayed, shall be deemed to have displayed such sign, advertising hoarding or poster, or caused or allowed it to be displayed;
  - (c) any person who was either alone or jointly, with any other person responsible for organizing, or was in control of any meeting, function or event which a sign or poster relates, it shall be deemed to have displayed every sign or poster displayed in connection with such meeting, function or event to have caused or allowed it to be displayed;
  - (d) any person whose name appears on a sign, advertising hoarding or poster shall be deemed to have displayed such sign advertising hoarding or poster unless the contrary is proved.



**56. REMOVAL OF SIGNS OR ADVERTISING HOARDINGS**

- (1) If any sign or advertising board is displayed so that in the opinion of the municipality it is detrimental to the environment or to the amenities of the neighbourhood, or otherwise in contravention of these by-laws, the municipality may serve a notice on or may instruct the owner of the sign or advertising hoarding to remove such sign or advertising board or carry out such alteration thereto or do such work as may be specified by the relevant official of the municipality within a specified time;
- (2) If a person fails to comply with a request referred to in subsection (1), the municipality may remove such a sign or advertising board;
- (3) The municipality shall in removing a sign or board contemplated in subsection (1), not be required to compensate any person in respect of such sign or advertising hoarding, in any way for loss or damage resulting from this removal;
- (4) Any cost incurred by the municipality in removing a sign or advertising board, in terms of subsection (2) or in doing alterations or other works in terms of this section will be recovered from the person contemplated in subsection (1), if a deposit has been paid in respect of such sign or board the cost may be deducted from the deposit;
- (5) Notwithstanding the provisions of subsection (1), (2), (3) and (4) above, the municipality itself shall, without serving any notice, carry out the removal of such sign or advertising board;
- (6) The municipality shall charge a poundage for such signs that were removed in terms of this section;
- (7) A poundage fee mentioned in subsection (6) shall be payable to the municipality per sign per working week (Monday to Friday) or part of the week;
- (8) The municipality shall destroy such signs that were removed in terms of this section, within one week after such removal, should the owner of such sign fail to claim such sign or pay the poundage in terms of subsection(6).
- (9) The actual expense the municipality incurred during the removal of signs in terms of this section shall be payable by the owner of such signs to the municipality.

**57. SERVING OF NOTICE**

Where any notice document is required by these by-laws to be served on any person, it shall be deemed to have been properly served personally on him or on any member of his household apparently over the age of sixteen years or at his

place of residence or on any person employed by him at his place of business, or if sent by registered post to such person's residential or business address as it appears in the records of the municipality, or if such person is a company, if served on an officer of that company at its registered office or sent by registered mail to such office.

**58. REPEAL OF PREVIOUS BY-LAWS**

The by-laws in respect of the Advertising Signs, promulgated in the Provincial Gazette Extraordinary ... by Notice .... of .... is hereby repealed.

**PROVINCIAL NOTICE 63 OF 2018**

**NOTICE**

**MPUMALANGA GAMING ACT, 1995 (ACT 5 OF 1995) AS AMENDED  
APPLICATION FOR AMENDMENT OF A SITE OPERATOR LICENSE**

Notice is hereby given that Clatco Business Investments CC Registration Number 2002/057469/23 trading as Laduma Tavern, intends submitting an application for an amendment of site operator license to the Mpumalanga Economic Regulator on 1 June 2018 1. The purpose of the application is to amend the site operator selected route operator from Grand Gaming Mpumalanga (Pty) Ltd to Vukani Gaming Mpumalanga (Pty) Ltd. 2. The applicant's site premises (business) is located at: Shop 1, Dytko Building, 15 Church Street, Middelburg, Steve Tshwete Municipality, Mpumalanga Province. 3. The owners and/or managers of the site are as follows: Mr Johan Smit. The application will be open for public inspection at the Offices of the Mpumalanga Economic Regulator at First Avenue, White River, Mpumalanga, South Africa, 1240 from 1 June 2018 to 30 July 2018. Attention is directed to the provisions of Section 26 of the Mpumalanga Gaming Act, 1995 (Act No.5 of 1995) as amended, which makes provision for the lodging of written objections in respect of the application. Such objections should be lodged with the Chief Executive Officer, Mpumalanga Economic Regulator, First Avenue, Private Bag X9908, White River, South Africa, 1240, within the aforementioned public inspection period.

## PROVINCIAL NOTICE 64 OF 2018

**MPUMALANGA DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS****PUBLICATION OF MUNICIPAL BY-LAWS FOR LOCAL MUNICIPALITIES IN TERMS OF  
THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT (ACT NO. 32 OF 2000)**

I, Speed Katishi Mashilo, in my capacity as Member of the Executive Council responsible for Co-operative Governance and Traditional Affairs, in the Mpumalanga Province, hereby publish municipal by-laws for Mkhondo, Chief Albert Luthuli, Lekwa and Emalahleni local municipalities, in terms of Section 13 (a) and (b) of the Local Government: Municipal Systems Act (Act No. 32 of 2000)

The municipal by-laws are concerning the following matters per local municipality, namely:

**Lekwa Local Municipality**

1. Electricity Supply
2. Advertising Signs
3. Encroachment on Municipal Properties
4. Public Participation
5. Street Trading
6. Contaminated Waste
7. Cemetery
8. Taxi
9. Informal Settlements
10. Open Space

**Chief Albert Luthuli Local Municipality**

1. Standing Rules and Orders
2. Electricity Supply
3. Fire Brigade Services
4. Sanitation
5. Waste Management
6. Water Supply

**Emalahleni Local Municipality**

1. Property Rates

**Mkhondo Local Municipality**

1. Credit Control and Debt Collection
2. Control of Outdoor Advertising
3. Encroachment on Municipal Properties

Given under my hand at Mbombela, on 03/04 2018

  
\_\_\_\_\_  
**MR SK MASHILO (MPL)**

**MEC: DEPARTMENT OF CO-OPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS**

**WATER BY-LAWS****(ADOPTED BY RESOLUTION OF THE MUNICIPAL COUNCIL OF CHIEF ALBERT LUTHULI)**

The Municipality of Chief Albert Luthuli hereby publishes the Water Services By-Laws set out below. They have been promulgated by the municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996 and in accordance with section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

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**CHAPTER 1: DEFINITIONS****1. Definitions**

For the purpose of these by-laws, any word or expressions to which a meaning has been assigned in the Water Services Act, 1996 (Act No 108 of 1996), the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000) or the National Building Regulations made in terms of the National Building Regulations and Building Standards Act, 1977 (Act No 103 of 1977) shall bear the same meaning in these by-laws and unless the context indicates otherwise and a word in any one gender shall be read as referring also, to the other two genders—

**“accommodation unit”** in relation to any premises, means a building or section of a building occupied or used or intended for occupation or use for any purpose;

**“Act”** means the Water Services Act, 1997 (Act No 108 of 1997), as amended from time to time;

**“agreement”** means the contractual relationship between the municipality and a customer, whether written or deemed as provided for in the municipality’s by-laws relating to credit control and debt collection;

**“area of supply”** means any area within or partly within the area of jurisdiction of the municipality to which a water service is are provided;

**“authorised agent”** means—

- (a) any person authorised by the municipality to perform any act, function or duty in terms of, or to exercise any power under, these by-laws;
- (b) any person appointed by the municipality in a written contract as a service provider for the provision of water services to customers on its behalf, to the extent authorised in such contract;

**“borehole”** means a hole sunk into the earth for the purpose of locating, abstracting or using subterranean water and includes a spring;

**“Building Regulations”** means the National Building Regulations made in terms of the National Building Regulations and Building Standards, 1977 (Act No 103 of 1977) as amended;

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

**“combined installation”** means a water installation used for fire-fighting and domestic, commercial or industrial purposes;

**“commercial customer”** means any customer other than domestic consumer and indigent customers, including, without limitation, business, industrial, government and institutional customers;

**“connection”** means the point at which a customer gains access to water services;

**“connection pipe”** means a pipe, the ownership of which is vested in the municipality and installed by it for the purpose of conveying water from a main to a water installation, and includes a “communication pipe” referred to in SANS 0252 Part I;

**“customer”** means a person with whom the municipality has concluded an agreement for the provision a

municipal service as provided for in the municipality's by-laws relating to credit control and debt collection;

**"domestic consumer"** means a customer using water for domestic purposes; for purposes of drinking, ablution and culinary purposes to premises used predominantly for residential purposes;

**"dwelling unit"** means an interconnected suite of rooms, including a kitchen or scullery, designed for occupation by a single family, irrespective of whether the dwelling unit is a single building or forms part of a building containing two or more dwelling units;

**"engineer"** means the engineer of the municipality, or any other person authorised to act on his behalf;

**"emergency"** means any situation that poses a risk or potential risk to life, health, the environment or property;

**"estimated consumption"** means the consumption that a customer, whose consumption is not measured during a specific period, is deemed to have consumed, that is estimated by taking into account factors that are considered relevant by the municipality and which may include the consumption of water services by the totality of the users of a service within the area where the service is rendered by the municipality, at the appropriate level of service, for a specific time;

**"fire installation"** means a potable water installation that conveys water for fire-fighting purposes only;

**"household"** means a family unit, as determined by the municipality as constituting a traditional household by taking into account the number of persons comprising a household, the relationship between the members of a household, the age of the persons who are members of it and any other factor that the municipality considers to be relevant;

**"illegal connection"** means a connection to any system, by means of which water services are provided that is not authorised or approved by the municipality;

**"industrial purposes"** in relation to the supply of water means water supplied to any premises which constitutes a factory as defined in the General Administrative Regulations, published in terms of the Occupational Health and Safety Act, 1993 (Act No 85 of 1993);

**"installation work"** means any work done in respect of a water installation, including construction, rehabilitation, improvement and maintenance;

**"interest"** means interests as may be prescribed by the Minister of Justice in terms of section 1 of the Prescribed Rate of Interest Act, 1975 (Act No 55 of 1975);

**"main"** means a pipe, other than a connection pipe, of which the ownership vests in the municipality and which is used by it for the purpose of conveying water to a customer;

**"measuring device"** means any method, procedure, process, device, apparatus or installation that enables the quantity of water services provided to be quantified and includes any method, procedure or process whereby the quantity is estimated or assumed;

**"meter"** means a water meter as defined by the regulations published in terms of the Trade Metrology Act, 1973 (Act No 77 of 1973) or, in the case of water meters of a size greater than 100 mm, a device that measures the quantity of water passing through it, including a pre-paid water meter;

**"municipal services"** means, for purposes of these by-laws, services provided by a municipality, including refuse removal, water supply, sanitation, electricity services and rates or any one of the above;

**"occupier"** means a person who occupies any (or part of any) land, building, structure or premises and includes a person who, for someone else's reward or remuneration allows another person to use or occupy any (or any part of any) land, building structure or premises;

**"on-site sanitation services"** means any sanitation services other than water borne sewerage disposal through a sewerage disposal system;

**"owner"** means—

- (a) the person in whose name the ownership of the premises is registered from time to time or his agent;
- (b) where the registered owner of the premises is insolvent or dead, or for any reason lacks legal capacity, or is under any form of legal disability, that has the effect of preventing him from being able to perform a legal act on his own behalf, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) where the municipality is unable to determine the identity of the owner, a person who has a legal right in, or the benefit of the use of, any premises, building, or any part of a building, situated on them;
- (d) where a lease has been entered into for a period of 30 (thirty) years or longer, or for the natural life of the lessee or any other person mentioned in the lease, or is renewable from time to time at the will of the lessee indefinitely or for a period or periods which, together with the first period of the lease, amounts to 30 years, the lessee or any other person to whom he has ceded his right title and interest under the lease, or any gratuitous successor to the lessee;
- (e) in relation to—
  - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No 95 of 1986), the developer or the body corporate in respect of the common property, or
  - (ii) a section as defined in 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
  - (iii) a person occupying land under a register held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

**"person"** means any person, whether natural or juristic and includes, but is not limited to, any 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;

**"plumber"** means a person who has passed a qualifying Trade Test in Plumbing or has been issued with a certificate of proficiency in terms of the Manpower Training Act, 1981 (Act No 56 of 1981) or such



other qualification as may be required under national legislation;

**“premises”** means any piece of land, the external surface boundaries of which are delineated on—

- (f) a general plan or diagram registered in terms of the Land Survey Act, 1927 (Act No 9 of 1927), or in terms of the Deeds Registries Act, 1937 (Act No 47 of 1937);
- (g) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No 95 of 1986); or
- (h) a register held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

**“professional engineer”** means a person registered in terms of the Engineering Profession Act, 2000 (Act No 46 of 2000) as a professional engineer;

**“SANS”** means the South African National Standard;

**“service pipe”** means a pipe which is part of a water installation provided and installed on any premises by the owner or occupier and which is connected or to be connected to a connection pipe to serve the water installation on the premises;

**“shared consumption”** means the consumption by a customer of a municipal service during a specific period, that is calculated by dividing the total metered consumption of that municipal service in the supply zone where the customer’s premises are situated for the same period by the number of customers within the supply zone, during that period;

**“standpipe”** means a connection through which water supply services are supplied to more than one person;

**“standard domestic effluent”** means domestic effluent with prescribed strength characteristics as determined by the municipality in respect of chemical oxygen demand and settleable solids as being appropriate to sewage discharges from domestic premises within the jurisdiction of the municipality, but shall not include industrial effluent;

**“stormwater”** means water resulting from natural precipitation or accumulation and includes rainwater, subsoil water or spring water;

**“terminal water fitting”** means water fitting at an outlet of a water installation that controls the discharge of water from a water installation;

**“trade premises”** means premises upon which industrial effluent is produced;

**“trap”** means a pipe fitting or portion of a sanitary appliance designed to retain water seal which serves as a barrier against the flow of foul air or gas, in position;

**“unauthorised service”** means the receipt, use or consumption of any municipal service which is not in terms of an agreement with, or approved by, the municipality;

**“water fitting”** means a component of a water installation, other than a pipe, through which water passes or in which it is stored;

**“water installation”** means the pipes and water fittings which are situated on any premises and ownership thereof vests in the owner thereof and used or intended to be used in connection with the

use of water on such premises, and includes a pipe and water fitting situated outside the boundary of the premises, which either connects to the connection pipe relating to such premises or is otherwise laid with the permission of the municipality;

“water services” means water supply services and sanitation services;

“water services intermediaries” has the same meaning as that assigned to it in terms of the Act;

“water supply services” has the same meaning assigned to it in terms of the Act and includes for purposes of these by-laws water for industrial purposes and fire extinguishing services;

“water supply system” means the structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto of which the ownership vests in the municipality and which are used or intended to be used by it in connection with the supply of water, and includes any part of the system; and

“working day” means a day other than a Saturday, Sunday or public holiday.

## **CHAPTER 2: APPLICATION, PAYMENT AND TERMINATION**

### **Part 1: Application**

#### **2. Application for Water Services**

(1) No person shall be provided with access to water services unless application has been made to, and approved by, the municipality on the form prescribed in terms of the municipality’s by-laws relating to credit control and debt collection.

(2) Water services rendered to a customer by the municipality are subject to the municipality’s by-laws relating to credit control and debt collection, these by-laws and the conditions contained in the relevant agreement.

#### **3. Special Agreements for Water Services**

The municipality may enter into a special agreement for the provision of water services with an applicant in accordance with the municipality’s by-laws relating to credit control and debt collection.

#### **4. Change in Purpose for which Water Services are Used**

Where the purpose for, or extent to which, any municipal service is changed, the customer must promptly advise the municipality of the change and enter into a new agreement with the municipality.

### **Part 2: Charges**

#### **5. Prescribed Charges for Water Services**

(1) All applicable charges payable in respect of water services, including but not restricted to the payment of connection charges, fixed charges or any additional charges or interest will be set by the municipal council in accordance with—

- (a) its Rates and Tariff policy;
- (b) any by-laws in respect thereof; and
- (c) any regulations in terms of national or provincial legislation; but

(2) Differences between categories of customers, users of services, types and levels of services, quantities of services, infrastructural requirements and geographic areas, may justify the imposition of differential changes;

#### **6. Availability Charges for Water Services**

The municipal council may, in addition to the charges determined for water services that have been actually provided, levy a monthly fixed charge, an annual fixed charge or only one fixed charge where water services are available, whether or not such services are consumed.

### **Part 3: Payment**

#### **7. Payment for Water Services**

The owner, occupier and customer shall be jointly and severally liable and responsible for payment of all water services charges and water services consumed by a customer, in accordance with the municipality's by-laws relating to credit control and debt collection.

### **Part 4: Termination, Limitation and Disconnection**

#### **8. Termination of Agreement for the Provision of Water Services**

A customer may terminate an agreement for the provision of water services in accordance with the municipality's by-laws relating to credit control and debt collection.

#### **9. Limitation and or Disconnection of Water Services Provided**

(1) The engineer may restrict or discontinue water supply services provided in terms of these by-laws—

- (a) on failure to pay the determined charges on the date specified, in accordance with and after the procedure set out in the municipality's by-laws relating to credit control and debt collection has been applied;
- (b) at the written request of a customer;
- (c) if the agreement for the provision of services has been terminated in accordance with the municipality's by-laws relating to credit control and debt collection;
- (d) the building on the premises to which services were provided has been demolished;
- (e) if the customer has interfered with a restricted or discontinued service;

(f) in an emergency or emergency situation declared in terms of the municipality's by-laws relating to credit control and debt collection; or

(g) if the customer has interfered, tampered or damaged or caused or permitted interference, tampering or damage to the water supply system of the municipality for the purposes of gaining access to water supply services after notice by the municipality;

(2) The engineer may disconnect sanitation services provided in terms of these by-laws—

(a) at the written request of a customer;

(b) if the agreement for the provision of sanitation services has been terminated in accordance with the municipality's by-laws relating to credit control and debt collection; or

(c) the building on the premises to which services were provided has been demolished.

(3) The municipality shall not be liable for any damages or claims that may arise from the limitation or disconnection of water services provided in terms of subsections (1) and (2), including damages or claims that may arise due to the limitation or disconnection of water services by the municipality in the bona fide belief that the provisions of subsections (1) and (2) applied.

### **CHAPTER 3: SERVICE LEVELS**

#### **10. Service Levels**

(1) The municipal council may, from time to time, and in accordance with national policy, but subject to principles of sustainability and affordability, by public notice, determine the service levels it is able to provide to customers.

(2) The municipal council may in determining service levels differentiate between types of customers, domestic customers, geographical areas and socio-economic areas.

(3) The following levels of service may, subject to subsection (1), be provided by the municipality on the promulgation of these by-laws:

(a) Communal water supply services and on-site sanitation services—

(i) constituting the minimum level of service provided by the municipality;

(ii) consisting of reticulated standpipes or stationery water tank serviced either through a network pipe or a water tanker located within a reasonable walking distance from any household with a Ventilated Improved Pit latrine located on each premises with premises meaning the lowest order of visibly demarcated area on which some sort of informal dwelling has been erected;

(iii) installed free of charge; the council may recover operational costs if it deems necessary for the continuity of the service

- (iv) provided free of any charge to consumers; and
  - (v) maintained by the municipality.
- (b) Yard connection not connected to any water installation and an individual connection to the municipality's sanitation system—
- (i) consisting of an un-metered standpipe on a premises not connected to any water installation and a pour-flush toilet pan, wash-trough and suitable toilet top structure connected to the municipality's sanitation system;
  - (ii) installed free of charge;
  - (iii) maintained by the municipality.
- (c) a metered pressured water connection with an individual connection to the municipality's sanitation system—
- (i) installed against payment of the relevant connection charges;
  - (ii) provided against payment of prescribed charges; and
  - (iii) with the water and drainage installations maintained by the customer.

#### **CHAPTER 4: CONDITIONS FOR WATER SUPPLY SERVICES**

##### **Part 1: Connection to Water Supply System**

##### **11. Provision of Connection Pipe**

(1) If an agreement for water supply services in respect of premises has been concluded and no connection pipe exists in respect of the premises, the owner shall make application on the prescribed form and pay the determined charge for the installation of such a pipe.

(2) If an application is made for water supply services which are of such an extent or so situated that it is necessary to extend, modify or upgrade the water supply system in order to supply water to the premises, the municipality may agree to the extension provided that the owner shall pay for the cost of the extension, as determined by the engineer.

(3) Only the engineer may install a connection pipe but the owner or customer may connect the water installation to the connection pipe.

(4) No person may commence any development on any premises unless the engineer has installed a connection pipe and meter.

##### **12. Location of Connection Pipe**

(1) A connection pipe provided and installed by the engineer shall—

- (a) be located in a position determined by the engineer and be of a suitable size as determined by the engineer;

(b) terminate at—

- (i) the boundary of the land owned by or vested in the municipality, or over which it has a servitude or other right; or
- (ii) at the outlet of the water meter or isolating valve if it is situated on the premises.

(2) The engineer may at the request of any person agree, subject to such conditions as the engineer may impose, to a connection to a main other than that which is most readily available for the provision of water supply to the premises; provided that the applicant shall be responsible for any extension of the water installation to the connecting point designated by the municipality and for obtaining at his cost, any servitudes over other premises that may be necessary.

(3) An owner must pay the determined connection charge in advance before a water connection can be effected.

### **13. Provision of Single Water Connection for Supply to Several Customers on the Same Premises**

(1) Notwithstanding the provisions of section 12, only one connection pipe to the water supply system may be provided for the supply of water to any premises, irrespective of the number of accommodation units, business units or customers located on such premises.

(2) Where the owner, or the person having the charge or management of any premises on which several accommodation units are situated, requires the supply of water to such premises for the purpose of supply to the different accommodation units, the engineer may, in its discretion, provide and install either—

- (a) a single measuring device in respect of the premises as a whole or any number of such accommodation units; or
- (b) a separate measuring device for each accommodation unit or any number thereof.

(3) Where the engineer has installed a single measuring device as contemplated in subsection (2) (a), the owner or the person having the charge or management of the premises, as the case may be—

- (a) must install and maintain on each branch pipe extending from the connection pipe to the different accommodation units—
  - (i) a separate measuring device; and
  - (ii) an isolating valve; and
  - (iii) will be liable to the municipality for the charges for all water supplied to the premises through such a single measuring device, irrespective of the different quantities consumed by the different customers served by such measuring device.

(4) Where premises are supplied by a number of connection pipes, the engineer may require the owner to reduce the number of connection points and alter his water installation accordingly.

#### **14. Disconnection of Water Installation from the Connection Pipe**

The engineer may disconnect a water installation from the connection pipe and remove the connection pipe on termination of an agreement for the provision of water supply services in accordance with the municipality's by-laws relating to credit control and debt collection.

### **Part 2: Standards**

#### **15. Quantity, Quality and Pressure**

Water supply services provided by the municipality must comply with the minimum standards set for the provision of water supply services in terms of section 9 of the Act.

#### **16. Testing of Pressure in Water Supply Systems**

The engineer may, on application by an owner and on payment of the determined charge, determine and furnish the owner with the amount of the pressure in the water supply system relating to his premises over such period as the owner may request.

#### **17. Pollution of Water**

An owner must provide and maintain approved measures to prevent the entry of any substance, which might be a danger to health or adversely affect the potability of water or affect its fitness for use, into—

- (a) the water supply system; and
- (b) any part of the water installation on his premises.

#### **18. Water Restrictions**

(1) The municipality may for purposes of water conservation or where, in its opinion, drought conditions prevail are imminent, by public notice—

- (a) prohibit or restrict the consumption of water in the whole or part of its area of jurisdiction—
  - (i) in general or for specified purposes;
  - (ii) during specified hours of the day or on specified days; and
  - (iii) in a specified manner; and
- (b) determine and impose—
  - (i) a restriction on the quantity of water that may be consumed over a specified period;
  - (ii) charges additional to those determined in respect of the supply of water in excess of a restriction contemplated in subsection (1)(b)(i); and
  - (iii) a general surcharge on the determined charges in respect of the supply of water; and

- (c) impose restrictions or prohibitions on the use or manner of use or disposition of an appliance by means of which water is used or consumed, or on the connection of such appliances to the water installation.

(2) The municipality may restrict the application of the provisions of a notice contemplated by subsection (1) to specified areas and categories of customers or users of premises, and activities, and may permit deviations and exemptions from, and the relaxation of, any of its provisions where there is reason to do so.

(3) The municipality—

- (a) may take, or by written notice require a customer at his own expense to take, such measures, including the installation of measurement devices and devices for restricting the flow of water, as may in its opinion be necessary to ensure compliance with a notice published in terms of subsection (1); or
- (b) may, subject to notice, and for such period as it may consider fit, restrict the supply of water to any premises in the event of a contravention of these by-laws that takes place on or in such premises or a failure to comply with the terms of a notice published in terms of subsection (1); and
- (c) shall where the supply has been discontinued, restore it only when the determined charge for discontinuation and reconnecting the supply has been paid.

#### **19. Specific Conditions of Supply**

(1) Notwithstanding the undertaking in section 15, the granting of a supply of water by the municipality shall not constitute an undertaking by it to maintain at any time or any point in its water supply system—

- (a) an uninterrupted supply, subject to the provisions of regulations 4 and 14 of Regulation 22355 promulgated in terms of the Act on 8 June 2003; or
- (b) a specific pressure or rate of flow in such supply other than requires in terms of regulation 15(2) of Regulation 22355 promulgated in terms of the Act on 8 June 2003.

(2) The engineer may, subject to the provisions of subsection (1)(b), specify the maximum pressure to which water will be supplied from the water supply system.

(3) If an owner of customer requires—

- (a) that any of the standards referred to in subsection (1); or
- (b) a higher standard of service than specified in section 15;

be maintained on his premises, he or she shall take the necessary steps to ensure that the proposed water installation is able to meet such standards.

(4) The engineer may, in an emergency, interrupt the supply of water to any premises without prior notice.



(5) If in the opinion of the engineer the consumption of water by a customer adversely affects the supply of water to another customer, he may apply such restrictions as he may consider fit, to the supply of water to customer in order to ensure a reasonable supply of water to the other customer and must inform that customer about the restrictions.

(6) The municipality shall not be liable for any damage to property caused by water flowing from any water installation that is left open when the water supply is re-instated, after an interruption in supply.

(7) Every steam boiler, hospital, industry and any premises which requires, for the purpose of the work undertaken on the premises, a continuous supply of water shall have a storage tank, which must comply with the specification for water storage tanks as stipulated in SANS 0252 Part 1, with a capacity of not less than 24 hours water supply calculated as the quantity required to provide the average daily consumption, where water can be stored when the continuous supply is disrupted.

(8) No customer shall resell water supplied to him by the municipality except with the written permission of the municipality, which may stipulate the maximum price at which the water may be resold, and may impose such other conditions as the municipality may deem fit.

### **Part 3: Measurement**

#### **20. Measuring of Quantity of Water Supplied**

(1) The engineer must provide a measuring device designed to provide either a controlled volume of water, or an uncontrolled volume of water, to a customer.

(2) The municipality must, at regular intervals, measure the quantity of water supplied through a measuring device designed to provide an uncontrolled volume of water.

(3) Any measuring device and its associated apparatus through which water is supplied to a customer by the municipality, shall be provided and installed by the engineer, shall remain its property and may be changed and maintained by the engineer when he consider it necessary to do so.

(4) The engineer may install a measuring device, and its associated apparatus, at any point on the service pipe.

(5) If the engineer installs a measuring device on a service pipe in terms of subsection (4), he may install a section of pipe and associated fittings between the end of its connection pipe and the meter, and that section shall form part of the water installation.

(6) If the engineer installs a measuring device together with its associated apparatus on a service pipe in terms of subsection (4), the owner shall—

- (a) provide a place satisfactory to the engineer in which to install it;
- (b) ensure that unrestricted access is available to it at all times;
- (c) be responsible for its protection and be liable for the costs arising from damage to it, excluding damage arising from normal fair wear and tear;
- (d) ensure that no connection is made to the pipe in which the measuring device is installed

between the measuring device and the connection pipe serving the installation;

- (e) make provision for the drainage of water which may be discharged from the pipe, in which the measuring device is installed, in the course of work done by the engineer on the measuring device; and
- (f) not use, or permit to be used on any water installation, any fitting, machine or appliance which causes damage or which, in the opinion of the engineer, is likely to cause damage to any meter.

(7) No person other than the engineer shall:

- (a) disconnect a measuring device and its associated apparatus from the pipe on which they are installed;
- (b) break a seal which the engineer has placed on a meter; or
- (c) in any other way interfere with a measuring device and its associated apparatus.

(8) If the engineer considers that, a measuring device is a meter whose size is unsuitable because of the quantity of water supplied to premises, he may install a meter of a size that he considers necessary, and may recover the determined charge for the installation of the meter from the owner of the premises.

(9) The municipality may require the installation, at the owner's expense, of a measuring device to each dwelling unit, in separate occupancy, on any premises, for use in ascertaining the quantity of water supplied to each such unit; but where controlled volume water-delivery systems are used, a single measuring device may otherwise be used for more than one unit.

## **21. Quantity of Water Supplied to Customer**

(1) For the purposes of ascertaining the quantity of water that has been measured by a measuring device that has been installed by the engineer and that has been supplied to a customer over a specific period, it will, for the purposes of these by-laws, be presumed except in any criminal proceedings, unless the contrary is proved, that—

- (a) the quantity, where the measuring device designed to provide an uncontrolled volume of water, is the difference between measurements taken at the beginning and end of that period;
- (b) the quantity, where the measuring device designed to provide a controlled volume of water, is the volume dispensed by the measuring device;
- (c) the measuring device was accurate during that period; and
- (d) the entries in the records of the municipality were correctly made; and
- (e) if water is supplied to, or taken by, a customer without having passed through a measuring device, the estimate by the municipality of the quantity of that water shall be presumed, except in any criminal proceedings, to be correct unless the contrary is proved.

(2) Where water supplied by the municipality to any premises is in any way taken by the customer

without the water passing through any measuring device provided by the municipality, the municipality may, for the purpose of rendering an account, estimate, in accordance with subsection (3), the quantity of water supplied to the customer during the period that water is so taken by the customer.

(3) For the purposes of subsection (2), an estimate of the quantity of water supplied to a customer shall, as the municipality may decide, be based either on—

- (a) the average monthly consumption of water on the premises recorded over three succeeding measuring periods after the date on which an irregularity referred to in subsection (2) has been discovered and rectified, or
- (b) the average monthly consumption of water on the premises during any three consecutive measuring periods during the twelve months immediately before the date on which an irregularity referred to in subsection (2) was discovered.

(4) Nothing in these by-laws shall be construed as imposing on the municipality an obligation to cause any measuring device installed by the engineer on any premises to be measured at the end of every month or any other fixed period, and the municipality may charge the customer for an average consumption during the interval between successive measurements by the measuring device.

(5) Until the time when a measuring device has been installed in respect of water supplied to a customer, the estimated or shared consumption of that customer during a specific period, must be based on the average consumption of water supplied to the specific supply zone within which the customer's premises are situated.

(6) Where in the opinion of the engineer it is not reasonably possible or cost effective to measure water that is supplied to each customer within a determined supply zone, the municipality may determine a tariff or charge based on the estimated or shared consumption of water supplied to that supply zone.

(7) The municipality must within seven days, on receipt of a written notice from the customer and subject to payment of the determined charge, measure the quantity of water supplied to the customer at a time, or on a day, other than that upon which it would normally be measured.

(8) If a contravention of subsection (7) occurs, the customer must pay to the municipality the cost of whatever quantity of water was, in the opinion by the municipality, supplied to him.

## **22. Special Measurement**

(1) If the engineer requires, for purposes other than charging for water consumed, to ascertain the quantity of water which is used in a part of a water installation, may, by written notice, advise the owner concerned of his intention to install a measuring device at any point in the water installation that he may specify.

(2) The installation of a measuring device referred to in subsection (1), its removal, and the restoration of the water installation after such a removal shall be carried out at the expense of the municipality.

(3) The provisions of sections 20(5) and 20(6) shall apply, insofar as they may be applicable, in respect of a measuring device that has been installed in terms of subsection (1).

#### **23. No reduction of Amount Payable for Water Wasted**

A customer shall not be entitled to a reduction of the amount payable for water wasted or lost in a water installation.

### **Part 4: Audit**

### **Part 5: Installation Work**

#### **24. Approval of Installation Work**

(1) If an owner wishes to have installation work done, he or she must first obtain the municipality's written approval; provided that approval shall not be required in the case of water installations in dwelling units or installations where no fire installation is required in terms of SANS 0400, or in terms of any Municipal by-laws, or for the repair or replacement of an existing pipe or water fitting other than a fixed water heater and its associated protective devices.

(2) Application for the approval referred to in subsection (1) shall be made on the prescribed form and shall be accompanied by—

- (a) the determined charge, if applicable; and
- (b) copies of the drawings as may be determined by the municipality, giving information in the form required by Clause 4.1.1 of SANS Code 0252: Part I;
- (c) a certificate certifying that the installation has been designed in accordance with SANS Code 0252: Part I by a professional engineer.

(3) Authority given in terms of subsection (1) shall lapse at the expiry of a period of twenty-four months.

(4) Where approval was required in terms of subsection (1), a complete set of approved drawings of installation work must be available at the site of the work at all times until the work has been completed.

(5) If installation work has been done in contravention of subsection (1) or (2), the municipality may require the owner—

- (a) to rectify the contravention within a specified period;
- (b) if work is in progress, to cease the work; and
- (c) to remove all such work which does not comply with these by-laws.

#### **25. Persons Permitted to do Installation and Other Work**

(1) Only a plumber, a person working under the control of a plumber, or another person authorised in writing by the municipality, shall be permitted to:

- (a) do installation work other than the replacement or repair of an existing pipe or water fitting;
- (b) replace a fixed water heater or its associated protective devices;
- (c) inspect, disinfect and test a water installation, fire installation or storage tank;
- (d) service, repair or replace a back flow preventer; or
- (e) install, maintain or replace a meter provided by an owner in a water installation.

(2) No person shall require or engage a person who is not a plumber to do the work referred to in subsection (1).

(3) Notwithstanding the provisions of subsection (1) the municipality may permit a person who is not a plumber to do installation work on his own behalf on premises owned and occupied solely by himself and his immediate household, provided that such work must be inspected and approved by a plumber at the direction of the engineer.

## **26. Provision and Maintenance of Water Installations**

(1) An owner must provide and maintain his water installation at his own cost and except where permitted in terms of section 96, must ensure that the installation is situated within the boundary of his premises.

(2) An owner must install an isolating valve at a suitable point on service pipe 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 his service pipe.

(3) Before doing work in connection with the maintenance of a portion of his water installation, which is situated outside the boundary of his premises, an owner shall obtain the written consent of the municipality or the owner of the land on which the portion is situated, as the case may be.

## **27. Technical Requirements for a Water Installation**

Notwithstanding the requirement that a certificate be issued in terms of section 25, all water installations shall comply with SANS 0252 Part 1 and all fixed electrical storage water heaters shall comply with SANS 0254.

## **28. Use of Pipes and Water Fittings to be Authorised**

(1) No person shall, without the prior written authority of the engineer, install or use a pipe or water fitting in a water installation within the municipality's area of jurisdiction unless it is included in the Schedule of Approved Pipes and Fittings as compiled by the municipality.

(2) Application for the inclusion of a pipe or water fitting in the Schedule referred to in subsection (1) must be made on the form prescribed by the municipality.

(3) A pipe or water fitting may be not be included in the Schedule referred to in subsection (1) unless it—

- (a) bears the standardisation mark of the South African Bureau of Standards in respect of the relevant SANS specification issued by the Bureau;

(b) bears a certification mark issued by the SANS to certify that the pipe or water fitting complies with an SANS Mark specification or a provisional specification issued by the SANS, provided that no certification marks shall be issued for a period exceeding two years; or

(c) is acceptable to the municipality.

(4) The municipality may, in respect of any pipe or water fitting included in the Schedule, impose such additional conditions, as it may consider necessary in respect of the use or method of installation.

(5) A pipe or water fitting shall be removed from the Schedule if it—

(a) no longer complies with the criteria upon which its inclusion was based; or

(b) is no longer suitable for the purpose for which its use was accepted.

(6) The current Schedule shall be available for inspection at the office of the municipality at any time during working hours.

(7) The municipality may sell copies of the current Schedule at a determined charge.

### **29. Labelling of Terminal Water Fittings and Appliances**

All terminal water fittings and appliances using or discharging water shall be marked, or have included within its packaging, the following information:

(a) the range of pressure in kPa over which the water fitting or appliance is designed to operate.

(b) The flow rate, in litres per minute, related to the design pressure range, provided that this information shall be given for at least the following pressures: 20 kPa, 100kPa and 400 kPa.

### **30. Water Demand Management**

(1) In any water installation where the dynamic water pressure is more than 200 kPa at a shower control valve, and where the plumbing has been designed to balance the water pressures on the hot and cold water supplies to the shower control valve, a shower head with a maximum flow rate of greater than 10 litres per minute must not be installed.

(2) The maximum flow rate from any tap installed on a wash hand basin must not exceed 6 litres per minute.

## **Part 6: Communal Water Supply Services**

### **31. Provision of Water Supply to Several Consumers**

(1) The engineer may install a communal standpipe for the provision of water supply services to several consumers at a location it considers appropriate, provided that a majority of consumers, who in the opinion of the engineer, constitute a substantial majority, and to whom water services will be provided by the standpipe, has been consulted by him or the municipality.

(2) The engineer may provide communal water supply services through a communal installation designed to provide a controlled volume of water to several consumers.

## **Part 7: Temporary Water Supply Services**

### **32. Water Supplied from a Hydrant**

(1) The engineer may authorise a temporary supply of water to be taken from one or more fire hydrants specified by it, subject to such conditions and for any period that may be prescribed by him and payment of such applicable charges, including a deposit, as may be determined by the municipal council from time to time.

(2) A person who wishes to obtain a temporary supply of water referred to in subsection (1) must apply for such a water supply service in terms of section (2) and must pay a deposit determined by the municipal council from time to time.

## **Part 8: Boreholes**

### **33. Notification of Boreholes**

(1) No person may sink a borehole on premises situated in a dolomite area, and before sinking a borehole a person must determine if the premises on which the borehole is to be sunk are situated within a dolomite area.

(2) The municipality may, require—

- (a) the owner or occupier of any premises who intends to sink or has an existing borehole on the premises, to notify it.

## **Part 9: Fire Services Connections**

### **34. Connection to be Approved by the Municipality**

(1) The engineer shall be entitled in his absolute discretion to grant or refuse an application for the connection of a fire extinguishing installation to the municipality's main.

### **35. Special Provisions**

The provisions of SANS 0252-1 shall apply to the supply of water for fire fighting purposes.

### **36. Dual and Combined Installations**

All new buildings erected after the commencement of these by-laws, must comply with the following requirements in relation to the provision of fire extinguishing services:

- (a) Combined installations shall only be permitted where no booster pumping connection is provided on the water installation. In such cases a fire hydrant must be provided by the municipality, at the customer's expense, within 90 metres of the property to provide a source of water for the fire tender to use in extinguishing the fire.

### **37. Connection Pipes for Fire Extinguishing Services**

(1) After the commencement of these by-laws, a single connection pipe for both fire (excluding sprinkler systems) and potable water supply services shall be provided by the engineer.

(2) The engineer shall provide and install, at the cost of the owner a valves and combination meter on the connection pipe referred to in (1).

### **38. Sprinkler Extinguishing Installation**

A sprinkler installation may be installed directly to the main, but the municipality may not be deemed to guarantee any specified pressure at any time.

### **39. Sealing of Private Fire Hydrants**

(1) Except where a system is a combined system with a combination meter, all private hydrants and hose-reels must be sealed by the municipality and the seals must not, except for the purposes of opening the hydrant or using the hose when there is a fire, be broken by any person other than by the municipality in the course of servicing and testing.

(2) The customer must give the municipality at least 48 hours notice prior to a fire extinguishing installation being serviced and tested.

(3) The cost of resealing hydrants and hose-reels shall be borne by the customer except when the seals are broken by the municipality's officers for testing purposes.

## **Part 9: Installation Work**

### **40. Approval of Installation Work**

(1) If an owner wishes to have installation work done, he must first obtain the municipality's written approval.

(2) Application for the approval referred to in subsection (1) must be made on the prescribed form and shall be accompanied by—

- (a) a charge determined by the municipality, if a charge is determined, and
- (b) copies of all drawings that may be required and approved by the municipality;
- (c) a certificate by a professional engineer certifying that the installation has been designed in accordance with any applicable SANS Codes.

(3) Approval given in terms of subsection (1) shall lapse after 24 (twenty-four) months.

(4) When approval has been given in terms of subsection (1), a complete set of the drawings that have been required and approved by the municipality must be available for inspection at the site at all reasonable times until the work has been completed.

(5) If installation work has been done in contravention of subsections (1) or (2), the municipality may require the owner—

- (a) to rectify the contravention within a specified time;
- (b) if work is in progress, to cease the work; and
- (c) to remove all work that does not comply with these by-laws.



#### **41. Persons Permitted to do Installation and Other Work**

(1) No person who is not a plumber, or working under the control of a plumber, shall be permitted to—

- (a) do installation work other than the replacement or repair of an existing pipe or sanitation fitting;
- (b) inspect, disinfect and test a drainage installation, fire installation or storage tank;
- (c) service, repair or replace a back flow preventer; or
- (d) install, maintain or replace a meter provided by an owner in a drainage installation.

(2) No person shall require or engage a person who is not a plumber to do the work referred to in subsection (1).

(3) Notwithstanding the provisions of subsections (1) and (2), the municipality may permit a person, who is not a plumber, to do installation work at his own premises if they are occupied by himself or his own household, but if permission is given, the work must be inspected and approved by a plumber under the direction of or who has been nominated by, the engineer.

#### **42. Use of Pipes and Water Fittings to be Authorised**

(1) No person shall, without the prior written authority of the engineer, install or use a pipe or water fitting in a water installation within the municipality's area of jurisdiction unless it is included in the Schedule of Approved Pipes and Fittings compiled by the municipality.

(2) Application for the inclusion of a pipe or water fitting in the Schedule referred to in subsection (1) must be made on the form prescribed by the municipality.

(3) A pipe or water fitting may be included in the Schedule referred to in subsection (1) if—

- (a) it bears the standardisation mark of the South African Bureau of Standards in respect of the relevant SANS specification issued by the Bureau; or
- (b) it bears a certification mark issued by the SANS to certify that the pipe or water fitting—
  - (i) complies with an SANS Mark specification; or
  - (ii) a provisional specification issued by the SANS;

(4) The municipality may impose any additional condition that it considers necessary as relating to the use, or method of installation, of any pipe or water fitting included in the Schedule.

(5) The municipality may sell copies of the current Schedule at a charge determined by it.

#### **43. Water Demand Management**

(1) Notwithstanding the provisions of sections 92 and 113, no flushing urinal that is not user-activated shall be installed or continue to operate in any water installation. All flushing urinals that are not user-activated installed prior to the commencement of these regulations must be converted to user-activated urinals within two years of the commencement of these by-laws.

(2) No cistern, and related pan designed to operate with such cistern, shall be installed with a cistern capacity of greater than 9 litres and all cisterns not intended for public use shall be fitted with flushing devices allowing interruptible or multiple flushes, provided that such flushing device shall not be required in cisterns with a capacity of 4,5 litres or less.

## **CHAPTER 6: WATER SERVICES INTERMEDIARIES**

### **44. Registration**

The municipality may by public notice require water services intermediaries or classes of water services intermediaries to register with the municipality in a manner specified in the public notice.

### **45. Provision of Water Services**

(1) Water services intermediaries must ensure that water services, including basic services as determined by the municipal council, are provided to such persons it is obliged to provide with water services.

(2) The quality, quantity and sustainability of water services provided by a water services intermediary must meet any minimum standards prescribed in terms of the Act and must at least be of the same standards as provided by the municipality to customers.

### **46. Charges for Water Services Provided**

(1) A water services intermediary may not charge for water services at a price which does not comply with any norms and standards prescribed under the Act and any additional norms and standards as may be set by the municipality.

(2) A water services intermediary must provide subsidised water services, as determined by the municipal council in terms of the municipality's by-laws relating to credit control and debt collection from time to time, and provided by the municipality to customers at a price that is the same or less than the charges at which the municipality provides such services.

## **CHAPTER 7: UNAUTHORISED WATER SERVICES**

### **47. Unauthorised Services**

(1) No person may gain access to water services unless it is in terms of an agreement entered into with the municipality for the rendering of those services.

(2) The municipality may, irrespective of any other action it may take against such person in terms of these by-laws by written notice order a person who is using unauthorised services to—

- (a) apply for such services in terms of sections 2 and 3; and
- (b) undertake such work as may be necessary to ensure that the customer installation through which access was gained complies with the provisions of these or any other relevant by-laws.

### **48. Interference with Infrastructure for the Provision of Water Services**

(1) No person other than the municipality shall manage, operate or maintain infrastructure through which water services are provided.

(2) No person other than the municipality shall effect a connection to infrastructure through which water services are provided.

(3) The municipality may recover any costs associated with repairing damage caused as a result of a contravention of subsections (1) and (2). The costs recoverable by the municipality is the full cost associated with repairing the damage and includes, but is not restricted to, any exploratory investigation, surveys, plans, specifications, schedules of quantities, supervision, administration charge, the use of tools, the expenditure of labour involved in disturbing or rehabilitation of any part of a street or ground affected by the repairs and the environmental cost.

#### **49. Obstruction of Access to Infrastructure for the Provision of Water Services**

(1) No person shall prevent or restrict the physical access of the municipality to infrastructure through which water services are provided.

(2) If a person contravenes subsection (1), the municipality may—

(a) by written notice require such person to restore access at his own expense within a specified period; or

(b) if it is of the opinion that the situation is a matter of urgency, without prior notice restore access and recover the cost from such person.

(3) The costs recoverable by the municipality is the full cost associated with restoring access and includes, but is not restricted to, any exploratory investigation, surveys, plans, specifications, schedules of quantities, supervision, administration charge, the use of tools, the expenditure of labour involved in disturbing or rehabilitation of any part of a street or ground affected by restoring access and the environmental cost.

#### **50. Waste of Water**

(1) An owner shall repair or replace any part of his water and sanitation installation which is in such a state of disrepair that it is either causing or is likely to cause water wastage

(2) If an owner fails to take measures as contemplated in subsection (2), the municipality shall, by written notice, require the owner to comply with the provisions of subsection (1).

(3) The municipality may, by written notice, prohibit the use by a customer of any equipment in a water or sanitation installation if, in its opinion, its use of water is inefficient. Such equipment shall not be returned to use until its efficiency has been restored and a written application to do so has been approved by the municipality.

#### **51. Illegal Re-Connection**

A customer whose access to water supply services have been restricted or disconnected, who intentionally reconnects to services or who intentionally or negligently interferes with infrastructure

through which water supply services are provided, shall on written notice be disconnected.

#### **52. Interference with Infrastructure**

(1) No person may unlawfully and intentionally or negligently interfere with infrastructure through which the municipality provides municipal services.

(2) If a person contravenes subsection (1), the municipality may—

- (a) by written notice require such person to seize or rectify the interference at his own expense within a specified period; or
- (b) if it is of the opinion that the situation is a matter of urgency, without prior notice prevent or rectify the interference and recover the cost from such person.

### **CHAPTER 8: APPEALS**

#### **53. Appeals Against Decisions of the Municipality**

(1) A customer may appeal in writing against a decision of, or a notice issued by, the municipality in terms of these by-laws.

(2) An appeal in terms of subsection (1) must be made in writing and lodged with the municipality within 14 (fourteen) days after a customer became aware of the decision or notice and must—

- (a) set out the reasons for the appeal; and
- (b) be accompanied by any security determined by the municipality for the testing of a measuring device, if it has been tested.

(3) An appeal must be decided by the municipality within 14 (fourteen) days after an appeal was lodged and the customer must be informed of the outcome in writing, as soon as possible thereafter.

(4) The decision of the municipality is final.

(5) The municipality may condone the late lodging of appeals or other procedural irregularities.

### **CHAPTER 10: OFFENCES**

#### **54. Offences**

(1) Subject to subsection (2), any person who—

- (a) obstructs or hinders the municipality in the exercising of the powers or performance of functions or duties under these by-laws;
- (b) uses, tampers or interferes with municipal equipment, the water supply system, sanitation system and reticulation network or consumption of services rendered;
- (c) contravenes or fails to comply with a provision of these by-laws other than a provision relating to payment for municipal services;

(d) fails to comply with the terms of a notice served upon him in terms of these by-laws;

is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months and in the case of any continued offence, to a further fine not exceeding R50, or in default of payment, to imprisonment not exceeding one day for every day during the continuance of such offence, after a written notice has been issued by the municipality and served on the person concerned requiring the discontinuance of such an offence.

(2) No person shall be liable to imprisonment if he is unable to afford to pay a fine, and shall instead be liable to a period of community service.

(3) Any person committing a breach of the provisions of these by-laws shall be liable to recompense the municipality for any loss or damage suffered or sustained by it in consequence of the breach.

## CHAPTER 11: DOCUMENTATION

### 55. Signing of Notices and Documents

A notice or document issued by the municipality in terms of these by-laws and signed by a staff member of the municipality shall be deemed to have been duly issued and must on its mere production be accepted by a court as prima facie evidence of that fact.

### 56. Service of Notices

(1) Any notice, order or other document that is served on any person in terms of these by-laws must, subject to the provisions of the Criminal Procedure Act 1977 (Act 51 of 1977), be served personally, failing which it may be regarded as having been served—

- (a) when it has been left at a person's village, place of residence, or business or employment in the Republic, with a person apparently over the age of sixteen years;
- (b) when it has been posted by registered or certified mail to a person's last known residential address or business address in the Republic and an acknowledgement of posting thereof from the postal service is obtained;
- (c) if a person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in a manner provided for in subsections (a), (b) or (d); or
- (d) if that person's address and agent or representative in the Republic is unknown, when it has been placed in a conspicuous place on the property or premises, if any, to which it relates.

(2) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

(3) When any notice or other document must be authorised or served on the owner, occupier of any property, or of any person who holds a right over, or in respect of it, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the right over or in

respect of, the property, and shall not be necessary to name him.

(4) Where compliance with a notice is required within a specified number of working days, the period that is required shall commence on the date when the notice is served or when it has first been given in any other way contemplated in these by-laws.

#### **57. Authentication of Documents**

(1) Every order, notice or other document requiring authentication by the municipality shall be sufficiently authenticated, if it is signed by the municipal manager, by a duly authorised officer of the municipality or by the Manager of the municipality's authorised agent.

(2) Authority to authorise, as envisaged in subsection (1) must be conferred by a resolution of the municipality, by a written agreement or by a bylaw.

#### **58. Prima Facie Evidence**

In legal proceedings by or on behalf of the municipality, a certificate reflecting an amount of money as being due and payable to the municipality, shall, if it is made under the hand of the municipal manager, or of a suitably qualified employee of the municipality who is authorised by the municipal manager or the Manager of the municipality's authorised agent, shall upon its mere production constitute prima facie evidence of the indebtedness.

### **CHAPTER 12: GENERAL PROVISIONS**

#### **59. Responsibility for Compliance with these By-Laws**

(1) The owner of premises is responsible for ensuring compliance with these by-laws in respect of all or any matters relating to water and the installation and maintenance of sanitation.

(2) The customer is responsible for compliance with these by-laws in respect of matters relating to the use of any water and the installation and maintenance of sanitation.

#### **60. Provision of Information**

An owner, occupier, customer or person within the area of supply of the municipality must provide the municipality with accurate information requested by the municipality that is reasonably required by the municipality for the implementation or enforcement of these by-laws.

#### **61. Power of Entry and Inspection**

(1) The municipality may enter and inspect any premises for any purpose connected with the implementation or enforcement of these by-laws, at all reasonable times, after having given reasonable written notice to the occupier of the premises of the intention to do so.

(2) Any entry and inspection must be conducted in conformity with the requirements of the Constitution of South Africa, 1996, 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.

(3) The municipality may be accompanied by an interpreter and any other person reasonably

required to assist the authorised official in conducting the inspection.

(4) A person representing the municipality must, on request, provide his identification.

## **62. Indemnification from Liability**

Neither employees of the municipality nor any person, body, organisation or corporation acting on behalf of the municipality is liable for any damage arising from any omission or act done in good faith in the course of his duties unless the damage is caused by a wrongful and intentional act or negligence.

## **63. Exemption**

(1) The engineer may, in writing exempt an owner, customer, any other person or category of owners, customers, ratepayers, users of services from complying with a provision of these by-laws, subject to any conditions it may impose, if he or she is of the opinion that the application or operation of that provision would be unreasonable, provided that the engineer shall not grant exemption from any section of these by-laws that may result in—

- (a) the wastage or excessive consumption of water supply services;
- (b) significant adverse effects on public health, safety or the environment;
- (c) the non-payment for services;
- (d) the Act, or any regulations made in terms of it, being not complied with.

(2) The municipality may at any time after giving written notice of at least thirty days, withdraw any exemption given in terms of subsection (1).

## **64. Conflict of Law**

If there is any conflict between these by-laws and any other by-laws of the municipality, these by-laws will prevail.

## **65. Transitional Arrangements**

(1) Installation work authorised by the municipality prior to the commencement date of these by-laws or authorised installation work in progress on that date shall be deemed to have been authorised in terms of these by-laws; and the municipality may, for a period of 90 (ninety) days after the commencement of these by-laws, authorise installation work in accordance with the by-laws that regulated that work immediately prior to the promulgation of these by-laws.

## **66 Short Title and Commencement**

(1) These by-laws are called the Water Services By-laws of the Chief Albert Luthuli municipality.

(2) The municipality may, by notice in the Provincial Gazette, determine that provisions of these by-laws, listed in the notice, do not apply in certain areas within its area of jurisdiction listed in the notice from a date specified in the notice.

(3) Until any notice contemplated in subsection (2) is issued, these by-laws are binding.

**PROVINCIAL NOTICE 65 OF 2018****MPUMALANGA DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS****PUBLICATION OF MUNICIPAL BY-LAWS FOR LOCAL MUNICIPALITIES IN TERMS OF  
THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT (ACT NO. 32 OF 2000)**

I, Speed Katishi Mashilo, in my capacity as Member of the Executive Council responsible for Co-operative Governance and Traditional Affairs, in the Mpumalanga Province, hereby publish municipal by-laws for Mkhondo, Chief Albert Luthuli, Lekwa and Emalahleni local municipalities, in terms of Section 13 (a) and (b) of the Local Government: Municipal Systems Act (Act No. 32 of 2000)

The municipal by-laws are concerning the following matters per local municipality, namely:

**Lekwa Local Municipality**

1. Electricity Supply
2. Advertising Signs
3. Encroachment on Municipal Properties
4. Public Participation
5. Street Trading
6. Contaminated Waste
7. Cemetery
8. Taxi
9. Informal Settlements
10. Open Space

**Chief Albert Luthuli Local Municipality**

1. Standing Rules and Orders
2. Electricity Supply
3. Fire Brigade Services
4. Sanitation
5. Waste Management
6. Water Supply

**Emalahleni Local Municipality**

1. Property Rates



**Mkhondo Local Municipality**

1. Credit Control and Debt Collection
2. Control of Outdoor Advertising
3. Encroachment on Municipal Properties

Given under my hand at Mbombela, on

03/04

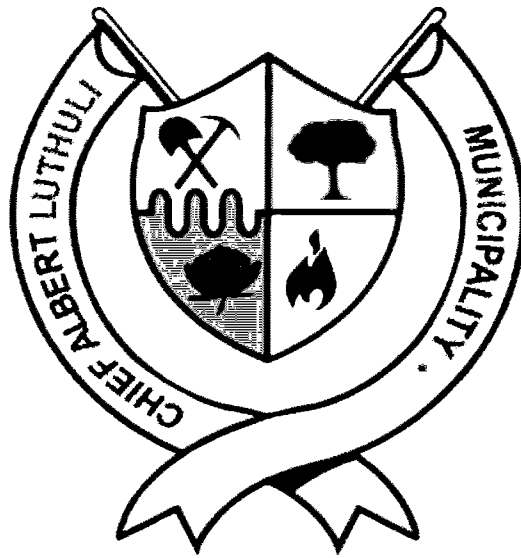
2018

  
MR SK MASHILO (MPL)

**MEC: DEPARTMENT OF CO-OPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS**

## *Chief Albert Luthuli Municipality*

*The transparent, innovative and developmental municipality  
that improves the quality of life of its people*



### **Draft Electricity By-Law**

**Electricity By-Law****ELECTRICITY BY-LAW**

In terms of section 156(2) of The Constitution of the Republic of South Africa, 1996, the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000) and the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998), the Chief Albert Luthuli Municipal Council has made the following by-law as set forth hereunder.

**Sections**

1. Definitions
2. Application for and Conditions of Supply
3. Consumer's Agreement
4. Termination of Consumer's Agreement
5. Continuation of Supply to New Consumer
6. Deposits
7. Accounts
8. Prepayment Metering
9. Reading of Meters
10. Testing Accuracy of Meter
11. Failure of Meter to Register Correctly
12. Disconnection of Supply
13. Unauthorised Connection
14. Fraudulent Use
15. Resale of Electricity
16. Installation Diagram and Specifications
17. Inspection and Tests
18. Liability of Council and Contractor
19. Service Connections
20. Sealed Apparatus
21. Tampering
22. Liability for Damage to Service Connection
23. Type of Supply
24. Meter Cabinets
25. High-voltage Electrical Installations
26. Enclosures for Supply Installations
27. Permanently connected Appliances
28. Surge Diverters
29. Position of Cooking Appliances
30. Provision of Circuit Breakers
31. Maintenance of Installation
32. Control Apparatus
33. Obstructing Employees
34. Irregular Supply
35. Owner's and Consumer's Liability
36. Notices
37. Offences and Penalties

**Definitions**

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

**"approved"** means in relation to any article or practice, approved by the Council or the engineer as being suitable and satisfactory in respect of safety, design, performance, and the method of its application, regard being have to the recognised principles of electrical practice, and "approval" shall be interpreted accordingly;

**"Chief Financial Officer"** means the officer in charge of the Financial Department or any other officer authorised to act on his/her behalf;

**"consumer"** means any person who has entered into an agreement with the Council for the supply to him/her of electricity;

**"consumer's agreement"** means an agreement as referred to in section 3;

**"contractor"** means an electrical contractor or a permit holder in terms of the Act;

**"Council"** means a municipal Council referred to section 157 of the Constitution

**"delivered"** means also when left at the place of residence or business of the consumer by handing it to a person older than 16 years, present as occupier or visitor at such place of residence or business, or if placed in the letter box or such other place that is reasonable conspicuous at such place of residence or business and includes the fixing of a notice to the fence or gate of such place of residence or business;

**"electrical installation"** means an electrical installation as described in the Act;

**"engineer"** means the head of the Council's electricity undertaking or an official duly authorised by the Council;

**"high-voltage enclosure"** means a chamber, compartment or other enclosure in which a transformer, switchgear or other electrical equipment is contained for operating at a voltage above 1 000 and the expression "high voltage" shall be interpreted accordingly;

**"installation work"** means an installation or installing work as described in the Act;

**"low-voltage enclosure"** and "enclosure for a special supply at low voltage" means a chamber, compartment or other enclosure in which a transformer, switchgear or other electrical equipment is contained for operating at a voltage at or below 1 000 and the expression "low voltage" shall be interpreted accordingly;

**"meter-reading period"** means the period extending from one reading of a meter to the next;

**"meter cabinet"** means an enclosure intended for the accommodation of a meter, circuit breaker or other associated electrical equipment determined by the engineer and designed to operate at low voltage;

**"occupier"** means any person in occupation of premises at any relevant time;

**"owner"** means and includes the registered owner of the land or premises, or his/her authorized agent, or any person receiving the rent or profits issuing there from, or who would receive such rent or profit, if such land or premises were let, whether on his/her own account or an agent for any person entitled thereto or interested therein;

**"pensioner"** means a person approved by SASSA to receive a pension on a monthly basis.

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**"points of consumption"** means the point of consumption as described in the Act;

**"point of supply"** means the point of supply as described in the Act;

**"premises"** means any land and any building, erection or structure, above or below the surface of any land and includes any aircraft, vehicle or vessel;

**"service connection"** means the cable or conductor leading from the supply main to the point of supply of the electrical installation and includes any high voltage or other equipment connected to that cable or conductor, any meter; and any board, panel or other device to which the meter is fixed and all installation work and apparatus associated with the said equipment, meter or other device installed by the Council;

**"service fuse" of "service circuit breaker"** means a fuse or service circuit breaker belonging to the Council and forming part of the electrical circuit of the service connection;

**"skilled person"** means any person who in the opinion of the engineer is sufficiently skilled and qualified to execute, supervise and inspect work pertaining to high voltage regard being had to his/her experience and knowledge of electrical practice;

**"special supply at low voltage"** means a supply of electricity exceeding 40 kVA at low voltage;

**"supply"** means a supply of electricity from the supply main;

**"supply main"** means any cable or wire forming that part of the Council's electrical distribution system to which service connections may be connected;

**"tariff"** means the tariff of charges as determined from time to time by Council;

**"the Act"** means the Machinery and Occupational Safety Act, 1983 (Act 6 of 1983) as amended, whichever is in force, and the regulations promulgated thereunder;

**Application for and conditions of supply**

2. (1) Application for a supply shall be made to and in a form prescribed by the engineer.
- (2) The engineer may, before granting a supply, inspect the electrical installation to which an application relates with a view to establishing that such installation is safe and proper and complies with this by-law or other applicable legislation.

**Consumer's agreement**

3. (1) No supply shall be given an electrical installation unless and until the owner or occupier of the premises or some person acting on his/her behalf has completed a consumer's agreement in a form prescribed by the Council.
- (2) The charge payable for the supply shall be in accordance with the tariff.
- (3) No person shall use a supply unless a consumer's agreement as contemplated in subsection (1) has been concluded with the Council.
- (4) The Council may decide whether a consumer's agreement shall be concluded by it with the owner or with the occupier of the premises or some person acting on his/her behalf.

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- (5) No person shall, without first having obtained the engineer's permission in writing, lead electricity temporarily or permanently to any point of consumption or place not forming part of the electrical installation for which a supply has been agreed upon or given.

***Termination of consumer's agreement***

4. Subject to the provisions of subsections 7(6) and 12, any consumers agreement may be terminated by the consumer, his/her authorised representative, or by the Council on giving 7 days notice in writing calculated from the date of service thereof: Provided that if such notice purports to terminate an agreement on a Saturday, Sunday or public holiday, such termination shall only take effect on the next ensuing day which is not a Saturday, Sunday or public holiday.

***Continuation of supply to new consumer***

- 5, (1) The Council may, upon the termination of any consumer's agreement, enter into a new consumer's agreement with any prospective consumer providing for the continuation of the supply.
- (2) The consumer who is a party to the new consumer's agreement referred to in subsection (1) shall be liable to pay for the electricity consumed after a meter reading taken on the date of termination of the previous agreement.

***Deposits***

6. (1) (a) Except as determined by law, all classes of consumers approved by the Council and every applicant for a supply shall, before such supply is given, deposit with the Council a sum of money on the basis of the cost of the maximum consumption of electricity which the applicant is in the Chief Financial Officer's opinion likely to use during any two consecutive months: Provided that such sum shall not be less than is prescribed in the tariff.
- (b) Notwithstanding the foregoing provisions of this section the Chief Financial Officer may, in lieu of a deposit, accept from an applicant, a guarantee for an amount calculated in accordance with paragraph (a) and in the form prescribed by the Council, as security for the payment of any amount that may become due by the applicant for, or in respect of, the supply of electricity: Provided that no such guarantee shall be accepted unless the estimated monthly account in respect of the supply to the premises concerned amounts to at least R\_\_\_\_\_.
- (2) (a) The Council may at any time when the deposit or guarantee is found to be inadequate for the purposes of subsection (1), require a consumer to increase the deposit made or guarantee furnished by him/her, in which event the consumer shall, within 30 days after being so required, deposit with the Council such additional sum or furnish such additional guarantee as the Council may require, failing which the Council may discontinue the supply. Any sum deposited by or on behalf of a consumer shall, on being claimed, be refunded within 30 days after the termination of the consumers' agreement after deducting any amount due by the consumer to the Council.
- (b) An amount as determined by the Council from time to time by means of a Council resolution, shall be payable as a deposit for water consumption, when a pre-paid electricity meter is installed.
- (3) (a) Subject to the provisions of subsection (3), any person claiming a refund of a deposit or part thereof, shall either –
- (i) surrender the receipt which was issued for payment of the deposit; or

**Electricity By-Law**

- (ii) if such receipt is not available, sign a receipt prescribed by the Council for the refund to him/her of such deposit or part thereof and satisfy the Council that he/she is the person entitled to such refund.
- (b) If a deposit or part thereof has been refunded in accordance with paragraph (a), the Council shall be absolved from any further liability in respect thereof.
- (4) The consumer's agreement may contain a provision that any sum deposited by the consumer, a refund of which has not been so claimed within 1 year after either such agreement has been terminated or he/she has ceased for any reason to receive a supply in terms of such agreement, shall at the expiration of that period become forfeited to the Council.
- (5) Notwithstanding the provisions of subsection (5), the Council shall at any time pay –
  - (a) to the person who paid the deposit on his/her satisfying the Council of his/her identity and the amount; or
  - (b) to any other person who has satisfied the Council that he/she is entitled to have the payment made to him/her, an amount equal to the forfeited deposit.
- (6) If a consumer applies to the Council for a supply of higher capacity than he/she is receiving, the Chief Financial Officer may require the consumer to make an increased deposit or furnish an increased guarantee in terms of subsections (1) and (2) before such supply is given.

**Accounts**

- 7. (1) The engineer shall, in respect of each scale of the tariff governing a supply, provide such number of meters as he/she deems necessary.
- (2) The Council may, during any meter reading period, render to the consumer a provisional account in respect of a part of such period (which part shall nearly as practically possible be a period of 30 days and the amount of such account shall be determined as provided in subsection (4) and shall as soon as possible after the meter reading at the end of such period render to consumer an account based on the actual measured consumption and demand during that period, giving credit to the consumer for any sum paid by him/her on a provisional account as aforesaid.
- (3) An account may be rendered for fixed charges in terms of the tariffs as and when they become due.
- (4) The amount of a provisional account referred to in subsection (2) shall be determined by the Council by reference to such previous consumption, on the same premises as would in his/her opinion, constitute a reasonable guide to the quantity of electricity consumed over the period covered by the provisional account: Provided that where there has been no such previous consumption the Council shall determine the amount of the said account by reference to such consumption on other similar premises which, in his/her opinion, affords reasonable guidance.
- (5) A consumer's decision to dispute an account shall not entitle him/her to defer payment beyond the due date stipulated in the account.
- (6) In the event of the Council not being able to gain access to a meter for 2 consecutive meter readings the Council may forthwith discontinue the supply of electricity in respect of the premises to which that meter relates.

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- (7) When it appears that a consumer has been wrongly charged for electricity due to the application of a wrong tariff or on any other grounds other than inaccuracy of a meter, the Council shall make such enquiries and tests as it thinks necessary and shall if satisfied that the consumer has been wrongly charged, adjust his/her account accordingly or if not so satisfied, charge him/her if the Council's actions are the result of a complaint by the consumer, in addition the cost to itself of making such enquiries and tests.

***Prepayment metering***

8. (1) No refund of the amount tendered for the purchase of electricity credit shall be given at the point of sale after initiation of the process by which the prepayment meter token is produced.
- (2) Copies of preciously issued tokens for the transfer of credit to the prepayment meter may be issued at the request of the consumer.
- (3) When a consumer vacates any premises where a prepayment meter is installed, no refund for the credit remaining in the meter shall be made to the consumer.
- (4) The Council shall not be liable for the reinstatement of credit in a prepayment meter lost due to tampering with, or the incorrect use of the abuse of, prepayment meters and/or tokens.
- (5) Where a consumer is indebted to the Council for electricity consumed or for any other service supplied by the Council (including rates) or for any charges previously raised against him/her in connection with any service rendered, the Council may deduct a percentage from the amount tendered to offset the amount owing to the Council, as set out in the section agreement for the supply of electricity.
- (6) The Council may, at its discretion, appoint vendors for the sale of credit for prepayment meters and shall not guarantee the continued operation of any vendor.

***Reading of meters***

9. (1) The amount of electricity supplied to any premises during any meter reading period shall be taken as the difference of the reading of the meter or meters thereon at the beginning and the end of such period and where maximum demand metering pertains, the demand shall also constitute a part of the meter reading.
- (2) The reading shown by a meter shall be prima facie proof of the electrical energy consumed and of the maximum demand during the meter reading period and an entry in the Council's books shall be prima facie proof that the meter showed the reading which the entry purports to record.

***Testing accuracy of meter***

10. (1) If a consumer or owner has reason to believe that a meter is not registering correctly, he/she may give written notice to the Council that he/she requires the meter to be tested, such notice to be accompanied by the fee prescribed in the tariff for the testing of meters, and the Council shall as soon as possible thereafter subject the meter to the test.
- (2) The Council's finding as to the accuracy of a meter after the test referred to in subsection (1) has been carried out shall be final, and a meter shall be deemed to be registering correctly if it is shown by that test to be over- or under-registering by not more than an average of 5% when tested in accordance with the code of practice of the South African Bureau of Standards for the testing of electricity meters or in accordance with procedure laid down by Council.



**Electricity By-Law**

- (3) The fee payable in terms of subsection (1) shall be refunded if the meter is shown by the test to be registering incorrectly.
- (4) The engineer shall, immediately before removing a meter for testing, take a reading of that meter and the current meter-reading period shall be terminated at the time of such reading.
- (5) If after testing a meter the Council is satisfied that it is not registering correctly, it shall render to the consumer a statement of account adjusted in accordance with the consumption ascertained to have been over- or under-registered in respect of the period of 3 months prior to the date of termination of the current meter reading period in terms of subsection (4) and an adjusted account so rendered shall be paid within 10 days of the date thereof.

***Failure of meter to register correctly***

- 11. (1) When the Council is satisfied that a meter has ceased to register correctly the reading shown thereby shall be disregarded and the consumer –
  - (a) shall be charged in respect of the current meter reading period the same amount as he/she paid in respect of the corresponding period in the preceding year, subject to adjustment necessitated by any alteration to the electrical installation of the tariff; or
  - (b) if he/she was not in occupation of the premises during the corresponding period referred to in paragraph (a), shall be charged on the basis of his/her consumption during the 3 months preceding the last date on which the meter was found to be registering correctly; or
  - (c) if he/she was not in occupation of the premises during the whole of the period referred to in paragraph (b), shall be charged on the basis of his/her consumption during the 3 months following the date from which the meter was again registering correctly.
- (2) 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 (1), 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 months prior to the date on which the meter was found to be registering incorrectly.**

***Disconnection of supply***

- 12. (1) When any charges due to the Council for or in connection with electricity supplied are in arrear, the Council may at any time without notice, disconnect the supply to the electrical installation concerned or any part thereof until such charges together with the reconnection fee laid down in the tariff are fully paid. **Provided that electricity was unlawfully restored, the Council may terminate electricity supply by means of removal of the supply cable.**
- (2) When conditions are found to exist in an electrical installation which in the opinion of the Council constitute a danger or potential danger to person or property or interfere with the supply to any other consumer, the Council may at any time without notice, disconnect the supply to that installation or any part thereof until such conditions have been remedied or removed.
- (3) The Council may without notice temporarily discontinue the supply to any electrical installation for the purpose of affecting repairs or making inspections or tests or for any other purpose connected with its supply main or other works.

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**Electricity By-Law**

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- (4) The Council shall, on application by a consumer in a form prescribed by the engineer, disconnect the supply and shall reconnect it on payment of the fee prescribed in the tariff.

***Unauthorised connection***

13. (1) No person other than an employee of the Council authorised thereto shall connect or reconnect or attempt to connect or reconnect any electrical installation with the service connection or the supply main.
- (2) If the supply to any electrical installation is disconnected in terms of subsection 12(1) or (2), the consumer concerned shall take all reasonable steps within his/her power to ensure that such supply is not reconnected in contravention of subsection (1).
- (3) If such supply is nevertheless so reconnected after it has been disconnected by the Council the consumer concerned shall forthwith take all reasonable steps within his/her power to ensure that no electricity is consumed on the premises concerned and shall, in addition, forthwith notify the Chief Financial Officer of such reconnection.
- (4) If the consumer contemplated in subsection (2) or (3) is not in occupation of the premises concerned, then the occupier of those premises shall comply with the provisions of the mentioned subsections.
- (5) In any prosecution for a contravention of or failure to comply with subsection (2) or (3) or both, or of any or both of those subsections read with subsection (4), any contravention or failure to comply, whether intentional or negligent, shall be sufficient to constitute an offence and, unless the contrary is proved, it shall be deemed that –
- (a) reasonable steps contemplated in subsections (2) and (3) were not taken; and
- (b) such contravention or failure was due to an intentional act or omission of the person charged.

***Fraudulent use***

14. (1) A supply for which a charge is laid down in the tariff and which is measured by a meter or set of meters shall not be used for any purpose for which a higher charge is laid down.
- (2) Unless the Council has granted permission in writing, no electricity supplied by it shall be used unless it has first passed through the meter connected to the electrical installation.

***Resale of electricity***

15. The resale by any person of electricity supplied by the Council to such person shall be only permitted in terms of legislation and the terms and conditions as resolved by the Council.

***Installation diagram and specifications***

16. The Council may require a contractor to submit to him/her for approval a wiring diagram and specifications covering any proposed construction of, alteration, extension or repair to any electrical

**Electricity By-Law**

installation, and where the Council requires such a diagram and specifications the proposed work shall not be commenced until they have been submitted and approved.

***Inspection and test***

17. (1) The engineer may, at any reasonable time or in case of emergency at any time, enter any premises and inspect or test any part of the service connection or electrical installation thereon for any purpose including the purpose of ascertaining whether a breach of this by-law or other applicable legislation has been or is being committed and the owner or contractor, when called upon to do so, shall remove any earth, bricks, stone, woodwork, or other work obstructing or covering any part of the electrical installation.
- (2) Before any test or inspection in terms of this section is carried out the owner of the occupier shall be informed of the purpose thereof and if it is established that a breach of this by-law has been committed, the Council shall, notwithstanding the provisions of subsection (3), not be liable to restore and make good in terms thereof.
- (3) The Council shall, save as is provided in subsection (2), restore and make good any disturbance of, damage to, or interference with, the premises occasioned by any inspection or test made in terms of subsection (1).
- (4) While any electrical installation is in the course of construction, alteration, extension or repair the engineer may inspect and test any part of the work as often as he/she deems necessary, and if any work which the engineer requires to inspect or test has been covered up the engineer may require the contractor or the owner of the premises at no cost to the Council to uncover that work, to expose any joints or wires and to remove any fittings, castings, trapdoors, floor boards, materials or other obstructions whatsoever, and any work or reinstatement rendered necessary shall likewise be carried out at no cost to the Council.
- (5) Every reasonable facility to carry out tests and inspections shall be afforded to the engineer by the contractor, the owner and the occupier of the premises and the aforesaid facilities shall in the case of a contractor include the provision of suitable ladders.
- (6) Where cables or conduits of an electrical installation are laid underground the trenches containing them shall be left open until the work has been inspected and approved,
- (7) Any contractor shall give the engineer at least 3 working days notice in a form prescribed in the Act that he/she requires the engineer to carry out an inspection or test of any electrical installation.
- (8) (a) After receipt of notice in terms of subsection (7), the engineer shall forthwith make such inspection and test.
- (b) Should an electrical installation require resetting according to regulation C177(4) of the Act, such a retest is subject to the payment of a charge laid down in the tariff.

***Liability of council and contractor***

18. (1) Neither the engineer's approval of an electrical installation after making any inspection or test thereof nor the granting by him/her of permission to connect the installation to the supply shall be taken as constituting for any purpose any guarantee by the Council that the work has been properly executed or the materials used in it are sound or suitable for the purpose or any warranty whatsoever or as relieving the contractor from liability, whether civil or criminal, for executing the work improperly or for using faulty material therein.

**Electricity By-Law**

- (2) The Council shall not be under any liability in respect of any installation or other work or for any loss or damage caused by fire or other accident arising wholly or partly from the condition of an electrical installation.

***Service connections***

19. (1) The owner of the premises concerned shall make application for the installation or reinstatement of a service connection in a form prescribed by the engineer.
- (2) A service connection shall be installed at the expense of the owner and the cost thereof as determined by the Council shall be paid to the Council before supply is authorised.
- (3) Every part of the service connection shall remain the property of the Council.
- (4) Notwithstanding that the service connection to an approved electrical installation may already have been completed the Council may in its absolute discretion refuse to supply electricity to that installation until all sums due to the Council by the same consumer in respect of that or any other service connection, whether or not on the same premises, have been paid.
- (5) No owner shall be entitled to require more than one service connection for a supply for any premises even if it comprises or occupies more than one stand. The Council may, however, subject to such conditions as he/she thinks fit to impose upon the owner, provide more than one service connection to a premises and where more than one service connection is so provided it shall be unlawful to interconnect them.
- (6) The applicant for a service connection shall, before work on its installation is commenced, furnish the Council with such indemnity as it may specify.
- (7) The Council may, notwithstanding any indemnity given in terms of subsection (6), refuse to install a service connection until he/she is satisfied that no person is entitled to object to such installation.

***Sealed apparatus***

20. Where any seal of lock has been placed by the Council on any meter, service fuse, service circuit breaker or other similar apparatus or cabinet or room in which such apparatus is accommodated whether or not belonging to the Council, no person other than an authorised employee of the Council shall for any reason whatsoever remove, break, deface or otherwise interfere, with any such seal or lock.

***Tampering***

21. No person shall in any manner or for any reason whatsoever paint, deface, tamper or interfere with any service connection and only an authorised employee of the Council may make any adjustment or repair thereto.

***Liability for damage to service connection***

22. (1) The owner of the premises or the consumer shall be liable to make good to the Council any damage that may occur to the service connection or any part thereof or to any other Council apparatus on the premises, unless such owner or consumer can prove negligence on the part of the Council.
- (2) If any damage occurs to the cable or any other part of a service connection the consumer shall inform the Council as soon as he/she becomes aware of that fact and the Council or a person authorised by Council shall repair the damage.

**Electricity By-Law*****Type of supply***

23. The Council may in any particular case determine whether the supply shall be high or low voltage and the type of such supply.

***Meter cabinets***

24. Before a low voltage supply is given, the applicant or owner shall, if required to do so by the Council at no expense to the Council and in a position approved by the Council provide a cabinet of approved design and construction for the accommodation of the Council's service connection.

***High voltage electrical installations***

25. (1) All the apparatus used in connection with a high voltage electrical installation shall be of approved design and construction.
- (2) Before any work is commenced in connection with a new high voltage electrical installation or for the extension of an existing high voltage installation, a site plan and a drawing showing in detail to the Council's satisfaction the particulars and layout of all electrical apparatus which it is proposed to install together with full technical information concerning the apparatus shall be submitted to the Council and no work as aforesaid shall be commenced until the proposed installation or extension has been approved.
- (3) No person other than a skilled person shall undertake the installation, repair, alteration, extension, examination or operation of or touch or do anything in connection with high voltage apparatus.
- (4) Notwithstanding any approval previously given by him/her the Council may at any reasonable time and in case of emergency at all times inspect any high voltage apparatus and subject it to such tests as may be deemed necessary and may, if such apparatus be found defective, disconnect the supply to the premises until the defect has been rectified to the Council's satisfaction.
- (5) The owner of the consumer shall be liable to the Council for the cost of carrying out any of the test referred to in subsection (4) if any defect in the high voltage or the low voltage electrical installation is revealed thereby.
- (6) Notwithstanding anything contained in section 25 no high voltage apparatus which has been newly installed, altered or extended shall be connected to the supply without the permission in writing of the Council, which permission shall not be given unless and until every requirement of this section has been complied with.

***Enclosures for supply equipment***

26. (1) Where required by the Council, an owner shall at no expense to the Council provide and maintain an approved enclosure for accommodating the Council's and consumer's supply equipment in a position determined by the Council.
- (2) No person shall enter the enclosure accommodating the Council's supply equipment or touch or interfere with any apparatus therein, unless authorised thereto by the Council.
- (3) Every low voltage enclosure associated with a high voltage enclosure and every enclosure for a special supply at low voltage shall be kept locked by the consumer and a key thereto shall, if required by the Council, be deposited with him/her or provision made for the fitting of an independent lock by the Council who shall be entitled to access to the enclosure at all times.

**Electricity By-Law**

- (4) The consumer or owner of premises shall at all time provide and maintain safe and convenient access to a low voltage enclosure or an enclosure for a special supply at low voltage and such enclosure shall at all times be kept clean and tidy by the consumer to the satisfaction of the Council and shall be used for no other purpose save the accommodation of equipment and apparatus associated with the supply.
- (5) The consumer or owner of the premises shall at all times provide and maintain safe and convenient access to a high voltage enclosure, such access to be direct to that part of the enclosure into which the high voltage supply is led and not through the low voltage enclosure or through any door or gate the lock of which is controlled by the consumer or the owner of the premises.
- (6) The Council may use any enclosure for supply equipment in connection with a supply to consumers on premises other than those on which that enclosure is situated.

***Permanently connected appliances***

27. Appliances permanently connected to an electrical installation shall be approved.

***Surge diverters***

28. Every electrical installation connected to an overhead supply main shall be provided with one or more approved surge diverters in positions determined by the Council.

***Position of cooking appliances***

29. No heating or cooking appliance shall be installed, placed or housed below any meter belonging to the Council.

***Provision of circuit breakers***

30. When required by the Council, the owner shall supply and install one or more approved supply circuit breakers in a manner and position as determined by the Council.

***Maintenance of installation***

- 31. (1) Any electrical installation on any premises connected with the supply shall at all times be maintained by the owner or consumer in good working order and condition to the satisfaction of the Council.
- (2) The Council may require a consumer who takes a multiphase supply, to distribute his/her electrical load, as approved by the Council, over the supply phases and may install such devices in the relevant service connection as he/she may deem necessary to ensure that this requirement is complied with.

***Control apparatus***

32. The Council shall have the right to install a control relay on any water heater, space heater of the storage type or any other apparatus and thereafter at any time to switch off the said apparatus during periods of stress or peak load for such length of time as it may deem necessary.

***Obstructing employees***

33. No person shall –
- (a) hinder, obstruct or interfere with any employee of the Council in the performance of any duty relating to this by-law; or

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**Electricity By-Law**

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- (b) refuse to give such information as the Council may reasonable require; or
- (c) Give to the Council any information which to his/her knowledge is false or misleading.

***Irregular supply***

34. The Council shall not be liable for the consequences to the consumer or any other person of any stoppage, failure, variation, surge or other deficiency of electricity from whatsoever cause.

***Owner's and consumer's liability***

35. (1) The owner and the consumer shall be jointly and severally liable for compliance with any financial obligation, except as provided in subsection (2), or other requirement imposed upon them in the alternative by this by-law.
- (2) The liability for compliance with any financial obligation in respect of the consumption of electricity, shall be the sole responsibility of the consumer.

***Notice***

36. (1) Any notice or other document to be issued by the Council in terms of this by-law shall be deemed to have so issued of it is signed by an authorised official of the Council.
- (2) Where the by-law require that a notice or other document be served on a person, it shall be deemed to be properly so served if delivered at the person's place of residence or business or if send per registered mail to such person's last known resident or business address recorded in the Chief Financial Officer's records.

***Offences and penalties***

37. (1) Any person contravening or failing to comply with any provision of this by-law shall be guilty of an offence and shall on conviction thereof be liable to a fine from R8124.95 subject to the change of tariffs on a yearly basis
- (2) The occupier or, if there be no occupier, the owner of any premises supplied with electricity, on which a breach of this by-law is committed, shall be deemed to be guilty of that breach unless he/she proves that he/she did not know and could not by the exercise of reasonable diligence have known that it was being or was likely to be summated that it was committed by some other person over whose acts he/she has no control.
- (3) Any person who contravenes the provisions of section 13 and who is in consequence not charged for electricity which has been consumed or is charged for such electricity at a rate lower than that at which he/she should properly have been charged shall, notwithstanding any penalty which may be imposed in terms of this section, be liable to pay to the Council the sum which would have been paid to it had the said offence not been committed, and such sum shall be calculated in terms of the highest charge which could have been made according to the tariff applicable from the date when the contravention first took place.
- (4) Any person who use electricity on a premises or allow electricity to be use in contradiction with subsection 12(3) shall reimburse the Council for such use at the tariff prescribed for the use of electricity as applicable.

**PROVINCIAL NOTICE 66 OF 2018****MPUMALANGA DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS****PUBLICATION OF MUNICIPAL BY-LAWS FOR LOCAL MUNICIPALITIES IN TERMS OF  
THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT (ACT NO. 32 OF 2000)**

I, Speed Katishi Mashilo, in my capacity as Member of the Executive Council responsible for Co-operative Governance and Traditional Affairs, in the Mpumalanga Province, hereby publish municipal by-laws for Mkhondo, Chief Albert Luthuli, Lekwa and Emalahleni local municipalities, in terms of Section 13 (a) and (b) of the Local Government: Municipal Systems Act (Act No. 32 of 2000)

The municipal by-laws are concerning the following matters per local municipality, namely:

**Lekwa Local Municipality**

1. Electricity Supply
2. Advertising Signs
3. Encroachment on Municipal Properties
4. Public Participation
5. Street Trading
6. Contaminated Waste
7. Cemetery
8. Taxi
9. Informal Settlements
10. Open Space

**Chief Albert Luthuli Local Municipality**

1. Standing Rules and Orders
2. Electricity Supply
3. Fire Brigade Services
4. Sanitation
5. Waste Management
6. Water Supply

**Emalahleni Local Municipality**

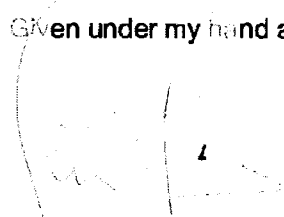
1. Property Rates



**Mkhondo Local Municipality**

1. Credit Control and Debt Collection
2. Control of Outdoor Advertising
3. Encroachment on Municipal Properties

Given under my hand at Mbombela, on 03/04 2018



**MR SK MASHILO (MPL)**

**MEC: DEPARTMENT OF CO-OPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS**

# CHIEF ALBERT LUTHULI LOCAL MUNICIPALITY

## FIRE BRIGADE SERVICE BY-LAWS

### CONTENTS

The Council of Chief Albert Luthuli Municipality has in terms of section 156 of the Constitution, 1996 (Act No. 108 of 1996), read in conjunction with sections 11 and 98 of the Local Government: Municipal Systems Act, 2000, (Act No. 32 of 2000), made the following

By-laws:

#### INDEX

1. Definitions
2. Organisation of service
3. Duty to assist
4. Procedure on the outbreak of fire
5. Closing of streets
6. Obstruction and damage
7. Wearing of uniform and insignia
8. Combustible material
9. Safety of premises and buildings
10. Exits
11. Gas-filled devices
12. Making of fires
13. Fires in chimneys, flues and dusts
14. Attendance of firemen
15. Removal of liquid or other substances
16. Payment for attendance and service
17. Exemption from payment of charges
18. Provision of service
19. False information
20. Telephones, fire alarms and other apparatus
21. Offences and penalties
22. Tariffs
23. Use of crew members
24. Use of material
25. Use of the service outside the jurisdiction of the controlling authority
26. Exemptions
27. Official document

## 1. DEFINATIONS

(1) In these By-laws, unless the context otherwise indicates-“ the Act “ means the Fire Brigade Services Act, 1987( Act No.99 of 1987) as amended.

**“Approved”** means approved by the Chief Fire Officer;

**“Chief Fire Officer”** means a person in charge of service as contemplated in section 5 of the Fire Brigade Services Act 99 of 1987

**“Council”** means the Chief Albert Luthuli Municipality and its successors in law, and includes the Council of the municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Executive Committee has delegated any powers and duties with regard to these By-laws;

**“Emergency situation”** means a situation or event which constitutes or may constitute a serious danger to any person or property;

**“Fire fighting equipment”** means a vehicle or any other apparatus, intended to be used by a service in the performance of its functions,

**“occupier”** means any person in actual occupation or control of any land, premises, or building, or any portion thereof without, regard to the title under which he occupies or controls such land, premises, building, or portion thereof;

**“owner”** in relation to land and premises, means the registered owner of the land or premises and includes also any person receiving the rent or profits of such land or premises from any tenant or occupier thereof, whether on his own account or as the agent for any person entitled thereto or interested therein, and in relation to a sectional title scheme, also the body corporate established in terms of the Sectional Titles Act, 1971 (Act 66 of 1971), and in relation to any vehicle it bears its ordinary meaning, and in the case of a deceased or insolvent estate, it shall also include the executor or trustee respectively;

**“service”** means a fire brigade service established in terms of section 2 of the Ordinance or deemed to have been established in terms of that section read with section 20 of the Ordinance.

(1) Words applying to any individual shall include persons, companies and corporations, and the masculine gender shall include females as well as males, and the singular number shall include the plural and *vice versa*.

## 2. ORGANISATIONOF SERVICE

(1) The Chief Fire Officer may exercise control over any fire fighting organisation and any fire appliance which is at the scene of a fire whether owned by the Council of by any other person, and he shall be entitled to make such use of any fireman, volunteer and any fire appliance and other apparatus as he thinks fit.

3. The service may be divided into such sections as the Council may determine and each section shall be under the control of an official appointed by the Council or by the person appointed in terms of section 3(1) of the Ordinance if such power is delegated to him.

### **3. DUTY TO ASSIST**

Any member of a fire brigade service or fire service organisation whether it is controlled by the Council or not, shall when called upon to do so by the Chief Fire Officer, render all assistance in his power in connection with the combating or containing of a fire or any other emergency situation.

### **3. PROCEDURE ON THE OUTBREAK OF FIRE**

(1) Where the service has been notified of or there is reason to believe that an outbreak of fire or other situation has occurred where the services of the service are required, the Chief Fire Officer shall, together with such personnel and appliances as he thinks necessary, forthwith proceed to the place where the fire or other situation is taking place or where he has reason to believe that it is taking place.

(2) The Chief Fire Officer may assume command of, or interfere with, or put a stop to any existing situation or any operation being conducted in respect of a fire by any person not employed in the service, including the owner of the premises and his employee or agent and no person shall fail to comply with any order or direction given by the Chief Fire Officer in pursuance of this subsection.

### **5. CLOSING OF STREETS**

(1) The Chief Fire Officer or any traffic officer or any member of a police force may close off any street, passage or place for as long as he deems necessary for the effective fighting of a fire or dealing with any emergency situation.

(2) Any person ordered to leave an area closed off in terms of subsection (1), shall forthwith obey such order.

### **6. OBSTRUCTION AND DAMAGE**

(1) No person shall interfere with, or hinder any official of the service, or any traffic officer or member of a police force or other person acting under the orders of such official, officer, or member in the execution of his duties under these By-laws or the Ordinance.

(2) No person shall wilfully or negligently drive a vehicle over any hose, or damage, tamper with or interfere with any such hose or any appliance or apparatus of the service.

### **7. WEARING OF UNIFORM AND INSIGNIA**

(1) The Chief Fire Officer and every member of the service shall wear the

uniform, rank markings and insignia prescribed by the Ordinance.

(2) No person other than a member of the service shall wear a uniform of the service or wear any uniform intended to convey the impression that he is such a member, or in any other manner represent himself to be a member of the service.

## **8. COMBUSTABLE MATERIAL**

(1) Where the Chief Fire Officer is of the opinion that any person –

(a) stores or causes or permits to be stored, whether inside or outside any building any timber, packing cases, forage, straw or other combustible material in such quantities or in such a position or in such manner as to create a danger of fire to any building; or

(b) in occupation or control of any premises permits any trees, bushes, weeds, grass or other vegetation to grow on such premises, or any rubbish to accumulate thereon in such a manner or in such quantities as to create a danger of fire to any building or any premises; the Chief Fire Officer may by notice in writing require such person or the owner or occupier or the person in charge of the premises to remove the said combustible material or grass, weeds, trees, other vegetation or rubbish, or to take such other reasonable steps to remove the danger of fire as he may prescribe in such notice by a specified date.

(2) Where there has been no compliance with the requirements of the notice the Chief Fire Officer may take such steps as he deems necessary to remove such danger and the cost thereof shall be paid to the Council by the person to whom the notice was directed.

## **9. SAFETY OF PREMISES AND BUILDINGS**

(1) The Chief Fire Officer may, whenever he deems it necessary and at any time, which in his opinion is reasonable in the circumstances –

(a) enter any land, premises or building and inspect –

(i) such land, premises or building for the purpose of ascertaining whether any condition exists which may cause a fire or emergency situation, or which may increase the danger of, or contribute towards the spread of fire, or the creation of any emergency situation, or jeopardise or obstruct the escape of persons to a place of safety;

(ii) any fire-alarm, sprinkler system or other fire-fighting or fire detecting appliance;

(iii) any manufacturing process involving the danger of fire or explosion;

(iv) the method of storing of any flammable gas, chemicals, oils, explosives, fireworks or any hazardous substance; and

(v) any installation making use of the substances referred to in subparagraph (iv);

(b) give such directions as he may deem necessary for lowering the risk of fire or for the protection of life and property.

(2) Where the Chief Fire Officer finds on any premises –

(a) any flammable, combustible or explosive matter is so stored or used as to increase the risk of fire or the danger to life or property;

(b) any situation, or practise existing, which in his opinion is likely to cause or increase such danger or is likely to interfere with the operation of the service or the escape of persons to a place of safety; or

(c) any defective, inferior or an insufficient number of fire appliances; he shall subject to the provisions of subsection (3), direct the owner or occupier of such land, premises or building to forthwith take such steps as he may deem expedient for the elimination of the danger.

(3) Should the Chief Fire Officer find in any building or on any premises –

(a) any obstruction on or in any fire-escape, staircase, passage, doorway or window; or

(b) a fire-escape or means of escape which, in his opinion would, in the event of fire be inadequate for the escape to a place of safety of the number of persons likely to be in such building or premises at any time; or

(c) any other object or condition of a structural nature or otherwise, which, in his opinion, may increase the risk of fire or the danger to life or property; or

(d) that a fire-alarm or other communication system is required; the Chief Fire Officer shall notify the owner or occupier of such building in writing of his findings, and require of him to take such steps at such owner or occupier's own cost to rectify the irregularity within such time as is stated in such notice.

(4) Where the owner or occupier fails or refuses to comply within a reasonable time with a direction in terms of subsection (2), or to implement the requirements of a notice in terms of subsection (3) within the time specified in such notice, the Council may take such steps as are, in the opinion of the Chief Fire Officer, necessary to remove such risk or danger and the Council may recover from such owner or occupier any expenditure incurred thereby.

## 10. EXITS

Every door which affords an escape route from a public building to a place of safety shall be kept unlocked and shall be clearly indicated with approved exist signs: Provided that such door may be locked by means of an approved device installed in such a manner as to enable such door at all times to be opened from the inside of such building.

## 11. GAS-FILLED DEVICES

(1) No person shall fill any balloon, toy or other device with flammable gas without the written permission of the Chief Fire Officer, who may impose such conditions as he may require having regard to all the circumstances of the case: Provided that such permission shall only be granted after the person concerned has furnished the Council with an indemnity in the form set out in the appropriate Schedule thereto.

(2) No person shall keep, store, use or display or permit to be kept, used, stored or displayed any balloon, toy or other device filled with flammable gas on or in any land, building or premises to which the public has access or which is used as a club or any place of assembly.

(3) Nothing in this section contained shall be so construed as to prevent the use of balloons filled with hydrogen for meteorological or other *bona fide* scientific or educational purposes.

## **12. MAKING OF FIRES**

(1) No person shall make a fire, or cause, or permit a fire to be made in such a place or in such a manner as to endanger any building, premises or property.

(2) Subject to the provisions of any other law, no person shall, without the written permission of the Chief Fire Officer, burn any rubbish, wood, straw or other material in the open air or cause or permit it to be done, except for the purpose of preparing food.

(3) Any permission granted in terms of subsection (2) shall be subject to such conditions as are imposed by the Chief Fire Officer.

## **13. FIRES IN CHIMNEYS, FLUES AND DUCTS**

No owner or occupier of a building shall wilfully or negligently allow soot or any other combustible substance to accumulate in any chimney, flue or duct of such building in such quantities or in such manner as to create a danger of fire.

## **14. ATTENDANCE OF FIREMAN**

(1) Where in the opinion of the Chief Fire Officer, the presence of a fireman is necessary on the grounds of safety, he may provide one or more firemen to be in attendance at any premises during the whole or part of any entertainment, recreation, meeting or other event.

(2) The person in control of such entertainment, recreation, meeting or other event shall pay to the Council the charges as determined by Council.

## **15. REMOVAL OF LIQUID OR OTHER SUBSTANCES**

The Chief Fire Officer may at the request of the owner or occupier of any premises pump or otherwise remove any liquid or other substance, from such premises, subject to payment of the charges as determined by Council.

## **16. PAYMENT FOR ATTENDANCE AND SERVICE**

(1) Subject to the provisions of section 17, the owner or occupier of land or premises, or both such owner and occupier jointly and severally, or the owner of a vehicle, as the case may be, in connection with which the attendance of the service was requested or any services of the service was rendered, shall pay to the Council the charges determined by the Chief Fire Officer to be due in accordance with the charges set out in the tariff of charges as approved by Council for such attendance or service, including the use and supply of water, chemicals, equipment and other means.

(2) (a) Notwithstanding the provisions of subsection (1), the Chief Fire Officer may assess the whole or portion only of the charges contemplated in subsection

(1): Provided that such portion shall not be more than ninety percent (90%) lower than the aggregate of the charges which would have been payable in terms of subsection (7): Provided further that in assessing such charges or portion thereof, due regard shall, amongst other relevant factors, be had to –

(i) the fact that the amount so assessed shall be commensurate with the service rendered;

(ii) the manner and place of origin of the fire; and

(iii) the loss which may have been caused by the fire to the person liable to pay the charges, if the services of the service had not been rendered.

(b) Where charges are assessed in terms of paragraph (a) and the person liable to pay such charges is dissatisfied with such assessment, he may lodge an appeal with the Premier in the manner provided for in section (1) of the Ordinance.

(c) An appeal in terms of paragraph (b) shall be lodged by forwarding within fourteen (14) days after receipt of an account for the assessed charges a notice of appeal, by registered post to the Director of Local Government, and by forwarding by registered post a copy of such notice to the Chief Fire Officer, who shall forward his comments thereon to the said Director within fourteen (14) days of the receipt of such copy.

## **17. EXEMPTION FROM PAYMENT OF CHARGES**

(1) Notwithstanding the provisions of section 16, no charges shall be payable where –

(a) a false alarm has been given in good faith;

(b) the services were required as a result of civil commotion, riot or natural disaster;

(c) the services were rendered in the interest of public safety;

(a) the Chief Fire Officer is of the opinion that the services were of a purely humanitarian nature or were rendered solely for the saving of life;

(b) the owner of a vehicle furnishes proof to the satisfaction of the Chief Fire Office that such vehicle was stolen and that it had not been recovered by him at the time when the services of the service were rendered in respect thereof;

(c) any person, including the State, has entered into an agreement with the Council in terms of section 14 of the Ordinance whereby the services of the service are made available to such person against payment as determined in such agreement.

## **18. PROVISION OF SERVICE**



All service provider who servicing fire extinguishers, fire hydrants, hose reels and any other service related to fire equipment, must be registered to the local authority fire station and pay registration fees were determine by the Chief Fire Officer.

## **19. FALSE INFORMATION**

No person shall wilfully give to any member of the service any notice or furnish any information relating to an outbreak of fire or any other emergency situation requiring the attendance of the service and which to his knowledge is false or inaccurate. Such person shall, notwithstanding the provisions of section 17 be liable to pay the turning out charge prescribed by Council.

## **20. TELEPHONES, FIRE ALARMS AND OTHER APPARATUS**

(1) The Council may affix to or remove from any building, wall, fence or other structure any telephone, fire-alarm or other apparatus for the transmission of calls relating to fire as well as any notice indicating the nearest fire hydrant or other fire fighting equipment.

(2) No person shall move, remove, deface, damage or interfere with anything affixed in terms of subsection (1).

## **21. OFFENCES AND PENALTIES**

Any person who contravenes or fails to comply with any provision of these Bylaws shall be guilty of an offence and liable on conviction to a fine not exceeding Five Thousand Rand (R5 000, 00) or, in default of payment, to imprisonment for a period not exceeding one year or to both such fine and imprisonment, and in the case of a continuing offence, to a fine not exceeding Two Thousand and Five Hundreds. (R2 500.00) for each day on which such offence continues, subject to a maximum fine of Two Hundred Rand (R200.00).

## **22. TARIFFS**

**FEE PAYABLE TO THE SERVICE IN TERMS OF SECTION 10 OF THE FIRE  
BRIGADE SERVICES ACT, 1987 (ACT 99 OF 1987), FOR PROVIDING  
EMERGENCY SERVICES**

### **A. FEES FOR HAZARDOUS SUBSTANCES AND FIRE PROTECTION**

**SERVICES**

<b>DESCRIPTION OF SERVICE</b>	<b>TARIFF (payable annually)</b>
(1) Registration of bulk depots	R1500,00
(2) Registration of service providers	R1500,00
(3) Issuing of a spraying permit	R350,00
(4) Issuing of a certificate of registration for the storage, handling and use of any hazardous substance contemplated in section 24 of these by-laws	R350,00
(5) Issuing of a transport permit	R350,00
(6) Issuing of a certificate of fitness for a public building	R350,00
(7)(1) Approval of plans in respect of hazardous substances	R350,00
(2) Approval of Plans business	R500,00
(8) Inspection of a building for the issuing of a certificate of occupancy	R350,00
(9) Release of information contemplated in section 2 of these by-laws	R100,00

**GENERAL DIRECTIVES FOR THE PAYMENT OF THE ABOVE FEES**

(1) All certificates of registration, certificates of fitness and/or spraying permits will be valid for twelve calendar months. A written application for the renewal of the certificate or permit must reach the service at least one calendar month prior to the expiry thereof.

(2) When application is made for registration, the appropriate application form, correctly completed in full, must be accompanied by the prescribed fees.

(3) All the appropriate application forms are available from the Service and must be completed in full and, where applicable, be duly signed.

(4) If, for whatever reason, the Service rejects an application for any certificate of registration, certificate of fitness or any permit, the applicant must, within 14 days (excluding weekends and public holidays) of the date of rejection, take corrective steps to ensure that the document in question is issued at no additional cost, failing which the applicant must pay the prescribed fees again.

(5) (a) The tariff for premises that are liable to registration in respect of paragraph 1(2) or (3), or a combination of them, will be a single fee irrespective of the combination of items:

Provided that such combination applies to one premises and is under the same control.

(b) If there are different divisions and/or affiliates within a business and/or company situated on the same premises but each division and/or affiliate is managed separately, each division and/or affiliate is liable to registration separately.

## **B. RENTAL PAYABLE FOR MAKING SERVICE EQUIPMENT AVAILABLE**

### **1. USE OF VEHICLES**

(1) CALL OUT TARIFF TYPE OF VEHICLE	TARIFF
(a) Light	<i>Refer to the tariffs in the budget</i>
(b) Medium	
(c) Heavy	
(d) Rescue	
(e) Special	

**(2) TARIFF PER VEHICLE PER HOUR OR PORTION OF AN HOUR**

TYPE OF VEHICLE	TARIFF
(a) Light	<i>Refer to the tariffs in the budget</i>
(b) Medium	
(c) Heavy	
(d) Rescue	
(e) Special	
(The time is calculated from arrival up to departure.)	

**23. USE OF CREW MEMBERS**

Tariff per member per hour or portion of an hour (*Refer to the tariffs in the budget*)

(The time is calculated from arrival up to departure.)

**24. USE OF MATERIALS**

The tariff that is levied is that of materials used, at cost, plus an administrative levy of 10% of the cost of such materials: Provided that if any materials for which the controlling authority has prescribed a tariff are used, such tariff will apply.

**25. USE OF THE SERVICE OUTSIDE THE JURISDICTION OF THE  
CONTROLLING AUTHORITY**

The tariffs set out in this annexure, plus a surcharge of 50%, will be levied if the Service is used outside the area of jurisdiction.

**26. EXEMPTIONS**

The fees payable in terms of paragraphs 1 to 5 above are not applicable to property of the controlling authority, unless the property is leased. The fees are also not

applicable to grass fires, veld fires and refuse fires on empty even within the area of the controlling authority.

## **27. OFFICIAL DOCUMENTS**

### **A. GENERAL**

1. The Service must design and draw up all official documents in connection with these by-laws in accordance with the prevailing policy, and the documents must comply with the specific needs and requirements of the Service and the controlling authority, but must not detract from the directives and provisions of these by-laws.
2. All official documents must at all times be completed in triplicate; the original copy is for the client and the remaining two copies for the Service for administration purposes.

### **B. STANDARD ADMINISTRATIVE INFORMATION IN DOCUMENT**

The following must be indicated in all documents:

1. The logo of the Service and/or controlling authority
2. The full name of the premises in question
3. The name of the suburb in question
4. The street address of the premises in question, in full
5. The postal address of the premises in question, in full, including the postcode (on all application forms)
6. Full particulars of the occupier of the premises or the firm on the premises
7. The telephone and fax numbers of the business in question (on all application forms)
8. The signature of the issuing officer
9. The date on which the document was issued
10. The expiry date of the document
11. The type of document, such as:

- (1) "Application for a bulk depot certificate of registration" or "Bulk depot certificate of registration"
- (2) "Application for a certificate of fitness" or "Certificate of fitness"
- (3) "Application for a certificate of registration/spraying permit" or "Certificate of registration/Spraying permit"
- (4) "Application for a transport permit" or "Transport permit"
- (5) "Application for approval of plans" or "Application for inspection for the issuing of a certificate of occupancy"

12. Any other relevant information, such as:

- (1) The groups and subgroups of hazardous substances for which registration is required
- (2) The required quantity of each group of hazardous substance
- (3) The manner in which the substances are to be stored, for example -
  - (a) in an underground storage tank;
  - (b) in an above-ground storage tank;
  - (c) in a hazardous substance store; or
  - (d) in a manifold installation
- (4) An indication of all spray-painting rooms and submersion tanks, as the case may be
  - (a) A watermark (on all permits and certificates)
  - (b) A serial number (on all permits and certificates)
  - (C) A receipt number (on all permits and certificates)
  - (d) The official stamp of the Service.

**FORM OF INDEMNITY IN TERMS OF SECTION 11(1) OF THE FIRE BRIGADE SERVICES BY-LAWS****INDEMNITY**

In consideration of the permission to be granted to me by the Chief Fire Officer of Chief Albert Luthuli Municipality on ..... (*date*) to inflate certain balloons, toys or other devices as specified therein I, the undersigned ..... hereby indemnify and safeguard against loss the Chief Albert Luthuli Municipal Council and all its employees against all actions, suits, proceedings, claims, demands, costs and expenses whatsoever which may be taken or made against it or be incurred or become payable by it arising out of or in connection with any damage, death or injury caused or alleged to have been caused by or as a result of such inflation, or by the use or mere possession by any person of any of the said toys, balloons or devices.

Signed at ..... on this ..... day of.....  
20.....

**Applicant**.....

**Witnesses:**

1. ....
2. ....

## PROVINCIAL NOTICE 67 OF 2018

**MPUMALANGA DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS****PUBLICATION OF MUNICIPAL BY-LAWS FOR LOCAL MUNICIPALITIES IN TERMS OF  
THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT (ACT NO. 32 OF 2000)**

I, Speed Katishi Mashilo, in my capacity as Member of the Executive Council responsible for Co-operative Governance and Traditional Affairs, in the Mpumalanga Province, hereby publish municipal by-laws for Mkhondo, Chief Albert Luthuli, Lekwa and Emalahleni local municipalities, in terms of Section 13 (a) and (b) of the Local Government: Municipal Systems Act (Act No. 32 of 2000)

The municipal by-laws are concerning the following matters per local municipality, namely:

**Lekwa Local Municipality**

1. Electricity Supply
2. Advertising Signs
3. Encroachment on Municipal Properties
4. Public Participation
5. Street Trading
6. Contaminated Waste
7. Cemetery
8. Taxi
9. Informal Settlements
10. Open Space

**Chief Albert Luthuli Local Municipality**

1. Standing Rules and Orders
2. Electricity Supply
3. Fire Brigade Services
4. Sanitation
5. Waste Management
6. Water Supply

**Emalahleni Local Municipality**

1. Property Rates



**Mkhondo Local Municipality**

1. Credit Control and Debt Collection
2. Control of Outdoor Advertising
3. Encroachment on Municipal Properties

Given under my hand at Mbombela, on

03/04

2018



**MR SK MASHILO (MPL)**

**MEC: DEPARTMENT OF CO-OPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS**

## SANITATION BY-LAWS

(ADOPTED BY RESOLUTION ..... OF THE MUNICIPAL COUNCIL OF CHIEF ALBERT LUTHULI)

The Municipality of Chief Albert Luthuli hereby publishes the Sanitation By-Law set out below. They have been promulgated by the municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996 and in accordance with section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

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## CHAPTER 1: DEFINITIONS

### 1. Definitions

For the purpose of these by-laws, any word or expressions to which a meaning has been assigned in the Water Services Act, 1996 (Act No 108 of 1996), the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000) or the National Building Regulations made in terms of the National Building Regulations and Building Standards Act, 1977 (Act No 103 of 1977) shall bear the same meaning in these by-laws and unless the context indicates otherwise and a word in any one gender shall be read as referring also, to the other two genders—

**“accommodation unit”** in relation to any premises, means a building or section of a building occupied or used or intended for occupation or use for any purpose;

**“Act”** means the Water Services Act, 1997 (Act No 108 of 1997), as amended from time to time;

**“agreement”** means the contractual relationship between the municipality and a customer, whether written or deemed as provided for in the municipality’s by-laws relating to credit control and debt collection;

**“authorised agent”** means—

- (a) any person authorised by the municipality to perform any act, function or duty in terms of, or to exercise any power under, these by-laws;
- (b) any person appointed by the municipality in a written contract as a service provider for the provision of sanitation services to customers on its behalf, to the extent authorised in such contract;

**“Building Regulations”** means the National Building Regulations made in terms of the National Building Regulations and Building Standards, 1977 (Act No 103 of 1977) as amended;

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

**“commercial customer”** means any customer other than domestic consumer and indigent customers, including, without limitation, business, industrial, government and institutional customers;

**“connecting point”** means the point at which the drainage installation joins the connecting sewer;

**“connecting sewer”** means a pipe owned by the municipality and installed by it for the purpose of conveying sewage from a drainage installation on a premises to a sewer beyond the boundary of those premises or within a servitude area or within an area covered by a way-leave or by agreement;

**“customer”** means a person with whom the municipality has concluded an agreement for the provision a municipal service as provided for in the municipality’s by-laws relating to credit control and debt collection;

**“domestic consumer”** means a customer using water for domestic purposes; for purposes of drinking, ablution and culinary purposes to premises used predominantly for residential purposes;

**“drain”** means that portion of the drainage installation that conveys sewage within any premises;

**“drainage installation”** means a system situated on any premises and vested in the owner thereof and which is used for or intended to be used for or in connection with the reception, storage, treatment or conveyance of sewage on that premises to the connecting point and includes drains, fittings, appliances, septic tanks, conservancy tanks, pit latrines and private pumping installations forming part of or ancillary to such systems;

**“dwelling unit”** means an interconnected suite of rooms, including a kitchen or scullery, designed for occupation by a single family, irrespective of whether the dwelling unit is a single building or forms part of a building containing two or more dwelling units;

**“effluent”** means any liquid whether or not containing matter in solution or suspension;

**“engineer”** means the engineer of the municipality, or any other person authorised to act on his behalf;

**“emergency”** means any situation that poses a risk or potential risk to life, health, the environment or property;

**“environmental cost”** means the cost of all measures necessary to restore the environment to its condition prior to an incident resulting in damage;

**“french drain”** means a soil soak pit for the disposal of sewage and effluent from a septic tank;

**“high strength sewage”** means industrial sewage with a strength or quality greater than standard domestic effluent in respect of which a specific charge as calculated in accordance with Schedule C may be charged;

**“household”** means a family unit, as determined by the municipality as constituting a traditional household by taking into account the number of persons comprising a household, the relationship between the members of a household, the age of the persons who are members of it and any other factor that the municipality considers to be relevant;

**“illegal connection”** means a connection to any system, by means of which sewer services are provided that is not authorised or approved by the municipality;

**“industrial effluent”** means effluent emanating from the use of water for industrial purposes and includes for purposes of these by-laws any effluent other than standard domestic effluent or stormwater;

**“interest”** means interests as may be prescribed by the Minister of Justice in terms of section 1 of the Prescribed Rate of Interest Act, 1975 (Act No 55 of 1975);

**“manhole”** means any access chamber to the interior of the sewer provided for the purpose of maintenance and internal cleaning;

**“municipality”** means—

- (a) the ... municipality, a local / district municipality established in terms of section 12 of the Structures Act and its successors-in-title; or
- (b) subject to the provisions of any other law and only if expressly or impliedly required or permitted by these by-law the municipal manager in respect of the performance of any function, or the exercise of any duty, obligation, or right in terms of these by-laws or any other law; or

(c) an authorised agent of the ... municipality;

**"municipal services"** means, for purposes of these by-laws, services provided by a municipality, including refuse removal, water supply, sanitation, electricity services and rates or any one of the above;

**"occupier"** means a person who occupies any (or part of any) land, building, structure or premises and includes a person who, for someone else's reward or remuneration allows another person to use or occupy any (or any part of any) land, building structure or premises;

**"on-site sanitation services"** means any sanitation services other than water borne sewerage disposal through a sewerage disposal system;

**"owner"** means—

- (a) the person in whose name the ownership of the premises is registered from time to time or his agent;
- (b) where the registered owner of the premises is insolvent or dead, or for any reason lacks legal capacity, or is under any form of legal disability, that has the effect of preventing him from being able to perform a legal act on his own behalf, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) where the municipality is unable to determine the identity of the owner, a person who has a legal right in, or the benefit of the use of, any premises, building, or any part of a building, situated on them;
- (d) where a lease has been entered into for a period of 30 (thirty) years or longer, or for the natural life of the lessee or any other person mentioned in the lease, or is renewable from time to time at the will of the lessee indefinitely or for a period or periods which, together with the first period of the lease, amounts to 30 years, the lessee or any other person to whom he has ceded his right title and interest under the lease, or any gratuitous successor to the lessee;
- (e) in relation to—
  - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No 95 of 1986), the developer or the body corporate in respect of the common property, or
  - (ii) a section as defined in 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
  - (iii) a person occupying land under a register held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

**"person"** means any person, whether natural or juristic and includes, but is not limited to, any 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;

**"plumber"** means a person who has passed a qualifying Trade Test in Plumbing or has been issued with

a certificate of proficiency in terms of the Manpower Training Act, 1981 (Act No 56 of 1981) or such other qualification as may be required under national legislation;

**“premises”** means any piece of land, the external surface boundaries of which are delineated on—

- (a) a general plan or diagram registered in terms of the Land Survey Act, 1927 (Act No 9 of 1927), or in terms of the Deeds Registries Act, 1937 (Act No 47 of 1937);
- (b) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No 95 of 1986); or
- (c) a register held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

**“professional engineer”** means a person registered in terms of the Engineering Profession Act, 2000 (Act No 46 of 2000) as a professional engineer;

**“SANS”** means the South African National Standard;

**“sanitation services”** has the same meaning assigned to it in terms of the Act and includes for purposes of these by-laws the disposal of industrial effluent;

**“sanitation system”** means the structures, pipes, valves, pumps, meters or other appurtenances used in the conveyance through the sewer reticulation system and treatment at the sewage treatment plant under the control of the municipality and which may be used by it in connection with the disposal of sewage;

**“septic tank”** means a water tight tank designed to receive sewage and to effect the adequate decomposition of organic matter in sewage by bacterial action;

**“sewage”** means waste water, industrial effluent, standard domestic effluent and other liquid waste, either separately or in combination, but shall not include stormwater;

**“sewer”** means any pipe or conduit which is the property of or is vested in the municipality and which may be used for the conveyance of sewage from the connecting sewer and shall not include a drain as defined;

**“standard domestic effluent”** means domestic effluent with prescribed strength characteristics as determined by the municipality in respect of chemical oxygen demand and settleable solids as being appropriate to sewage discharges from domestic premises within the jurisdiction of the municipality, but shall not include industrial effluent;

**“stormwater”** means water resulting from natural precipitation or accumulation and includes rainwater, subsoil water or spring water;

**“trade premises”** means premises upon which industrial effluent is produced;

**“trap”** means a pipe fitting or portion of a sanitary appliance designed to retain water seal which serves as a barrier against the flow of foul air or gas, in position;

**“unauthorised service”** means the receipt, use or consumption of any municipal service which is not in terms of an agreement with, or approved by, the municipality;

**“working day”** means a day other than a Saturday, Sunday or public holiday.

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## **CHAPTER 2: CONDITIONS FOR SANITATION SERVICES**

### **Part 1: Connection to Sanitation System**

#### **2. Obligation to Connect to Sanitation System**

(1) All premises on which sewage is produced must be connected to the municipality's sanitation system if a connecting sewer is available or if it is reasonably possible or cost effective for the municipality to install a connecting sewer, unless approval for the use of on-site sanitation services was obtained in accordance with section 98.

(2) The owner will be liable for any charge payable in respect of sanitation services on the site, until an agreement for rendering those services has been terminated in accordance with the municipality's by-laws relating to credit control and debt collection.

#### **3. Provision of Connecting Sewer**

(1) If an agreement for sanitation services in respect of premises has been concluded in accordance with the municipality's by-laws relating to credit control and debt collection and no connecting sewer exists in respect of the premises, the owner shall make application on the prescribed form, and pay the tariffs and charges determined by the municipality for the installation of a connecting sewer.

(2) If an application is made for sanitation services which are of such an extent or so situated that it will become necessary to extend, modify or upgrade the sanitation system in order to provide sanitation services to any premises, the municipality may agree to the extension only if the owner pays or undertakes to pay for the cost, as determined by the engineer, of the extension, modification or upgrading of the services.

#### **4. Location of Connecting Sewer**

(1) A connecting sewer that has been provided and installed by the engineer must be positioned and suitable sized by the engineer; and terminate at the boundary of the premises; or at the connecting point if it is situated on the premises.

(2) Where an owner is required to provide a sewage lift as provided for in terms of the Building Regulations, or the premises are at a level where the drainage installation cannot discharge into the sewer by gravitation, the rate and time of discharge into the sewer be subject to the approval of the municipality.

(3) The owner of premises must pay the connection charges and tariffs determined by the municipality before a connection to the connecting sewer can be effected.

#### **5. Provision of One Connecting Sewer for Several Consumers on Same Premises**

(1) Only one connecting sewer to the sanitation system may be provided for the disposal of sewage from any premises, irrespective of the number of accommodation units of consumers located on such premises.

(2) Notwithstanding subsection (1), the municipality may authorise that more than one connecting sewer be provided in the sanitation system for the disposal of sewage from any premises comprising sectional title units or if, in the opinion of the municipality, undue hardship or inconvenience would be caused to any consumer on such premises by the provision of only one connecting sewer, the tariffs and charges for the provision of a connecting sewer is payable in respect of each sewage connection so provided.

#### **6. Interconnection Between Premises**

An owner of premises must ensure, unless he has obtained the prior approval of the municipality and complies with any conditions that it may have imposed, that no interconnection exists between the drainage installation on his premises and the drainage installation on any other premises.

#### **7. Disconnection of Connecting Sewer**

The engineer may disconnect a drainage installation from the connection pipe and remove the connection pipe on the termination of an agreement for the provision of water supply services in accordance with the municipality's by-laws relating to credit control and debt collection.

### **Part 2: Standards**

#### **8. Standards for Sanitation Services**

Sanitation services provided by the municipality must comply with the minimum standards set for the provision of sanitation services in terms of the section 9 of the Act.

### **Part 3: Methods for Determining Charges**

#### **9. Charges in Respect of "On-Site" Sanitation Services**

Charges in respect of the removal or collection of conservancy tank contents, night soil or the emptying of pits will cover all the operating and maintenance costs arising from the removal of the pit contents, its transportation to a disposal site, the treatment of the contents to achieve a sanitary condition and the final disposal of any solid residues and are payable by the owner.

### **Part 4: Drainage Installations**

#### **10. Installation of Drainage Installations**

An owner must provide and maintain his drainage installation at his own expense, unless the installation constitutes a basic sanitation facility as determined by the municipality, and except where otherwise approved by the municipality, must ensure that the installation is situated within the boundary of his premises.

(1) Any drainage installation that has been constructed or installed must comply with any applicable specifications in terms of the Building Regulations and any standard prescribed in terms of the Act.



(2) Where premises are situated in the 1 in 50 years flood plain, the top level of all service access holes, inspection chambers and gullies must be above the 1 in 50 years flood level.

(3) After the completion of any drainage installation, or after any alteration to any drainage installation is completed, the plumber responsible for the execution of the work must submit to the building inspection section of the municipality a certificate certifying that the work was completed to the standards set out in the building regulations, these by-laws and any other relevant law or by-laws.

#### **11. Disconnection of Drainage Installations**

(1) Except for the purpose of carrying out maintenance or repair work, no drainage installation may be disconnected from the connection point.

(2) Where a drainage system is connected to or disconnected from the sewer system during a month, charges will be calculated as if the connection or disconnection were made on the first day of the month following the month in which the connection or disconnection took place.

#### **12. Maintenance of Drainage Installations**

(1) An owner must provide and maintain his drainage installation at his own cost.

(2) The owner of any premises must ensure that all manholes and cleaning eyes on the premises are permanently visible and accessible.

#### **13. Technical Requirements for Drainage Installations**

All installations shall comply with SANS code 0252 and the Building Regulations.

#### **14. Sewer Blockages**

(1) No person may cause or permit an accumulation of grease, oil, fat, solid matter, or any other substance in any trap, tank, or fitting that may cause its blockage or ineffective operation.

(2) When the owner or occupier of premises has reason to believe that a blockage has occurred in any drainage installation in or on it, he shall take immediate steps to have it cleared.

(3) Should any drainage installation on any premises overflow as a result of an obstruction in the sewer, and if the municipality is reasonably satisfied that the obstruction was caused by objects emanating from the drainage installation, the owner of the premises served by the drainage installation shall be liable for the cost of clearing the blockage.

(4) Where a blockage in a sanitation system has been removed by the engineer and the removal necessitated the disturbance of an owners paving, lawn or other artificial surface neither the engineer nor the municipality shall be required to restore them to their previous condition and shall not be responsible for any damage to them unless caused by the wrongful act or negligence of the engineer.

#### **15. Grease Traps**

A grease trap of an approved type, size and capacity must be provided in respect of all premises that discharge sewage to on-site sanitation systems or where, in the opinion of the municipality, the discharge of grease, oil and fat is likely to cause an obstruction to the flow in sewers or

drains, or to interference with the proper operation of any waste-water treatment plant.

### **Part 5: On-Site Sanitation Services and Associated Services**

#### **16. Installation of On-Site Sanitation Services**

If an agreement for on-site sanitation services in respect of premises has been concluded, or if it is not reasonably possible or cost effective for the municipality to install a connecting sewer, the owner must install sanitation services specified by the municipality, on the site unless the service is a subsidised service that has been determined by the municipality in accordance with section 10 of the municipality's Credit Control and Debt Collection Bylaw.

#### **55. Septic tank and treatment plant**

(1) No person may construct, install, maintain or operate any septic tank or other plant for the treatment, disposal or storage of sewage, without the prior written permission of the Council.

(2) The permission referred to in subsection (1) is subject to the provisions of these By-laws, any other relevant By-laws of the Council, or any other law.

#### **56. French drain**

The Council may, at its discretion and on such conditions as it may prescribe, having regard to the quantity and nature of the effluent and the nature and permeability of the soil, permit the disposal of wastewater or other effluent by means of a french drain, soakage pit or other approved work.

#### **57. Conservancy tank**

The Council may at its discretion permit the owner of any premises to construct a conservancy tank and ancillary appliances for the retention of soil water, or such other sewage or effluent as it may decide, and such tank and appliances must be of such capacity, constructed of such material, and located in such position and at such level as it may prescribe.

#### **59. Disused conservancy and septic tanks**

(1) If an existing conservancy tank or septic tank is no longer required for the storage or treatment of sewage, or if permission for such use is withdrawn, the owner must either cause it to be completely recovered, or to be completely filled with earth or other suitable material, and the land involved to be rehabilitated;

(2) The Council may require the tank referred to in subsection (1) to be otherwise dealt with or it may permit it to be used for some other purpose, subject to such conditions as may be considered necessary, regard being had to all the circumstances of the case.

### **Part 6: Sewage Delivered by Road Haulage**

#### **17. Acceptance of Sewage Delivered by Road Haulage**

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The engineer may, in his discretion, and subject to such conditions as he may specify, accept sewage for disposal that is delivered to the municipality's sewage treatment plants by road haulage.

#### **18. Approval for Delivery of Sewage by Road Haulage**

(1) No person shall deliver sewage by road haulage in order to discharge it into the municipality's sewage treatment plants by except with the approval of the engineer and subject to any conditions, and any times, that may on reasonable grounds be imposed by him.

(2) The charges for any sewage delivered for disposal to the municipality's sewage treatment plants shall be assessed by the municipality in accordance with the prescribed tariffs of charges.

#### **19. Withdrawal of Permission for Delivery of Sewage by Road Haulage**

The engineer may withdraw any approval, given in terms of section 75, after giving at least 14 (fourteen) days written notice of his intention to do so, if a person who has been allowed to discharge sewerage by road haulage—

- (a) fails to ensure that the sewage conforms to the standards prescribed either in Schedule A, or as a condition of approval; or
- (b) fails or refuses to comply with any notice served on him in terms of these by-laws or contravenes any provision of these by-laws or any condition has been imposed on him as a condition of approval; and
- (c) fails to pay all the charges applicable to the delivery of sewage.

### **Part 7: Installation Work**

#### **20. Approval of Installation Work**

(1) If an owner wishes to have installation work done, he must first obtain the municipality's written approval.

(2) Application for the approval referred to in subsection (1) must be made on the prescribed form and shall be accompanied by—

- (a) a charge determined by the municipality, if a charge is determined, and
- (b) copies of all drawings that may be required and approved by the municipality;
- (c) a certificate by a professional engineer certifying that the installation has been designed in accordance with any applicable SANS Codes.

(3) Approval given in terms of subsection (1) shall lapse after 24 (twenty-four) months.

(4) When approval has been given in terms of subsection (1), a complete set of the drawings that have been required and approved by the municipality must be available for inspection at the site at all reasonable times until the work has been completed.

(5) If installation work has been done in contravention of subsections (1) or (2), the municipality may require the owner—

- (a) to rectify the contravention within a specified time;
- (b) if work is in progress, to cease the work; and
- (c) to remove all work that does not comply with these by-laws.

## **21. Persons Permitted to do Installation and Other Work**

(1) No person who is not a plumber, or working under the control of a plumber, shall be permitted to—

- (a) do installation work other than the replacement or repair of an existing pipe or sanitation fitting;
- (b) inspect, disinfect and test a drainage installation, fire installation or storage tank;
- (c) service, repair or replace a back flow preventer; or
- (d) install, maintain or replace a meter provided by an owner in a drainage installation.

(2) No person shall require or engage a person who is not a plumber to do the work referred to in subsection (1).

(3) Notwithstanding the provisions of subsections (1) and (2), the municipality may permit a person, who is not a plumber, to do installation work at his own premises if they are occupied by himself or his own household, but if permission is given, the work must be inspected and approved by a plumber under the direction of or who has been nominated by, the engineer.

## **22. Use of Pipes and Water Fittings to be Authorised**

(1) No person shall, without the prior written authority of the engineer, install or use a pipe or water fitting in a water installation within the municipality's area of jurisdiction unless it is included in the Schedule of Approved Pipes and Fittings compiled by the municipality.

(2) Application for the inclusion of a pipe or water fitting in the Schedule referred to in subsection (1) must be made on the form prescribed by the municipality.

(3) A pipe or water fitting may be included in the Schedule referred to in subsection (1) if—

- (a) it bears the standardisation mark of the South African Bureau of Standards in respect of the relevant SANS specification issued by the Bureau; or
- (b) it bears a certification mark issued by the SANS to certify that the pipe or water fitting—
  - (i) complies with an SANS Mark specification; or
  - (ii) a provisional specification issued by the SANS;
- (c) it is included in the list of water and sanitation installations accepted by JASWIC.
- (d) No certification marks shall be for a period exceeding two years.

(4) The municipality may impose any additional condition that it considers necessary as relating to the use, or method of installation, of any pipe or water fitting included in the Schedule.

(5) A pipe or sanitation fitting must be removed from the Schedule if it—

- (a) no longer complies with the criteria upon which its inclusion was based; or
- (b) is no longer suitable for the purpose for which its use was accepted.

(6) The current Schedule must be available for inspection at the office of the municipality at any time during working hours.

(7) The municipality may sell copies of the current Schedule at a charge determined by it.

### **23. Testing of Drainage Installations**

(1) No drainage installation, or any part of one, shall be connected to on-site sanitation services nor shall, the municipality's sanitation system be connected to an existing approved installation, unless any one or more of the following tests have been applied in the presence, and to the satisfaction, of the engineer, before the draining installation has been enclosed:

- (a) the interior of every pipe or series of pipes between two points of access shall be inspected throughout its length by means of a mirror and a source of light, and, during the inspection, a full circle of light must appear to the observer, and the pipe or series of pipes must be seen to be unobstructed;
- (b) a smooth ball having a diameter 12mm less than the nominal diameter of the pipe shall, when inserted at the higher end of the pipe, roll down without assistance or interruption to the lower end;
- (c) after all openings to the pipe or series of pipes to be tested, after having been plugged or sealed and after all traps associated with them have been filled with water, air shall be pumped into the pipe or pipes until a manometric pressure of 38mm of water is indicated, after which the pressure must remain greater than 25mm of water for a period of at least 3 (three) minutes without further pumping; and
- (d) all parts of the installation are subjected to and withstand an internally applied hydraulic test pressure of not less than a 3m head of water for a period of not less than 10 minutes.

(2) If the municipality has reason to believe that any drainage installation or any part of it has become defective, it may require the owner of any premises to conduct any or all of the tests prescribed in subsection (1) and, if the installation fails to pass any test, or all the tests, to the satisfaction of the municipality, the municipality may by notice require the owner to take all reasonable measures that may be necessary to enable the installation to satisfy any or all of them.

### **24. Water Demand Management**

(1) Notwithstanding the provisions of sections 92 and 113, no flushing urinal that is not user-activated shall be installed or continue to operate in any water installation. All flushing urinals that are not user-activated installed prior to the commencement of these regulations must be converted to user-activated urinals within two years of the commencement of these by-laws.

(2) No cistern, and related pan designed to operate with such cistern, shall be installed with a

cistern capacity of greater than 9 litres and all cisterns not intended for public use shall be fitted with flushing devices allowing interruptible or multiple flushes, provided that such flushing device shall not be required in cisterns with a capacity of 4,5 litres or less.

## **25. Unauthorised and Illegal Discharges**

(1) No person may discharge or cause or permit any sewage to be discharged directly or indirectly into a storm water drain, river, stream or other watercourse, whether natural or artificial.

(2) The owner or occupier of any premises on which steam or any liquid other than potable water, is stored, processed or generated shall provide all facilities necessary to prevent any discharge or leakage of such liquid to any street, storm water drain or watercourse, whether natural or artificial, except where, in the case of steam, the municipality has approved such discharge.

(3) Where the hosing down or flushing by rainwater of an open area on any premises is in the opinion of the municipality likely to cause the discharge of objectionable matter into any street, storm water drain, river, stream or other watercourse, whether natural or artificial, or to cause or contribute towards the pollution of any such watercourse, the municipality may, by notice, require the owner of the premises to take reasonable measures to prevent or minimise such discharge or pollution.

(4) No person may discharge or cause or permit the discharge of—

- (a) any substance, including storm water, other than sewage, to be discharged into a drainage installation;
- (b) of water from any swimming pool directly or indirectly over any road or into a gutter, storm water drain, watercourse, open ground or private premises other than the premises of the owner of such swimming pool;
- (c) water from artificial fountains, reservoirs or swimming pools situated on premises into a drainage installation, without the approval of the municipality and subject to the payment of relevant charges and such conditions as the municipality may impose;
- (d) any sewage, industrial effluent or other liquid or substance which—
  - (i) in the opinion of the engineer may be offensive to or may cause a nuisance to the public;
  - (ii) is in the form of steam or vapour or has a temperature exceeding 44° C at the point where it enters the sewer;
  - (iii) has a pH value less than 6.0;
  - (iv) contains any substance of whatsoever nature likely to produce or release explosive, flammable, poisonous or offensive gases or vapours in any sewer;
  - (v) contains any substance having an open flashpoint of less than 93°C or which releases a poisonous vapour at a temperature below 93° C;
  - (vi) contains any material of whatsoever nature, including oil, grease, fat or detergents capable of causing obstruction to the flow in sewers or drains or interference with

the proper operation of a sewerage treatment works;

- (vii) shows any visible signs of tar or associated products or distillates, bitumens or asphalts;
- (viii) contains any substance in such concentration to produce an undesirable taste after chlorination or an undesirable odour or colour, or excessive foam;
- (ix) has either a greater PV or COD (Chemical Oxygen Demand) value, a lower pH value, or a higher caustic alkalinity or electrical conductivity than specified in Schedule A, without the prior approval and subject to the payment of relevant charges and such conditions as the municipality may impose;
- (x) contains any substance which in the opinion of the engineer—
  - (aa) cannot be treated at the sewage treatment work to which it could be discharged; or
  - (bb) will negatively affect the treatment processes at the sewage treatment work to which it could be discharged or
  - (cc) will negatively impact on the ability of the sewage treatment work to produce discharges that meet the waste water discharge standards set in terms of the National Water Act, 1998 (Act No 36 of 1998), or
- (xi) either alone or in combination with other substance may—
  - (aa) generate or constitute a toxic substance dangerous to the health of persons employed at the sewage treatment works or entering the council's sewers or manholes in the course of their duties; or
  - (bb) be harmful to sewers, treatment plant or land used for the disposal of treated waste water; or
  - (cc) adversely affect any of the processes whereby sewage is treated or any re-use of sewage effluent.

(5) No person shall cause or permit the accumulation of grease, oil, fat or solid matter in any drainage installation that will adversely affect its effective functioning.

(6) The municipality may, notwithstanding any other actions that may be taken in terms of these by-laws, recover from any person who discharges industrial effluent or any substance which is unauthorised or illegal all costs incurred, by the municipality as a result of such discharges, including costs that result from—

- (a) injury to persons, damage to the sanitation system; or
- (b) a prosecution in terms of the National Water Act, 1998 (Act No 36 of 1998).

## **26. Interference with Infrastructure**

(1) No person may unlawfully and intentionally or negligently interfere with infrastructure

through which the municipality provides municipal services.

(2) If a person contravenes subsection (1), the municipality may—

- (a) by written notice require such person to seize or rectify the interference at his own expense within a specified period; or
- (b) if it is of the opinion that the situation is a matter of urgency, without prior notice prevent or rectify the interference and recover the cost from such person.

#### **27. Use of On-Site Sanitation Services Not Connected to the Sanitation System**

(1) No person shall use or permit the use of on-site sanitation services not connected to the municipality's sanitation system except with the prior approval of the engineer, and in accordance with such conditions as it may impose, for domestic, commercial or industrial purposes.

(2) Any person desiring the consent referred to in subsection (1) shall provide the engineer with evidence satisfactory to it that the sanitation facility is not likely to have a detrimental effect on health or the environment.

(3) Any consent given in terms of subsection (1) may be withdrawn if, in the opinion of the engineer—

- (a) a condition imposed in terms of subsection (1) is breached; or
- (b) the sanitation facility has a detrimental impact on health or the environment.

(4) The engineer may undertake such investigations as he or she may deem necessary to determine if a sanitation facility has a detrimental impact on health or the environment.

(5) The person to whom consent was granted in terms of subsection (1) shall be liable for the costs associated with an investigation undertaken in terms of subsection (2) if the result of the investigation indicates that the sanitation facility has a detrimental impact on health or the environment.

### **CHAPTER 3: NOTICES, APPEALS, OFFENCES**

(1) refer to the Council's Water By-laws

#### **28. Appeals Against Decisions of the Municipality**

#### **29. Offences**

### **CHAPTER 4: DOCUMENTATION**

#### **30. Signing of Notices and Documents**

A notice or document issued by the municipality in terms of these by-laws and signed by a staff member of the municipality shall be deemed to have been duly issued and must on its mere production be accepted by a court as prima facie evidence of that fact.

#### **31. Service of Notices**



### **32. Authentication of Documents**

(1) Every order, notice or other document requiring authentication by the municipality shall be sufficiently authenticated, if it is signed by the municipal manager, by a duly authorised officer of the municipality or by the Manager of the municipality's authorised agent.

(2) Authority to authorise, as envisaged in subsection (1) must be conferred by a resolution of the municipality, by a written agreement or by a bylaw.

### **33. Prima Facie Evidence**

In legal proceedings by or on behalf of the municipality, a certificate reflecting an amount of money as being due and payable to the municipality, shall, if it is made under the hand of the municipal manager, or of a suitably qualified employee of the municipality who is authorised by the municipal manager or the Manager of the municipality's authorised agent, shall upon its mere production constitute prima facie evidence of the indebtedness.

## **CHAPTER 5: GENERAL PROVISIONS**

### **34. Responsibility for Compliance with these By-Laws**

(1) The owner of premises is responsible for ensuring compliance with these by-laws in respect of all or any matters relating to water and the installation and maintenance of sanitation.

(2) The customer is responsible for compliance with these by-laws in respect of matters relating to the use of any water and the installation and maintenance of sanitation.

### **35. Provision of Information**

An owner, occupier, customer or person within the area of supply of the municipality must provide the municipality with accurate information requested by the municipality that is reasonably required by the municipality for the implementation or enforcement of these by-laws.

### **36. Power of Entry and Inspection**

(1) The municipality may enter and inspect any premises for any purpose connected with the implementation or enforcement of these by-laws, at all reasonable times, after having given reasonable written notice to the occupier of the premises of the intention to do so.

(2) Any entry and inspection must be conducted in conformity with the requirements of the Constitution of South Africa, 1996, 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.

(3) The municipality may be accompanied by an interpreter and any other person reasonably required to assist the authorised official in conducting the inspection.

(4) A person representing the municipality must, on request, provide his identification.

### **37. Indemnification from Liability**

Neither employees of the municipality nor any person, body, organisation or corporation acting on behalf of the municipality is liable for any damage arising from any omission or act done in good faith in the course of his duties unless the damage is caused by a wrongful and intentional act or negligence.

### **38. Exemption**

(1) The engineer may, in writing exempt an owner, customer, any other person or category of owners, customers, ratepayers, users of services from complying with a provision of these by-laws, subject to any conditions it may impose, if he or she is of the opinion that the application or operation of that provision would be unreasonable, provided that the engineer shall not grant exemption from any section of these by-laws that may result in—

- (a) the wastage or excessive consumption of water supply services;
- (b) significant adverse effects on public health, safety or the environment;
- (c) the non-payment for services;
- (d) the Act or any regulations made in terms of it, being not complied with.

(2) The municipality may at any time after giving written notice of at least thirty days, withdraw any exemption given in terms of subsection (1).

### **39. Conflict of Law**

If there is any conflict between these by-laws and any other by-laws of the municipality, these by-laws will prevail.

### **40. Repeal of Existing Municipal Water Services By-laws**

The provisions of any by-laws relating to water supply and sanitation services by the municipality are hereby repealed insofar as they relate to matters provided for in these by-laws.

### **41. Short Title and Commencement**

(1) These by-laws are called the Water Services By-laws of the ... municipality.

(2) The municipality may, by notice in the Provincial Gazette, determine that provisions of these by-laws, listed in the notice, do not apply in certain areas within its area of jurisdiction listed in the notice from a date specified in the notice.

(3) Until any notice contemplated in subsection (2) is issued, these by-laws are binding.

### **SCHEDULE A: LIMITS OF CONCENTRATION OF SUBSTANCES THAT MAY BE DISCHARGED TO THE MUNICIPALITY'S SANITATION SYSTEM**

PV (<1400 ml/l), pH (6,0 – 10,0), EC (500 mS / m at 20 °C), Caustic alkalinity as CaCO<sub>3</sub> and Substance not in solution including fat, oil, grease waxes and like substances (<2 000 mg /l), Substances soluble in petroleum (500 mg / l), Sulphides, hydro-sulphides and polysulphides as S (50 mg / l), Substances from which hydrogen cyanide can be liberated in the drainage installation, sewer or sewage treatment

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works as HCN (20 mg / l), Formaldehyde (expressed as HCHO) (50 mg / l), Chemical oxygen demand (COD) (5 000 mg / l), All sugars and / or starch (expressed as glucose) (1 500 mg / l), Non— organic solids in suspension; and Available chlorine (expressed as Cl) (100 mg / l), Sulphates (expressed as SO<sub>4</sub>) (1 800 mg / l), Fluorine— containing compounds as F (5 mg / l), and Anionic surface active agents (500 mg / l).

**METALS:**

**Group 1:** Manganese, Chromium, Copper, Nickel, Zinc, Iron, Silver, Cobalt, Tungsten, Titanium, and Cadmium. The total collective concentration of all metals in Group 1 (expressed as indicated above) in any sample of the effluent, shall not exceed 50 mg / l, nor shall the concentration of any individual metal in a sample exceed 20 mg / l.

**Group 2:** Lead, Selenium, and Mercury. The total collective concentration of all metals in Group 2 (expressed as indicated above) in any sample of the effluent shall not exceed 10 mg / l, nor shall the concentration of any individual metal in any sample exceed 5 mg / l.

**OTHER ELEMENTS:** Arsenic and Boron. The total collective concentration of all elements (expressed as indicated above) in any sample of the effluent shall not exceed 20 mg / l.

**METHOD OF TESTING**

The method of testing in order to ascertain the concentration of any substance in this Schedule, shall be the test normally used by the municipality for these purposes. Any person discharging any substance referred to in this Schedule shall ascertain the details of the appropriate test from the municipality.

accurately representative sample of not less than 5 litre of the industrial effluent to be discharged into the sewer, which sample shall be free of domestic sewage, and shall submit one half thereof to the municipality for analysis and also submit to the engineer a report on the sample made by an analyst appointed by him: Provided that in the case of a newly established industry the period specified may be extended by the municipality for a period not exceeding six months or such further extended periods as the municipality in its discretion may approve.

6. The applicant hereby declares and warrants that the information given by him in this form, or otherwise, in connection with this application is, to the best of his knowledge and belief, in all respects correct.
7. The applicant agrees that the said information, being in all respects correct, shall form the basis on which this application is granted by the municipality.

**PROVINCIAL NOTICE 68 OF 2018****MPUMALANGA DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS****PUBLICATION OF MUNICIPAL BY-LAWS FOR LOCAL MUNICIPALITIES IN TERMS OF  
THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT (ACT NO. 32 OF 2000)**

I, Speed Katishi Mashilo, in my capacity as Member of the Executive Council responsible for Co-operative Governance and Traditional Affairs, in the Mpumalanga Province, hereby publish municipal by-laws for Mkhondo, Chief Albert Luthuli, Lekwa and Emalahleni local municipalities, in terms of Section 13 (a) and (b) of the Local Government: Municipal Systems Act (Act No. 32 of 2000)

The municipal by-laws are concerning the following matters per local municipality, namely:

**Lekwa Local Municipality**

1. Electricity Supply
2. Advertising Signs
3. Encroachment on Municipal Properties
4. Public Participation
5. Street Trading
6. Contaminated Waste
7. Cemetery
8. Taxi
9. Informal Settlements
10. Open Space

**Chief Albert Luthuli Local Municipality**

1. Standing Rules and Orders
2. Electricity Supply
3. Fire Brigade Services
4. Sanitation
5. Waste Management
6. Water Supply

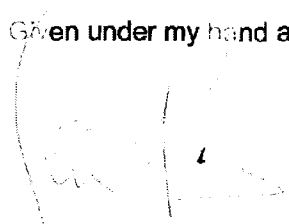
**Emalahleni Local Municipality**

1. Property Rates

**Mkhondo Local Municipality**

1. Credit Control and Debt Collection
2. Control of Outdoor Advertising
3. Encroachment on Municipal Properties

Given under my hand at Mbombela, on 03/04 2018

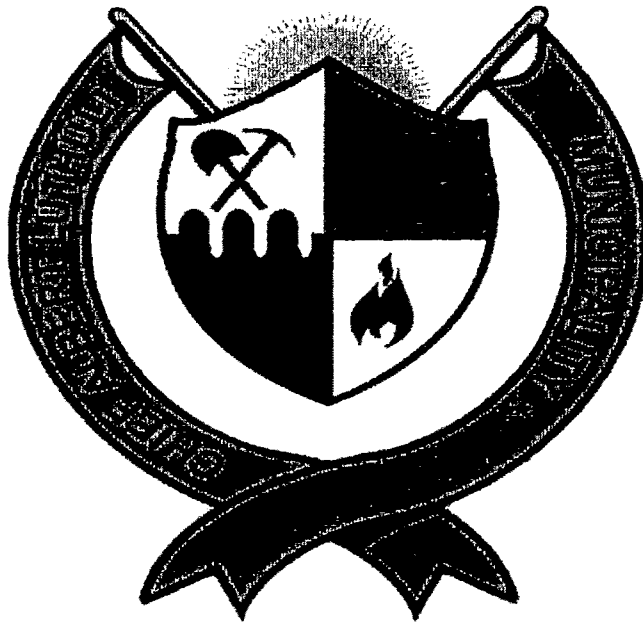


**MR SK MASHILO (MPL)**

**MEC: DEPARTMENT OF CO-OPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS**

# CHIEF ALBERT LUTHULI MUNICIPALITY

## WASTE MANAGEMENT BY-LAW



June 2015

**To regulate the avoidance, minimisation, generation, collection, cleaning and disposal of waste and for matters related thereto.**

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### Definitions

1. In this By-law, unless the context indicates otherwise:

**"accredited service provider"** means a person or entity accredited by the Municipality in accordance with its guidelines published from time to time and who provides a waste management service in the Municipality and may include, but is not limited to, large and small business, entrepreneurs, community cooperatives, and venture learner ships;

**"building inspector"** a person who is employed by either a Municipality and is usually certified in one or more disciplines qualifying them to make professional judgment about whether a **building meets building** code requirements.

**"building waste"** means waste produced through the construction, alteration, repair or demolition of any structure both manmade and natural, and includes rubble, earth, wood and rock that is displaced during any construction, alteration, repair or demolition, but excludes garden waste;

**"business waste"** means waste that emanates from premises that are used, whether lawfully or unlawfully mainly, for commercial, retail, wholesale, entertainment or government administration purposes, and also applies to waste generated by informal traders and residential premises where commercial activities are being conducted;

**"chemical waste"** includes discarded solid, liquid and gaseous chemicals;

**"dangerous refuse"** means refuse which is toxic, dangerous, injurious or harmful or which may pollute the environment or which results from a manufacturing process or the pre-treatment for disposal purposes of any industrial waste effluent, which in terms of the Council's Drainage by-laws may not be discharged into a drain or sewer which results from manufacturing maintenance, fabricating and dismantling activities and the activities of railway marshalling yards, excluding builders refuse or household refuse;

**"domestic refuse"** means refuse which is normally generated on the premises of private dwelling, including churches, hospitals, schools, hostels benevolent societies and halls which are solely for residential purposes, and which can readily be removed by means of and without damaging the bin liner;

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



**"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;

**"garden refuse"** means refuse, generated as a result of normal gardening activities of an established garden on premises used solely for residential purposes, such as grass, leaves, plants, tree and shrub pruning, flowers and other similar small and light matter;

**"garden waste"** means organic waste which emanates from gardening or landscaping activities at residential, business or industrial properties including but not limited to, soil, grass cuttings, leaves and branches, and includes any biodegradable material and includes such waste emanating from residential, business or industrial properties, but excludes waste products of animal origin;

**"genotoxic waste"** means highly hazardous waste that may have mutagenic, teratogenic or carcinogenic properties and includes certain cytostatic drugs as well as vomit, urine or faeces from patients treated with cytostatic drugs, chemicals and radioactive material;

**"general waste"** is a generic term for waste that, because of its composition and characteristics, does not pose a significant risk to public health or the environment if managed properly, and typically consists of plastics, paper, food and liquids not considered to be infectious or contaminated with hazardous chemicals or radioactivity;

**"hazardous waste"** means health care risk waste and any waste that may, by circumstances of the production, use, quantity, concentration or inherent physical, chemical or toxicological characteristics thereof, have a significant adverse effect on the environment, or the health of a person or other living organism;

**"health care waste"** means any waste-

(a) Generated by or derived from medical care or medical research including but not limited to-

- (i) infectious waste;
- (ii) pathological waste;
- (iii) sharp waste;
- (iv) pharmaceutical waste;
- (v) genotoxic waste;
- (vi) chemical waste;
- (vii) pressurized container waste;
- (viii) waste with heavy metals;
- (ix) radioactive waste;
- (x) general waste

(b) That has been in contact with blood, bodily fluids or tissues from humans, or infected animals from veterinary practices;

**"holders of waste"** means any person who imports, generates, stores, accumulates, transports, processes, treats, exports or disposes of waste and also includes recyclers and scrap dealers;

**"industrial waste"** means waste that emanates from premises that are used wholly or mainly for industrial purposes and generate waste through manufacturing, industrial or fabricating processes including premises used for agricultural activities, mining activities or the operation of power stations;

**"infectious waste"** means waste that is suspected to contain pathogens in sufficient concentration or quantity to cause disease in susceptible hosts, and includes cultures and stocks of infectious agents from laboratory work, waste from surgery and autopsies on corpses with infectious diseases, waste from infected patients in isolation wards, waste that has been in contact with infected patients undergoing haemodialysis, infected animals from laboratories, sanitary waste materials and tissues including swabs and any other instruments or materials that have been in contact with infected persons or materials;

**"integrated waste management plan"** means an integrated waste management plan which is required by the Municipality in terms of this By-law or that is required in terms of any other applicable legislation;

**"litter"** means waste, excluding hazardous waste, arising from activities in public areas that has not been disposed of in a public litter container;

**"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;

**"owner"** includes the registered owner, lessee or occupier of a premises, or the person in charge or control of any premises or part thereof who is over 16 years of age, and any person who obtains a benefit from the premises or is entitled thereto;

**"pathological waste"** includes all human tissues, organs, body parts, foetuses, blood and bodily fluids and those also those of animals;

**"pharmaceutical waste"** includes expired, unused, spilt and contaminated pharmaceutical products, drugs, vaccines and sera that are no longer required and that need to be disposed of appropriately;

**"pressurized container waste"** includes pressurized cylinders and cartridges used in health care facilities to store gases;

**"priority waste"** means waste declared to be such by the Director in terms of this Bylaw or in terms of national or provincial legislation;

**"radioactive waste"** includes solid, liquid and gaseous materials contaminated with radionuclides, including waste produced as a result of procedures such as *in vitro*

analysis of body tissue and fluid, *in vivo* organ imaging and tumour localization and various investigative and therapeutic practices;

**"recyclable materials"** means any material that can be converted into raw material that can be re-used to make new products or resources;

**"residential waste"** means waste that emanates from premises used wholly or mainly for residential, educational, sport or recreational purposes and may include recyclable materials and non-recyclable material, but excludes hazardous waste;

**"sharp waste"** includes items that could cause cuts or puncture wounds and includes, but is not limited to, needles, hypodermic needles, scalpels and other blades, knives, infusion sets, saws, broken glass and nails, and the word "sharp" has a corresponding meaning;

**"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 DWA 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 a property owner, a household, organisation or business entity, the inhabitants, occupants or employees of which generate waste and includes sorters of waste such as recycling or waste minimisation groups, scrap dealers and buy-back centres;

**"waste management officer"** means the Director: Solid Waste Management, or an officer referred to in section 25 of this By-law;

**"waste minimisation club"** means a group of persons, typically residing in a high density residential or office building, or a multi-property cluster residential or

business development, that have an agreement approved by the Director in terms of this By-law to minimise waste in exchange for a lower tariff according to an integrated waste management plan.

“waste with heavy metals” includes mercury waste from thermometers, blood pressure gauges, residues from dentistry, cadmium waste from discarded batteries, reinforced wood panels used in radiation proofing, and drugs containing arsenic;

#### **Application of this By-law**

2. In the event of conflict between this by-law and any other by-law of the Municipality dealing with waste management, this by-law must prevail.

#### **Categorisation of waste**

3. (1) Waste shall be categorised in accordance with the definitions of the various types of waste in this By-law, and the Environmental Health By-Law insofar as it defines Medical waste and to the extent that it is unclear under which category a type of waste falls.

(2) The decision of the director must, subject to any other law, be final in the categorisation of waste.

#### **Obligations of waste generators**

4. (1) a waste generator must –

- (a) avoid the generation of waste or where it cannot be avoided minimise the toxicity and amounts of waste generated;
- (b) separate waste with the aim of minimising waste and its impacts on the environment and to store the recyclable waste separately from non-recyclable waste provided that industrial waste must be separated into liquids, components and materials that can be treated for recycling or reuse;
- (c) Re-use, recycle or recover waste where possible;
- (d) Dispose of recyclable waste by –
  - (i) Contracting with the Municipality where the waste generator will be charged at the Municipality's standard charge in terms of the Tariff By-law;
  - (ii) where the Municipality does not provide such a service by contracting with an accredited service provider; or
  - (iii) delivering waste to a licenced waste disposal facility and ensure that waste is treated or disposed of in an environmentally sensitive manner at a licenced waste disposal facility;

- (e) manage waste so that it does not endanger health or the environment create a nuisance;
- (f) maintain suitable cleanliness and hygiene standards on their premises as required by the Municipality's Environmental Health By-law;
- (g) make use of the waste removal services provided by the Municipality or its service provider, unless the Municipality does not provide a waste removal service for the type of waste to be disposed of, in which case they shall make use of an accredited service provider;
- (h) Conclude a contract with the Municipality, its service provider or an accredited service provider, as the case may be, for the storage and collection of waste;
- (i) store waste in the containers provided by the Municipality or an accredited service provider prior to collection or where a container is not provided, store waste in plastic black bags, which containers or bags will be collected by the service provider at least once a week according to the routes as published by the Municipality or the service provider from time to time;
- (j) pay tariffs and rates charged by the Municipality for such waste removal services according to the Municipality's Credit Control and Debt Collection By-law.

(2) A waste generator may apply to the waste management officer for an additional container and shall be liable for the additional costs as per the Municipality's Tariff-By- Law and Tariff Policy.

(3) The waste management officer may require a waste generator to submit an integrated waste management plan prior to agreeing to supply an additional container.

(4) The owner and waste generator must comply with the terms and conditions set out by such waste management officer for the generation, minimisation, storage, collection, treatment and disposal of such additional waste.

(5) Should the waste generated by a waste generator exceed the volume that can be stored in the containers provided or bags, the owner must make arrangements for the collection of the excess waste by an accredited service provider.

(6) If no arrangement is made for collection of excess waste, the owner or waste generator must promptly transport that additional waste to and deposit it at a licenced waste disposal facility at his or her own cost.

(7) The owner of a formal dwelling who has other structures on the property with persons living in these separate structures shall also be allocated one container per

additional structure by the Municipality and shall be entitled to have it collected on the same terms as the residential dwelling.

(8) The owner of the property will have to sign an additional contract with the Municipality for the storage, collection and disposal of waste contemplated in subsection (7) and shall be liable for the charges levied by the Municipality in connection therewith.

(9) Any business or agent disposing of waste on behalf of such business shall provide a report of the waste disposed to the waste management officer in a format as determined by the director from time to time, on or before the 7th of each month.

(10) A waste generator generating Industrial waste must contract with an accredited service provider for the collection and disposal of such waste to a licenced waste disposal facility.

(11) The owner must on demand prove to the waste management officer that he or she has entered into a suitable agreement with an accredited service provider for the collection, processing, treatment or disposal of industrial waste at least once per week or as determined by the waste management officer.

(12) An accredited service provider must in respect of industrial waste as defined by SANS 10228 and 10229 comply with all legislation relating to handling, transfer, storage, use, treatment and transportation of the dangerous good and dispose of same at a licenced waste disposal facility or landfill site.

(13) A waste generator generating industrial waste shall submit an integrated waste management plan to the Municipality and comply with the terms and conditions set out by the Municipality for the generation, minimisation, storage, recycling, collection and disposal of such waste.

(14) Garden waste generated at properties being used mainly for residential purposes may be composted on the property, or it may be stored in a compost heap or suitable bags as per the Municipality's requirements, and it may be kept on the property until collection or taken to a licenced waste disposal facility.

(15) The waste generator may be called upon by the waste management officer to produce a weighbridge ticket as proof of proper disposal of garden waste over a certain mass, as determined by the Municipality in terms of its guidelines and conditions imposed from time to time.

(16) Any person who directly or indirectly generates building waste or the owner of the property on which such building waste is generated shall not store such waste in containers provided by the municipality for residential waste and shall remove and dispose of it at a licenced crushing plant or landfill site or any other licenced building waste disposal facility.

(17) When plans are submitted to the Municipality for its approval in terms of the National Building Regulations and Building Standards Act, 1977(Act No. 107 of 1977), the person submitting same must submit simultaneously therewith –

- (a) an integrated waste management plan setting out what provision is made for collection and disposal of the building and other waste;
- (b) what provisions are made to store the waste on their property; or
- (c) provide a permit to store the waste on the Municipality's property.

(18) Contaminated building or other waste where the contamination agent is hazardous or dangerous must be deposited at a licenced waste disposal facility for the treatment and disposal of hazardous waste.

(19) The owner of the facility where building rubble is disposed of shall provide a monthly report to the waste management officer of the mass of such waste deposited at such facility.

(20) The waste generator or the owner of the property on which waste is generated who deposits or stores waste on property of the Municipality may be fined for failure to have or produce a permit for such deposit or storage.

(21) When the building control officer inspects the property where building works have been undertaken to check that it has been built in accordance with the approve plans, he or she shall also check if all building waste has been disposed of.

(22) The owner of the property referred to in subsection (21) will be required to provide the building control officer with proof of a weighbridge certificate that he or she has disposed of the full mass of the building rubble at a licenced waste disposal facility for that category of waste prior to an occupancy certificate or any final approvals being granted.

#### **Hazardous waste**

5. (1) A waste generator who generates hazardous waste and an owner of property where hazardous waste is generated must contract with an accredited service provider to collect and dispose of such waste at a licenced hazardous waste disposal facility.

(2) A person transporting the hazardous waste must ensure that the facility or place to which the hazardous waste is transported is authorised to accept such hazardous waste prior to off-loading the hazardous waste from the vehicle.

#### **Event waste**

6. (1) Any person who is directly or indirectly involved with the organisation or management of a sporting, entertainment, cultural or religious event which is to take place on private or public property or owns or controls premises at which a sporting, entertainment, cultural or religious event is to take place, including sports stadia and conference centres, must submit an integrated waste management plan consistent with this By-law to the waste management officer in respect of the storage, collection, recycling and disposal of waste at and after such event at least five

working days prior to the proposed event and comply with the terms and conditions set out by the Municipality.

(2) The integrated waste management plan must also include costing information, and the organiser, management or owner will be required to pay a refundable deposit as determined by the Municipality.

(3) Any person who intends to generate event waste shall contract with an accredited service provider for the collection and disposal of such waste to a licenced waste disposal facility and provide proof of this to the Municipality as part of its integrated waste management plan.

(4) If the event is to be held in a public area, the use, sale or distribution of glass or similar containers is prohibited, unless the prior consent has been obtained from the waste management officer on such conditions as will be determined by him/her that will reduce the likelihood of injury from broken glass.

(5) Should a person fail or neglect to obtain services of an accredited service provider in terms of subsection (3) prior to the event in question, or fail to provide the Municipality with the integrated waste management plan or should there be waste left at the area where the event has been held or the surrounding area as a result of the event, the waste management officer may subject to subsection 6 below;

(6) Arrange for the collection, clean-up, recycling and disposal of the waste. The cost for the collection, clean-up, recycling and disposal of the waste shall be payable by the event organiser and may be recovered from the deposit paid or in terms of the Municipality's Credit Control and Debt Collection Bylaw.

#### **Priority waste**

7. (1) The Director must in terms of this By-law categorise priority waste if he or she reasonably believes that special measures are required in respect of the management of that waste, because it-

- (a) poses a significant threat to health or the environment;
- (b) may persist in the environment;
- (c) contains or could foster pathogens or communicable diseases; or
- (d) has been declared a priority waste in terms of other applicable legislation.

(2) The Municipality may publish guidelines from time to time insofar as may be necessary in respect of categorisation of waste.

#### **Emergencies requiring the management of waste**

8. (1) In the event of an emergency, the Director may call upon the owner of the property or the waste generator to manage same within a stipulated period to the Municipality's satisfaction.



(2) The Director may arrange for management of an emergency, including the clearing and cleaning of debris and pollution effects, transporting and disposing of the waste at a licenced waste disposal facility accredited for the specific type of waste generated.

(3) The Director may also arrange, manage and co-ordinate the rehabilitation and repair of any infra-structure, buildings, equipment or natural environment in this process.

(4) The cost of such management, rehabilitation and repair, including all costs incurred in the utilisation of the Municipality's resources, equipment and materials shall be for the account of the person responsible for the emergency.

(5) If an emergency occurs due to natural courses the Municipality will deal with such an emergency in such a manner as the circumstances and funding may allow.

#### **Establishment of formal waste minimisation clubs in communities or businesses**

9. (1) Waste management clubs may apply to the Director for special dispensation as an enhanced service associated with waste minimisation in terms of the Municipality's Tariff By-Law and Tariff Policy.

(2) The club must submit an integrated waste management plan in writing to the director for approval, as well as other application documentation for the formation and operation of a waste minimisation club, as may be determined by the Municipality.

(3) The Director may subject to the provisions of this By-law determine whether to approve the application for a special dispensation of a waste minimisation club.

(4) If an application is unsuccessful, the Director must stipulate and provide reasons for turning down an approval to the waste minimisation club.

(5) If an application to form a waste minimisation club is approved by the Director, the club must comply with the terms and conditions set out by the Director for the generation, minimisation, storage, collection and disposal of such waste.

#### **Storage and transportation of waste**

10. (1) any holder of waste who stores or transports waste must ensure that –

(a) the container in which any waste is stored is intact and not corroded or in any other way rendered unfit for the safe storage or transportation of waste if the waste is not in a container provided by the Municipality;

(b) suitable measures are in place to prevent accidental spillage or leakage;

- (c) the waste cannot be blown away;
- (d) nuisances such as odour, visual impacts and breeding of vectors do not arise;
- (e) pollution of the environment and harm to health are prevented;
- (f) hazardous waste is sealed in an impervious container and suitable measures are in place to prevent tampering; and
- (g) any waste items or substances are safe for handling, collection or disposal and are not harmful to persons when accessed by unauthorised persons or members of the public.

(2) The waste generator and the holder of waste must ensure that waste is transported to the nearest licenced disposal facility that has capacity to deal with the waste.

#### **Recycling, re-use, sorting and recovery of waste**

11. (1) any person who undertakes a recycling, re-use or recovery activity or who sorts waste, including scrap dealers, buy back centres and formalised recycling groups, must, before undertaking that activity make sure by way of an environmental impact assessment or similar procedure required by national or provincial legislation, that the recycling, re-use or recovery of the waste is less harmful to the environment than its disposal and must obtain accreditation from the Municipality in terms of its guidelines as published from time to time.
- (2) The person referred to in subsection (1) must also submit an integrated waste management plan, and the waste management officer must, when deciding to grant authorisation, consider such integrated waste management plan.
- (3) Any person who undertakes a recycling, re-use, processing, treatment or recovery activity or who sorts waste, including scrap dealers, buy back centres and formalised recycling groups, must register for accreditation with the Municipality that will entitle them to perform such activities.
- (4) Persons and entities that handle, transport, process, treat and dispose of waste for recycling purposes shall provide the waste management officer with a written report on or before the 7th of each month in a format to be determined by the director,
- (5) The waste management officer may exempt certain waste generators, handlers, transporters or agents of waste from such requirements.

#### **Prohibition of unauthorised disposal of waste**

##### **12. No person may-**

- (a) dispose of waste in a manner likely to cause pollution of, or have an impact on, the environment or to be harmful to health;

- (b) dispose of waste other than in accordance with this By-law or National and Provincial legislation;
- (c) dispose of hazardous waste in a container provided by the Municipality that is designed for the storage of residential or business waste or in bags to be collected by the Municipality;
- (d) burn waste especially hazardous waste except in approved incinerators which have a permit or licence to do so;
- (e) dispose of hazardous waste, unless in accordance with an approved integrated management plan;
- (f) deposit residential, business, industrial, garden, building or hazardous waste in a public litter bin; or
- (g) deal with waste in a manner that causes dust, spillage or litter.

#### **Littering and dumping**

- 13.** (1) No person may drop, throw, deposit, spill, dump, store or in any other way discard, any litter or waste into or onto any public place, municipal drain, land, vacant site, stream, water course, street, road, wetland, coastline or on any place to which the public has access, or otherwise dispose of it nor may they allow a person under their control to do so.
- (2) The owner of private land to which the public has access must ensure that sufficient containers are provided to contain litter which is discarded by the public.
- (3) If the provisions of subsection (1) are contravened, the Director may direct, way of a written notice to persons that –
- (a) they cease the contravention, in a specified time;
  - (b) they prevent a further contravention or the continuation of the contravention;
  - (c) take whatever measures the Director considers necessary to clean up or remove the waste, and to rehabilitate the affected facets of the environment, to ensure that the waste and any contaminated material which cannot be cleaned or rehabilitated is disposed of lawfully.
- (4) The Director may in respect of the notice contemplated in subsection (3)(c) state that the person must, within a maximum of 5 working days remove the waste or litter, provided the Director may grant a further 2 days, on request of the person, to remove the litter or waste.
- (5) A person who owns land or premises, or who is in control of or has a right

To use land or premises, may not use or permit the use of the land or premises for unlawful dumping of waste and must take reasonable steps to prevent the use of the land or premises for that purpose.

(6) If the Municipality elects to remove the waste or litter the person concerned shall be liable for the cost of such removal operation.

(7) In the case of hazardous waste, the Municipality shall immediately remove same and thereafter issue notices that the person concerned is liable for the cost of the removal and rehabilitation of the area.

### **Garden waste and bulky waste**

#### **14. 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 composted or on which bulky waste is generated must ensure that such waste is collected and disposed within a reasonable time after the generation there off.
- (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 disposed at a garden waste facility in accordance with section 14.
- (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.
- (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 course 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.

#### **15. Generation of building waste**

- (1) The owner or Council of premises on which building waste is to be generated must notify the Council , in writing, of the intention to generate waste and of the proposed manner for its removal at least fourteen (14) days prior to the intended generation of such waste.
- (2) The owner of occupier of such 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.

#### **16. Storage of building waste**

- 1) The owner or occupied 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;
  - 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 content can occur

#### **Licences**

17. Any person who, or entity which, requires a license in terms of national, provincial or municipal legislation will have to prove on request, to the waste management officer that such person or entity has obtained the appropriate license within 30 days or such lesser period as specified by such officer.

#### **Waste management services, applications and registration for waste collection and removal services**

- 18. (1) All persons collecting or removing waste must have a contract for the collection and removal of waste with the Municipality or an accredited service provider.
- (2) Residents must apply and register for waste collection and removal services that will be provided exclusively by the Municipality or its contracted accredited service provider, unless the Council authorises otherwise.
- (3) Businesses have an option to contract with the Municipality for the waste Collection and removal services, or to contract with an accredited service provider.

- (4) Industries, including those that produce hazardous waste, due to the specialised nature of waste produced in these sectors, must contract with a private sector accredited service provider.
- (5) If an entity or an accredited service provider is required to have a licence or approval in terms of national or provincial legislation, they are required to provide proof thereof, as well as comply with criteria determined by the Council before they will be registered by the director.
- (6) The Director shall keep an updated record of registered accredited service providers.
- (7) Commercial and industrial undertakings, including scrap dealers requiring a waste collection and removal service which is not provided by the Municipality, must register with the Municipality and prove that they have contracted with an accredited service provider for such service.

#### **Access to private property**

- 19. (1) The owner must, on request, allow a peace officer or any other duly authorised employee of the Municipality access to their property for the purpose of inspecting the property and investigating any contravention of this By-law and to ensure compliance therewith.
- (3) When accessing the property the authorised employee must, on request, identify him or herself by producing written proof of such authority.
- (4) Such employee may be accompanied by a person reasonably required to assist in inspecting or conducting an investigation who must be identified as such by the authorised employee.

#### **Premises inaccessible for refuse collection**

- 20. Should the Municipality be impeded from handling or collecting refuse due to the layout of a person's premises, and if this impediment imposes a danger to employees of the Municipality, the Director may require the owner to do such alterations or additions to the premises as are necessary to remove such impediment at that person's cost.

#### **Compliance notices**

- 21. (1) The waste management officer may issue notices to any person contravening the provisions of this By-Law –
  - (a) setting out the provisions or conditions contravened;
  - (b) directing such person to comply with such provisions or conditions; and
  - (c) setting out the measures which must be taken to rectify the contravention,

and the period in which he or she must do so.

(2) If a person fails to comply with directions given in a notice issued by the waste management officer, the waste management officer may –

(a) take whatever steps it considers necessary to clean up or remove waste to rehabilitate the premises, place or the affected environment at which the waste has been illegally dumped or stored and to ensure that the waste, and any contaminated material which cannot be removed, cleaned or rehabilitated, is disposed of lawfully;

(b) recover the costs of cleaning, removing, rehabilitating or disposing waste, premises or environment, or contaminated material, respectively, from the persons obliged to take such steps in terms of this By-Law, who shall be jointly and severally liable therefore.

(3) The Municipality may, in the case of hazardous or priority waste, require the persons generating such waste to close until such time as steps are taken to dispose of the waste in terms of subsection (2) if there is a real threat of damage or injury to any person or property.

(4) The following persons may be served with such notice:

(a) any person who committed, or who directly or indirectly permitted, the contravention;

(b) the generator of the waste;

(c) the owner of the land or premises where the contravention took place;

(d) the person in control of, or any person who has or had, at that stage of the contravention, a right to use the land or premises where contravention took place.

#### **Service of documents and process**

**22.** Whenever any notice, order, demand or other document is authorised or required to be served on a person in terms of this By-law, it shall be deemed to have been effectively and sufficiently served on such a person-

(a) when it has been delivered to him or her personally;

(b) when it has been left at his or her place of residence or business with a person apparently over the age of 16 years;

(c) when it has been posted by registered or certified mail to his or her last known residential or business address and an acknowledgement of posting thereof is produced;

(d) if his or her address is unknown, when it has been served on his or her

agent or representative in a manner provided for in paragraph (a), (b) or (c); or

(a) if his or her address and agent are unknown, when it has been posted in a conspicuous place on the immovable property, if any, to which it relates.

#### **Failure to comply with the By-law and enforcement**

**23.** (1) If the waste management officer has issued a compliance notice in terms of section 22 to anyone for contravening any provision of this By-law and such person fails to comply with such notice he or she shall be guilty of an offence.

(2) The waste management officer may in writing require any person to submit a report to him or her in respect of the impact of waste in a specified form as stipulated in the Municipality's guidelines as published from time to time.

(5) If the person fails to submit such a report within the period specified, the waste management officer may appoint an independent person to compile the report and recover the costs of compiling the report from the person required to submit it.

(4) If the waste management officer suspects that the person has on one or more occasion contravened or failed to comply with the By-law or a license issued in terms of provincial or national legislation and this has had a detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage or has contributed to the degradation of the environment, the waste management officer may direct that such a report be compiled by an independent person.

(5) The waste management officer may then direct the person who failed to comply with the By-Law to take the action recommended in such report, failing which the Municipality may do so, and the person who contravened the By-Law shall be liable for the cost thereof.

#### **Offences and penalties**

**24.** (1) A person who contravenes sections 12(b), 12(f), 15(1) shall be guilty of an offence and shall on conviction be liable for –

(a) littering or dumping over 8m<sup>3</sup> of waste or hazardous waste;

(b) spillage or leakage over 8m<sup>3</sup> of waste without putting in place suitable measures;

(c) conveying of an uncovered load of hazardous waste of any volume;

(d) conveying of an uncovered or unsecured load which results in spillage over 8m<sup>3</sup> of waste or hazardous waste, such fine or imprisonment as the court may deem appropriate and the court may in addition order the removal



of such waste or determine what measures must be taken by such person and the payment of the expenses incurred in respect thereof or any other costs or damages.

- (2) Should any person induce, influence, persuade or force an employee of the Municipality or other person to commit an offence in terms of this By-law he or she shall be guilty of an offence.
- (3) Should any person induce an employee of the Municipality to collect and dispose of waste without the correct payment to the Council, or the correct methods being employed, shall be guilty of an offence.
- (4) Any waste generator who fails to submit or comply with an integrated waste management plan in terms of this By-law shall be guilty of an offence.
- (5) Any person who commits any offence referred to in subsections (2) to (4) or any other offence in terms of this By-law shall on conviction be liable for the payment of a minimum fine of R500 but not exceeding R10 000 or imprisonment for a minimum period of 6 months but not exceeding 2 years, or to both such fine and such imprisonment.
- (6) The court may in addition to any penalty imposed in terms of subsection (5), order a person to repair the damage, make good the loss, rehabilitate the environment, remove waste, or determine what measures must be taken by such person and the payment of the expenses incurred in respect thereof or any other costs or damages.
- (7) The Court may, when considering any sentence for an offence in terms of this By-Law, take into account the following:
  - (a) That a person delayed in complying with or failed to comply with the terms of notices or directions given to that person under this By-law;
  - (b) that person obtained a financial advantage or was to obtain a financial advantage as a result of the commission of the offence;
  - (c) the severity of the offence in terms of its impact or potential impact on health, wellbeing, public safety and the environment.

#### **Delegations by the waste management officer**

25. The waste management officer shall be entitled to delegate to any other official of the Municipality any of his or her powers or obligations in terms of this By-law.

#### **Functions and powers of waste management officer**

26. The waste management officer shall be responsible for regulating, controlling, managing and enforcing the provisions of this By-Law and national and provincial legislation relating to waste management.

**Amendments to waste removal services**

27. The Municipality may amend any existing waste removal or cleansing services once a process of public notification, participation and comment has been completed and provided the amendment is practical, cost effective and has as its objective the prevention of the proliferation of waste, the minimisation of waste or the reduction of waste to be removed.

**Transitional provisions**

28. Any approvals given in accordance with previous by-laws will be valid in respect of the premises for which they were granted and in respect of the person to whom they were granted, but cannot be transferred to any other person.

**Guidelines**

29. The Council may make guidelines not inconsistent with other legislation generally for the better carrying out of the objects and purposes of this By-law.

**Interpretation**

30. In the event of a conflict between this by law and the policy of the Municipality this by-law shall be decisive.

**Short title and commencement**

31. Waste Management By-law for Chief Albert Luthuli Municipality.

**SCHEDULE 1****ADMISSION OF GUILT FINES****SECTION OFFENCE FINE****Section 15(1)**

Littering or dumping under 1m<sup>3</sup> R500,  
Littering or dumping over 1m<sup>3</sup> to 3m<sup>3</sup> R1000,  
Littering or dumping over 3 m<sup>3</sup> to 5m<sup>3</sup> R1 500,  
Littering or dumping over 5m<sup>3</sup> to 7m<sup>3</sup> R2000,  
Litter or dumping over 7m<sup>3</sup> to 8 m<sup>3</sup> R2500.

Section 12(b) conveying of an uncovered load which results in spillage of load –

Spillage under 1m<sup>3</sup> R500,  
Spillage over 1m<sup>3</sup> to 3m<sup>3</sup> R1000,  
Spillage over 3m<sup>3</sup> to 5m<sup>3</sup> R1 500,  
Spillage over 5m<sup>3</sup> to 7m<sup>3</sup> R2000,  
Spillage over 7m<sup>3</sup> to 8m<sup>3</sup> R2 500

**PROVINCIAL NOTICE 69 OF 2018****MPUMALANGA DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS****PUBLICATION OF MUNICIPAL BY-LAWS FOR LOCAL MUNICIPALITIES IN TERMS OF  
THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT (ACT NO. 32 OF 2000)**

I, Speed Katishi Mashilo, in my capacity as Member of the Executive Council responsible for Co-operative Governance and Traditional Affairs, in the Mpumalanga Province, hereby publish municipal by-laws for Mkhondo, Chief Albert Luthuli, Lekwa and Emalahleni local municipalities, in terms of Section 13 (a) and (b) of the Local Government: Municipal Systems Act (Act No. 32 of 2000)

The municipal by-laws are concerning the following matters per local municipality, namely:

**Lekwa Local Municipality**

1. Electricity Supply
2. Advertising Signs
3. Encroachment on Municipal Properties
4. Public Participation
5. Street Trading
6. Contaminated Waste
7. Cemetery
8. Taxi
9. Informal Settlements
10. Open Space

**Chief Albert Luthuli Local Municipality**

1. Standing Rules and Orders
2. Electricity Supply
3. Fire Brigade Services
4. Sanitation
5. Waste Management
6. Water Supply

**Emalahleni Local Municipality**

1. Property Rates

**Mkhondo Local Municipality**

1. Credit Control and Debt Collection
2. Control of Outdoor Advertising
3. Encroachment on Municipal Properties

Given under my hand at Mbombela, on

03/04

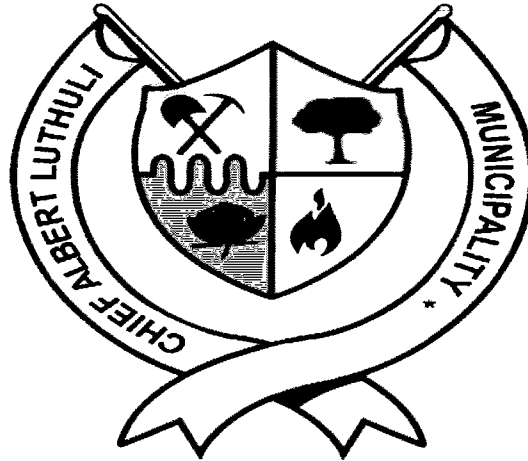
2018



MR SK MASHILO (MPL)

MEC: DEPARTMENT OF CO-OPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS

# CHIEF ALBERT LUTHULI LOCAL MUNICIPALITY



## STANDARD STANDING ORDER

### PREAMBLE

We, the Councillors and officials of the Chief Albert Luthuli Local Municipality within the jurisdiction humbly submit to improve the quality of life to all our communities irrespective of political affiliation, religion, colour and creed.

### 1. DEFINITIONS

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

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

"Chairperson of the Mayoral Committee" means the Executive Mayor as contemplated in Section 48 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"Speaker" means the Chairperson of the Council or the Speaker contemplated in Section 36 of the Local Government: Municipal Structures Act (Act No. 117 of 1998);

"Council" means the Chief Albert Luthuli Local Municipality established by Provincial Notice No. 299 of 1 October 2000 in terms of Section 12 of the Local Government: Municipal Structures Act

(Act No. 117 of 1998) read with Section 157 of the Constitution of the Republic of South Africa (Act 108 of 1996);

"Mayoral Committee" means Mayoral Committee established in terms of Section 43 of the Local Government: Municipal Structures Act (Act No. 117 of 1998);

"Meeting" means a meeting of Council;

"Member" means a member of the Council;

"Motion" means a motion introduced in writing in terms of Section 14 as well as a motion in terms of any other applicable legislation;

"Proposal" means any proposal with the exception of motion, moved and seconded during a meeting;

"The Ordinance" means the Local Government Ordinance, 1939 (Ordinance 17 of 1939); and all other applicable legislation;

"Rules and Ethics Committee" means the committee responsible for drafting the rules and orders of the Council established in terms of Section 79 of the Act;

"The report of the Mayoral Committee" means the report of the Mayoral Committee to the Council as contemplated in Section 44(b) of the Local Government: Municipal Structures Act (Act No. 117 of 1998);

"Portfolio Head" means the political head and member of the Mayoral Committee accountable to the Executive Committee responsible for a particular Department;

and any other word or expression shall have the meaning assigned thereto in the Act or the Ordinance, whichever may be applicable.

## **2. ATTENDANCE REGISTER FOR COUNCIL MEETINGS**

- 2.1 Every member attending a meeting shall sign his/her name in the attendance register kept for this purpose.

## **3. NO QUORUM AT COUNCIL MEETING**

- 3.1 If, at the expiry of twenty minutes after the time which a meeting is scheduled to be held, or such longer period as the members present may agree to, a quorum has not assembled, no meeting shall take place. If a quorum has assembled after the extended period agreed upon, the members present may agree that a meeting take place. If no quorum has assembled after the extended period referred to herein before, the meeting shall only be reconvened by the Speaker in terms of Section 29(1) of the Act after giving at least four hours written notice thereof.

- 3.2 The quorum of the Council is one half of all the members, plus one member.

**4. COUNT OF MEMBERS**

- 4.1 If, during any meeting, the attention of the Speaker is called to the number of members present, such members shall be counted and if it is found that there is no quorum, the Speaker shall cause the bell to be rung audibly and if after a further five minutes there is no quorum, the meeting is adjourned.
- 4.2 The names of the members present when the meeting is adjourned in terms of sub-section 4.1 above, shall be recorded in the minutes.
- 4.3 Business not disposed of at a meeting adjourned in terms of sub-section 4.1 shall be dealt with at a meeting convened by the Speaker for this purpose by giving at least twenty four hours written notice thereof.

**5. BUSINESS LIMITED BY NOTICE OF MEETING**

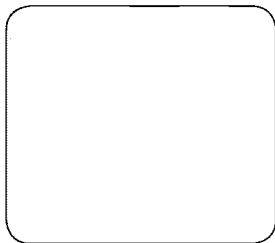
- 5.1 Subject to the provisions of the Standing Orders and with the exception of an urgent report of the Executive Mayor or the Mayoral Committee, no business not specified in the notice of the meeting shall be dealt with at the meeting.

**6. ORDER OF BUSINESS OF ORDINARY MEETING**

- 6.1 The order of business of an ordinary meeting convened in terms of Section 20 of the Ordinance shall be as follows:
- a) Opening
  - b) Application for leave of absence
  - c) Statement of communication by the Speaker
  - d) Statement of communication by the Executive Mayor
  - e) Proposals of condolence or congratulations by Speaker /Executive Mayor
  - f) Proposals of condolences or congratulations by other members
  - g) Confirmation of minutes of the previous meeting
  - h) Statutory appointment and elections
  - i) Questions of which notice has been given
  - k) Council in Committee
    - (i) Matters for consideration in terms of Section 11(1a) of the Regional Services Council Act, 1985.
    - (ii) Matters for re-consideration in terms of 11(2) of the Regional Services Council Act, 1985.
  - l) The report of the report of the Executive Mayor
  - m) Petition
  - n) Deputation
  - o) Deferred motions

**CONTINUES ON PAGE 258 - PART 3**





THE PROVINCE OF MPUMALANGA  
DIE PROVINSIE MPUMALANGA

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1 JUNE 2018  
1 JUNIE 2018

No. 2933

- p) New motions
- q) Matters which the Council requested the Mayoral Committee not to consider

- 6.2 The Council may at its discretion alter the sequence of the items on the agenda.
- 6.3 If a proposal in terms of sub-section 6.1. (d) or (e) is opposed; such proposal shall lapse without further discussion.

## **7. MINUTES OF MEETINGS**

- 7.1 If a copy of the minutes of the meeting has been made available to every member in the manner as provided in Section 22 of the Ordinance, any other relevant legislation, the minutes shall be taken as read with a view to confirmation.
- 7.2 No proposals or discussion shall be allowed on the minutes, except as to their accuracy.
- 7.3 The minutes in relation to any item finalized by the Council in Committee as contemplated in Section 36, shall be kept from other minutes of the Council.

## **8. QUESTIONS**

- 8.1 A member may at a meeting put a question:
- a) On a matter arising out of or connected with any item of the report of the Mayoral Committee when such item has been called or during discussion thereon;
  - b) Concerning the general work of the Council not arising out of or connected with any item of the report of the Mayoral Committee provided that such question shall only be asked if at least ten days notice in writing has first been lodged with the head of the Corporate Services Department, who shall forthwith furnish a copy thereof to the Speaker and Mayoral Committee.
- 8.2 A question on a matter which in the opinion of the Speaker is of an urgent nature and is the public interest may be put after notice thereof in triplicate shall have been lodged in writing with the head of the Corporate Services Department shall forthwith furnish a copy thereof to the Speaker and Mayoral Committee.
- 8.3 A member who has put a question in terms of sub-section 8.1(b) shall, on request, be entitled to be furnished with a written notice with ten day after the meeting.
- 8.4 The Mayoral Committee may at the next ordinary meeting of Council reply to questions in terms of sub-section 8.1(b) and 8.2.
- 8.5 Subject to the provisions of sub-section (8.4), any questions put in terms of this section, shall be answered by or on behalf of the Mayoral Committee during reply which reply may be in writing or given verbally.

8.6 If, after his/her question has been replied to, a member is of the opinion that the reply to his/her question is not clear, he/she may with the consent of the Speaker request elucidation thereof, and no debate shall be allowed on any question or reply thereto.

8.7 The Speaker may disallow a question if he/she is of the opinion that it is out of order or not put clearly or does not comply with the provisions of Section 15 of these Standing Orders.

## **9. REPORTS OF THE MAYORAL COMMITTEE**

9.1 A report submitted by the Mayoral Committee in terms of Section 44(b) of the Act shall first contain the matters in respect of which recommendations are made, where no powers have been delegated to the Mayoral Committee and thereafter the matters which have been delegated to the Mayoral Committee.

9.2 Unless an item is submitted to the Council for information only, every item relating to matters in respect of which the Mayoral Committee has no delegated powers, shall contain a recommendation, which may be adopted by the Council.

## **10. DELIVERY OF REPORTS OF MAYORAL COMMITTEE**

10.1 A report of the Mayoral Committee, with the exception of an urgent report of the Mayoral Committee, shall for the purpose of a meeting be served in the manner provided in Section 22 of the Ordinance or other relevant legislation.

## **11. MOVING OF REPORT OF THE MAYORAL COMMITTEE**

11.1 The Executive Mayor or a member of the Mayoral Committee called upon by the Executive Mayor to do so, shall submit a report of the Mayoral Committee to the meeting by requesting "that the report be considered" and such request shall not be discussed.

11.2 When the report of the Mayoral Committee is being considered, the Speaker, Executive Mayor or Municipal manager shall put the recommendations in that part of the report in respect of which the Mayoral Committee has no delegated powers point by point (seriatim), unless for a good cause he/she or the Mayoral Committee sees fit vary their order.

11.3 The recommendations in the report of the Mayoral Committee as mentioned in sub-section 11.2 shall be deemed to have been proposed and seconded.

11.4 When a recommendation contemplated in sub-section 11.2. has been adopted, such recommendation shall become a resolution of the Council.

11.5 After the matter in respect of which the Mayoral Committee has no delegated powers have been dealt with, the Speaker shall permit debate of the matter delegated to the Mayoral Committee or any other Committee: Provided That:

- a) subject to section 27(2) of the Standing Orders, such debate shall be limited to a period not exceeding one hour or such extended period as the Speaker may determine;
- b) a member, with the exception of the Executive Mayor, shall not speak on such matters for longer than five minutes;
- c) during such debate a member may request that:
  - (i) his/her opposition to a resolution in respect of which the Executive Mayor has delegated powers; and
  - (ii) his/her reason therefore, be minuted after which the Municipal Manager shall minute or cause to be minuted such opposition and/or reason: Provided that the member shall submit such reason in writing when making such request.

11.6 The Mayoral Committee or a member as contemplated in sub-section 11.1. may;

- a) withdraw any item;
- b) subject to the provisions of section 17, amend any item with the consent of the Mayoral Committee, where appropriate.

11.7 The Mayoral Committee or a member contemplated in sub-section 11.1. concluded the debate concerning any item in the report, where after the debate is close and no further discussions shall take place on such item: Provided that the Mayoral Committee or member concerned may nominate another member of the Mayoral Committee who, in his/her opinion is more conversant with the item which is being debated, to close the debate on his/her behalf, irrespective of whether such member had previously taken part in the debate on that item, in which case the provisions of Section 26 (2) pertaining to the Executive Mayor, shall also apply such member.

## **12. ANNUAL CONSIDERATION OF THE BUDGET**

12.1 Notwithstanding anything to the contrary in these Standing Orders contained, the following provisions shall apply when the annual budget is considered.

- a) No proposal which is designed to increase or decrease the estimated revenue of expenditure of the Council shall be put to the vote before the debate on the budget has been closed.
- b) After the debate on the budget has been closed, the Speaker shall put to the vote the proposal contemplated in paragraph (a), in the order in which they were proposed.

- c) After all the amendments have been dealt with, and if any proposals contemplate in paragraph (a) has been accepted the Mayor or the Mayoral Committee shall decide if it is necessary to adjourn the meeting to investigate the implications of any or every proposal thus accepted.
- d) After an adjournment in terms of paragraph (c), the Mayoral Committee shall investigate the implications of every proposal accepted and shall report thereon to the Council when the meeting resumes.
- e) After the Mayoral Committee has reported in terms of paragraph (d):
  - (i) the Speaker shall permit debate on the proposals accepted;
  - (ii) thereafter, he/she put every such proposal to the vote again, and if such proposal is accepted, the budget shall be amended in accordance with that resolution.

### **13. DEPUTATION**

- 13.1 A deputation desiring an interview with the Council shall submit a memorandum to the Municipal Manager in which are set out the representations it wishes to make.
- 13.2 The Municipal Manager shall submit the memorandum contemplated in sub-section 13.1 to the Mayoral Committee, who, together with the other members of the Mayoral Committee, may receive the deputation: Provided that the Mayoral Committee may dispense with the requirement of submitting a memorandum.
- 13.3 A deputation shall not exceed in number and at an interview contemplated in sub-section 2, only one designated person shall speak on behalf of the deputation, except when a member puts a question in which case any other person belonging to the deputation, may reply to such question.
- 13.4 The matter shall be further considered until the deputation has been withdrawn.

### **14. MOTIONS (ITEM NOT ON THE AGENDA)**

- 14.1 Subject to the provisions of any other law –
  - a) every notice of motion shall be in writing and such notice shall be signed by the member submitting it;
  - b) a motion shall be given to the head or Municipal Manager who shall enter it in book kept for that purpose which shall be open for inspection by any member;
  - c) notice of a motion shall not be specified in the notice for a meeting unless it is received at least ten days prior to such a meeting;

- d) a motion shall lapse if the member who submitted it is not present at the meeting when such motion is being debated.
- 14.2 At the request of a member who gave notice of a motion, the Municipal Manager shall acknowledge receipt thereof in writing.
- 14.3 Every motion shall be relevant to the business of the Council or any matter in respect of which the Council has jurisdiction.
- 14.4 A motion shall only be regarded as having been submitted to the Council for decision if that motion was duly seconded.
- 14.5 Every motion as contemplated in sub-section 14.1. (a), shall on receipt be dated and numbered and shall be entered by the head of the Municipal Manager upon the agenda in the order in which it is received.
- 14.6 No member shall have more than one motion entered upon the agenda with the exception of a deferred motion, and no member shall move more than six motions during any one calendar year except in exceptional cases at the discretion of the Speaker.
- 14.7 A motion may not be submitted if it –
  - a) is entered to rescind or amend a resolution passed by the Council within the preceding three months;
  - b) has the same purpose as a motion which was rejected with the preceding three months, unless such motion is signed by no fewer than one quarter of members, in addition to the member, who proposed the motion.
- 14.8 No member shall submit a motion, which was dealt with in terms of the provisions of sub-section 14.7 before a period of six months after it has dealt with has lapsed.
- 14.9 Notwithstanding the provisions of sub-section 14.7 and 14.8, the Council may at any time, following a recommendation by the Mayoral Committee, rescind or amend and resolution passed by it.
- 14.10 In dealing with motion –
  - a) the Municipal Manager shall read out the number of every motion and the name of the mover;
  - b) the Speaker shall ascertain which motions are unopposed and these shall be passed without debate, and thereafter the Speaker shall call the opposed motions in their order on the paper.

## 15. SPECIAL MOTIONS

- 15.1 When the item on motions as contemplated in Section 6.1 (k) is brought to order at that meeting, a member may request that the provisions of Section 14.1 (c) be suspended to enable him/her to submit an urgent motion.
- 15.2 Such urgent motion may only be permitted if, in the discretion of the Council, it is deemed to be of such urgency, public interest or an emergency as to warrant such suspension.
- 15.3 All other requirements contained herein or any other law pertaining to motions must still be complied with.
- 15.4 If a proposal to suspend is made in terms of sub-section 15.1 after the Council has completed its consideration of the report of the Mayoral Committee, it shall be deemed to have been adopted if the members who voted in favour constitute a majority of the whole and if it is made before completion of the consideration of the report of the Mayoral Committee it shall be deemed to have been negative unless the members who voted in favour of it constitute both a majority of the whole Council and three quarter of the members present.

## **16. IRREGULAR MOTIONS OR PROPOSALS**

- 16.1 The Speaker shall disallow a motion or proposal –
  - a) which in his/her opinion -
    - (i) might lead to the discussion of a matter already dealt with in the agenda or which has no bearing on the business of the Council; or
    - (ii) advances arguments, express an opinion, or contains unnecessary factual, incriminating, disparaging or improper suggestion;
  - b) in respect of which –
    - (i) the Council has no jurisdiction;
    - (ii) a decision by the judicial body is pending;
    - (iii) which has not been duly seconded; or
    - (iv) which does not meeting the requirements pertaining to motions or proposals contained herein or any other law,
  - c) which, if passed, would be unexecutable or contrary or contrary to the provisions of these Standing Order; Provided that if any motion or proposal in the opinion of the Council, justifies further investigation, it shall be referred to the Mayoral Committee.

## **17. WITHDRAWAL OF MOTION OR PROPOSAL**

17.1 A motion or proposal excluding a report of the Mayoral Committee contemplated in Section 11 may be withdrawn by the mover.

17.2 After a motion or proposal had been withdrawn, no member shall speak upon such motion or proposal unless such a motion or proposal is supported or seconded.

**18. MOTION OR PROPOSAL AFFECTING BUDGET TO BE REFERRED TO MAYORAL COMMITTEE**

18.1 A motion or proposal, other than a proposal as contemplated in Section 18.5. (c) that the Mayoral Committee reconsider his/her resolution, which is designed to increase or decrease the approval budget of the Council, shall not be adopted before the Mayoral Committee has reported thereon to the Council: Provided that such a report by the Mayoral Committee may be dispensed with if the Executive Mayor or Mayoral Committee deems such report unnecessary.

**19. MOTION OR PROPOSAL AFFECTING A STANDING ORDER TO BE REFERRED TO THE APPROPRIATE COUNCIL COMMITTEE, MAYORAL COMMITTEE**

19.1 A motion or proposal, other than a recommendation of the Mayoral Committee, affecting the making, repeal or amendment of Standing Orders shall, before the Council adopts a resolution thereon, be submitted to the relevant Council Committee (if established) and/or the Mayoral Committee for a report thereon.

**20. PROPOSAL WHICH MAY BE RECEIVED**

20.1 Subject to the provisions of Section 36, when a motion to introduce new business on the agenda or a proposal contained in a report to the Mayoral Committee is brought to order or is under debate at a meeting, no further proposal shall be received except the following;

- a) to amend the motion or proposal;
- b) that the matter be referred back to the Executive Committee for further consideration;
- c) that consideration of the matter be postponed;
- d) that the meeting be adjourned;
- e) that the debate be adjourned;
- f) that the matter be put to the vote;
- g) that the Council proceed to the next business

Provided that such proposal shall only be deemed to have been submitted to the Council decision, if it was duly seconded.



- 20.2 When dealing with proposals or motions, the following sequence is applicable:
- a) the recommendation of the Mayoral Committee or motion is brought to order;
  - b) the Mayoral Committee or member of the Mayoral Committee nominated to do so, or the member who submitted a motion, whichever is applicable, is given the opportunity to speak on the matter;
  - c) a proposal to amend such recommendation or motion, or a proposal to refer a matter back to the Mayoral Committee, subject to sub-section 20.2 (h) below, may then be received;
  - d) only the member who submitted a proposal in sub-section 22 (c) above is given the opportunity to speak on this matter;
  - e) only after the member has spoken on the proposal referred to in sub-section 20.2 (d) above may another proposal contemplated in sub-section 20.1 (c) to (g) be received, and subject to sub-section 20.2 (h) below only the member who submitted such proposal may speak thereon;
  - f) A second proposal in terms of sub-section 20.1 (c) to (g) shall not be made on the same matter unless, in the opinion of the Speaker, the circumstances are materially altered, and a ruling made by the Speaker hereunder is final;
  - g) if a recommendation of the Mayoral Committee, or a proposal or motion has been carried no further proposals may be received and the Council must proceed to the next business; and
  - h) before a recommendation of the Mayoral Committee a proposal or a motion is finalized, the Mayoral Committee (or its, or his/her nominee) has the right of reply and closes the debate on the matter.
- 20.3 A proposal made in terms of sub-section 20.1 (a) or (b) must be dealt with before any proposal contemplated in terms of sub-sections 20.1 (c), (d), (e), (f) and (g) is made.
- 20.4 A second proposal in terms of sub-sections 20.1 (c), (d), (e), (f) and (g) shall not be made with half an hour of a similar proposal on the same matter unless, in the opinion of the Speaker, the circumstances are materially altered.
- 20.5 A member who has made a proposal in terms of sub-sections 20.1 may thereon in terms of the provisions of these Standing Orders and will be allowed to motivate for not more than five minutes on the issue raised.
- 20.6 Before a proposal in terms of sub-sections 20.1 is finalized, the Mayoral Committee or the member who submitted the original motion may speak on such proposal for not more than five minutes on the issue raised.

- 20.7 A proposal in terms of sub-sections 20.1 shall be dealt with in terms of the provisions of Section 21 to 23.

**21. AMENDMENT OF A MOTION OR PROPOSAL**

- 21.1 An amendment which is moved in terms of Section 20.1 (a) –

- a) shall be relevant to the motion or proposal on which it is moved;
- b) shall be reduced to writing, signed by the mover, seconded and handed to the Speaker, and
- c) shall be clearly stated to the meeting by the Speaker before it is put to the vote.

- 21.2 Subject to the provisions of Section 20, more than one amendment of a motion or proposal may be moved and, in save as provided in sub-section 20.5, every amendment proposed shall at the close of the debate on such a motion or proposal, be put to the vote.

- 21.3 If more than one amendment to a motion or proposal has been moved, such amendments shall be put to the vote in the order in which they were moved.

- 21.4 No member shall move more than one amendment of the same motion or proposal.

- 21.5 If an amendment is carried, the amended motion or proposal shall take the place of the original motion or proposal and shall then become the motion or proposal in respect of which any further proposed amendments shall be put: Provided that the Speaker may, if she/he is of the opinion that an amendment which has been carried renders another amendment unnecessary or pointless, rule that such other amendment need not be put, after which the latter amendment shall lapse.

**22. ADJOURNMENT OF MEETING**

- 22.1 No member shall at any meeting move or second more than one proposal adjournment of the meeting.

**23. ADJOURNMENT OF DEBATE**

- 23.1 On the resumption of an adjournment debate, the adjourned matter shall be dealt with *de novo*.

**24. PRECEDENCE OF SPEAKER**

- 24.1 Whenever the Speaker speaks, any member then speaking or offering to speak must be seated and be silent so that the Speaker may be heard without interruption.

**25. MEMBER SPEAKING**

- 25.1 A member must stand when speaking and shall address the Speaker.
- 25.2 If any member who is not speaking indicates that he/she wishes to raise a point of order or to give a personal explanation and such member is seen and addressed by the Speaker, the member then speaking is to be silent and remain standing until the Speaker has made a ruling.

**26. LENGTH OF SPEECHES**

- 26.1 Unless speaking on behalf of a party as contemplated in Section 27.2 (i) and (ii) hereafter, a member may speak for no longer than 5 minutes on a recommendation of the Mayoral Committee, a motion or proposal: Provided that the Speaker may permit a speech to be continued for a further period of 5 minutes.
- 26.2 The Speaker may waive the provision of subsection 26.1 in regard to a statement made with the consent of the Speaker by the Executive Mayor in relation to any matter arising from a report of the Mayoral Committee.
- 26.3 A member shall not read his/her speech but may refresh his/her memory by referring to notes.
- 26.4 The provisions of this section shall not apply to a member delivering the Mayoral Committee's report or in the presentation of the estimates of income and expenditure.

**27. NOTICE OF INTENTION TO PARTICIPATE IN DEBATE AND LENGTH OF SPEECH**

- 27.1 Except with the consent of the Speaker to the contrary in particular circumstances, members shall notify the head of Municipal Manager at least 24 hours prior to a meeting of the Council, of his/her intention to participate in debate on any matter before the Council, excluding a motion in terms of Section 15 and 16 of these Standing Orders, and shall identify the matters he/she is desirous to speak on.
- 27.2 Members shall be called in a debate by the Speaker in accordance with a list of members who are to participate in the debate: Provided that, subject to the provisions of Section 11, 201 35 and 47, members shall not exceed the consent of the Speaker.
- 27.3 For purposes of consideration of the report by the Mayoral Committee on the matters dealt with in terms of delegated powers, the provisions of subsection 27.1 and 27.3 shall apply mutatis mutandis.

**28. MEMBER TO SPEAK MORE THAN ONCE**

- 28.1 A member shall speak more than once on any motion or proposal: Provided that if a member directs a question to the mover of a motion or proposal: Provided that if a member directs a question to the mover of a motion or proposal, such question may be answered by the mover.

- 28.2 The Speaker may permit the Executive Mayor or a member of the Mayoral Committee his/her nominee to make an explanatory statement prior to the consideration of any particular item contained in the report of the Mayoral Committee or during the discussion of such report, in reply to a specific question.

**29. RELEVANCE**

- 29.1 A member who speaks shall direct his/her speech strictly to the matter under discussion or to an explanatory or a point of order and no discussion shall be permitted –

- a) which will anticipate any matter on the agenda;
- b) in respect of any matter respect of which a decision by a judicial by a judicial or quasi-judicial body or a commission of inquiry, whether instituted in terms of legislation or not, is pending:
- c) in respect of any matter which has been finalized.

**30. IRRELEVANCE, TEDIOUS REPETITION, UNBECOMING LANGUAGE AND BREACH OF ORDER**

- 30.1 The Speaker shall call the attention of the members to irrelevance, tedious repetition, unbecoming language or any breach of order on the part of a member and shall direct such member, if speaking, to discontinue his/her speech or, in the event of persistent disregard of the authority of the Speaker, to retire from the meeting.

- 30.2 The Speaker shall direct a member to apologise or withdraw an allegation or statement if it is unbecoming or injuries or impairs the dignity or honour of a member or officer of the Council.

**31. REMOVAL OR EXCLUSION OF MEMBER**

- 31.1 If a member refuses to comply with a direction in terms of Section 30, the Speaker may direct an officer to remove the member or to cause his/her removal and take steps to prevent his/her return to the meeting.

- 31.2 Thereafter the Council may exclude form meetings of the Council for such period as it may determine but not exceeding 60 days, a member wilfully disregarded the authority of the Speaker who wilfully obstructs the business at any meeting: Provided that before the member is thus excluded, such member must be informed that such exclusion is contemplated and be afforded the opportunity to state reasons why the Council should not adopt such resolution.

- 31.3 A proposal to exclude any person may be moved at any stage of the meeting.

**32. POINT OF ORDER AND PERSONAL EXPLANATION**

- 32.1 For the purpose of this section –

- a) "a point of order" means pointing out any deviation of or anything contrary to these Standing Orders of the Council or any law;
  - b) "a point of personal explanation" means explanation of some material part of a member's former speech, which may have been misunderstood.
- 32.2 Any member, whether he/she addressed the Council on the matter under debate or not, may-
- a) raise a point of order;
  - b) give a personal explanation.
- 32.3 A member contemplated in subsection (2) shall be entitled to be heard forthwith.
- 32.4 Subject to the provisions of Section 34, the ruling of the Speaker on a point of order or on the admissibility of a personal explanation shall be final and shall not be open to discussion.

### **33. MODE OF VOTING**

- 33.1 Before voting on any matter, the Executive Mayor or his/her nominee or member of must be given the opportunity to address the Council.
- 33.2 Every motion or proposal shall be submitted to the Council by the Speaker who shall call upon the members to indicated by a show of hands whether they are for or against it, and he/she shall thereupon declare the result of the voting.
- 33.3 After the Speaker has declared the result of the voting in terms of subsection 33.1, a member may:
- a) request that his/her vote be declared against the decision; or
  - b) demand a division, by rising and putting such demand to the Speaker.
- 33.4 When a division in terms of subsection 33 (b) is demanded, the Speaker shall accede thereto, and a bell be rung audibly whereupon all entrances to the chamber shall be closed, and no member shall thereafter leave or enter the Council Chamber until after the result of the division has been declare.
- 33.5 After the requirement specified in subsection 33.4 has been compiled with, the motion or proposal shall be put to the vote by the Speaker in the manner provided for the subsection 6 and thereafter he/she shall declare the result of the division.

- 33.6 A division shall take place in the manner prescribed in subsection 36.1 and vote of each member shall be taken separately by name and recorded in the minutes by the Municipal Manager.
- 33.7 When a division takes place in accordance with the preceding provisions, every member present, including the Speaker, shall be obliged to record his/her vote for or against the motion or proposal.
- 33.8 A member demanding a division shall not leave the Council Chamber before such division has been taken.
- 33.9 Should there be an equality of votes in respect of a proposal and the Speaker refuses to record his/her casting vote, the matter shall be referred back to the Mayoral Committee for consideration.
- 33.10 Voting by secret ballot, which must happen if, for example a quarter of members requesting it.

**34. INTERPRETATION OF STANDING ORDERS**

- 34.1 Any member may request that the ruling Speaker as to the interpretation of the Standing Orders be recorded in the minutes.
- 34.2 A member who has made a request in terms of sub-section 34.1, may orally during that meeting or within five days thereof in writing require the Municipal Manager to submit the matter to the Speaker, in which event the Speaker shall consider the ruling and report thereon to the Council.
- 34.3 The Council may, on the recommendation of the Executive Mayor or Mayoral Committee, where applicable, direct that ruling of the Speaker be amended or substituted.
- 34.4 If the Speaker's ruling is amended or substituted in terms of subsection 34.3 the Executive Mayor or Mayoral Committee shall make a recommendation to the Council on that matter.

**35. MAINTENANCE OF ORDER**

- 35.1 This Speaker may at any time during a meeting, if he/she deems it necessary for the maintenance of order, direct an officer to remove or cause the removal of any person, excluding a member, from the Council Chamber or order that the public gallery be vacated.
- 35.2 All persons attending any meeting of the Council shall be attired in accordance with the Council's policy.
- 35.3 The Speaker may request or order the removal of any person who refuses to carry out any instruction given in terms of subsection 35.1 or who willfully obstructs the carrying out of such instruction or otherwise contravenes the provisions of subsection 35.1 or 35.2.

**36. COUNCIL IN COMMITTEE**

- 36.1 Notwithstanding anything to the contrary in these Standing Orders, a member may –
- a) at anytime after an item on the agenda has been called or during consideration thereof, move that the Council resolves itself into Committee in terms of Section 20 (1) (a) and (b) of the Municipal Systems Act 32 of 2000 for the further consideration of that item; or
  - b) if the Council is in Committee as contemplated in subsection 36.1 (a), move that for the further consideration of the item under debate, the Council resolve to consider the matter in open Council: Providing that the Executive Mayor or Mayoral Committee contemplated in Section 11.1, may at any time move that Council resolve itself into Committee for consideration of one or more items on the agenda.
- 36.2 All persons attending any meeting of the Council shall be attired in accordance with the Council's policy.
- 36.3 Notwithstanding anything to the contrary in these by-laws contained, only the member moving a motion in terms of subsection 36.1 may speak on such motion for period not exceeding five minutes and shall restrict his/her speech to the reasons why the Council should resolve itself into Committee or discuss the matter in open Council, as the case may be: Provided that if a motion is moved in terms of subsection 36.1, the member concerned may speak for a period not exceeding five minutes on each item in respect of which such proposal is made.
- 36.4 The Speaker may, if in his/her opinion information is disclose or is about to be disclosed in the course of a Speech which may be prejudicial to the Council of the inhabitants on the municipality, direct the member concerned to forthwith discontinue his/her speech.
- 36.5 If the Council is in Committee, the provisions of these Standing Orders, except in so far as they are in conflict with this section, shall apply.
- 36.6 if the Council adopt a resolution in terms of subsection 36.1, the further debate on the item in question, whether in or of Committee, shall for all purposes be deemed to be a continuation of the preceding debate on that item.
- 36.7 If a proposal in terms of the provision of subsection 36.1 is carried, the Speaker shall determine when items concerned shall be considered and all such items shall be considered consecutively,
- 36.8 At the conclusion of the consideration of items in Committee, the Council shall revert to the consideration of further items in open Council.
- 36.9 When the Council resolves itself in Committee, all members of the public and Council officials except the Municipal manager, and such other officials as the Speaker may

require to remain, shall leave the Council Chamber and shall not to the Council Chamber for the duration of the proceeding in Committee.

- 36.10 The Speaker may direct an official to eject or cause to be ejected any person who remains in the Council Chamber in contravention of subsection 36.9, or take steps to prevent the entry of any person into such Chamber in contravention of that subsection.

**37. REPORT TO EXECUTIVE MAYOR**

- 37.1 A report of a Portfolio/Head of Department shall be submitted to the Municipal Manager who shall in turn submit it to the Executive Mayor or Mayoral Committee: Provided that the Municipal Manager shall submit a report when this is required by the Council or Executive Mayor or Mayoral Committee or has any report, which he/she submits.
- 37.2 The Municipal Manager refers a report not yet considered by the Portfolio Head back for amendment or any additional thereto and may, if he/she deems it necessary, comment or make a recommendation in respect of any report, which he/she submits.
- 37.3 The Executive Mayor or Mayoral Committee or the Mayoral Committee members must reflect the report and recommendations of a Committee of the Council established in terms of Section 79 and 80 of the Act when reporting thereon, but also submit any counter proposals to the Council.

**38. NOTICE OF EXECUTIVE MAYOR/MAYORAL COMMITTEE MEETINGS**

- 38.1 An ordinary meeting of the Executive Mayor's or Mayoral Committee shall be convened by way of a written notice signed by the Municipal Manager and such notice shall contain a business to be dealt with.
- 38.2 The notice contemplated in subsection 38.1 shall be delivered to every member or that Committee personally or left at his/her Council or business or residential address not later than 24 hours before the commencement of an ordinary meeting, and should the notice accidentally not be so delivered or left, the validity of the meeting shall not be affected thereby.
- 38.3 The Executive Mayor shall determine the dates and times of the Mayoral Committee.
- 38.4 No meeting of the Mayoral Committee shall be held during a meeting of the Council without the Council's consent.
- 38.5 No meeting of the Committees of Council shall be held during meetings of the Mayoral Committee with the Executive Mayor consent.

**39. ATTENDANCE REGISTER FOR MAYORAL COMMITTEE MEETINGS**



39.1 The Municipal Manager shall keep an attendance register in which every member of the Mayoral Committee shall sign his/her name and the Speaker shall have power to check the register.

39.2 Whenever a member who is not a member of the Mayoral Committee attends a meeting of the Committee, he/she shall enter his/her name in the attendance register in a separate column provided for that purpose.

**40. NO QUORUM AT MAYORAL COMMITTEE MEETINGS**

40.1 If, after the expiry of 20 minutes after the time at which a meeting of the Mayoral Committee is due commence there is no quorum, the meeting shall be held on a day and at an hour determined by the members present.

**41. PARTICIPATION IN DISCUSSION AT MAYORAL/COUNCIL COMMITTEE MEETINGS**

41.1 Any person requested or permitted by the Mayoral Committee to attend a meeting of that Committee may, with the permission of the Executive Mayor, speak at such meeting.

**42. APPROVAL OF MINUTES OF THE MAYORAL COMMITTEE MEETINGS**

42.1 If a copy of the minutes of the Mayoral Committee meeting has been made available to every member as provided in Section 22 of the Ordinance or any other relevant legislation the minutes shall be taken as read with a view to confirmation. The minutes are approved with or without amendment and signed by the Executive Mayor on the last page thereof and every amendment and other pages shall be initialled by him/her.

42.2 The minutes of a meeting of the Executive Committee may, owing to pressure of work, be held over for confirmation at any subsequent meeting.

43.3 No proposal or discussion shall be allowed upon the minutes, except as to their accuracy.

**43. Voting A Meeting Of The Mayoral Committee And Council Meetings**

43.1 The Executive Mayor shall decide on whether to allow the members of the Mayoral Committee to vote, which shall be done by show of hands, if applicable.

43.2 A member of the Mayoral Committee may request that his/her vote against a resolution be recorded.

**44. RULING OF EXECUTIVE MAYOR ON PROCEDURE**

44.1 Subject to the provisions of subsection 2, ruling by the Executive Mayor as to procedure of the Mayoral Committee meeting shall be final.

**45. COMMITTEES OF COUNCIL**

- 45.1 Proceedings at meetings of Committees of the Council established in terms of Municipal Systems Act 32 of 2000 (as amended), other than described herein, shall be conducted substantively in accordance with the provisions of these Standing Orders *mutatis mutandis*.
- 45.2 Access to and availability of information concerning matters dealt with by the committees of the Council shall be upheld in terms of the provisions of the Promotion of Access to information Act (No. 2 of 2000).
- 45.3 Any Committee of the Council established in terms of Section 79 and 80 of the Act may require a head of department, or person acting in his/her stead, as well as the member of the Mayoral Committee entrusted with the portfolio relevant to the specific function of such Committee in order to participate in the deliberation of any matter before it or to respond to questions in connection therewith. Such head of department or member referred to above must attend such meeting.
- 45.4 A member of a Committee of Council wishing to resign there from, shall tender his/her resignation in writing to the Speaker or Mayoral Committee or Executive Mayor and thereafter such resignation may not be withdrawn.
- 45.5 The Speaker shall report to the Council every vacancy arising in a Committee of the Council, and the Executive Mayor or Mayoral Committee may fill such vacancy in the manner he/she deems appropriate.

**46. EXCLUSION OF MEMBERS PUBLISHING OR DISCLOSING DOCUMENTS**

- 46.1 Any member who publishes or discloses or causes to be published or disclose any document of record of the Council or the proceedings of any Committee of the Council relating to any purchase of expropriation of land of other property by the Council or any legal arbitration proceeding in which the Council is concerned, or the agenda or minutes or document or records, or any part thereof, of Council, or any matter the publication or disclosure of which would or might be prejudicial to the interests of the Council, or in circumstances contemplated in Section 160 (7) of the Constitution, shall be guilty of an offence.

**47. DECLARATION OF PECUNIARY INTEREST**

- 47.1 A member wishing to declare a pecuniary interest in terms of the applicable legislation, shall do so forthwith after the item or motion in respect of which such interest exists, has been called.
- 47.2 No member shall speak for than five minutes on the question of whether his/her pecuniary interest as contemplated in subsection 47.1, is so small or remote as to render a clash of interest unlikely, unless the Speaker allows his/her speech for a further five minutes.
- 47.3 The speech contemplated in subsection 47.2 shall not for the purposes of Section 26 be regarded as a speech on the item or motion under debate.

**48. RETURN OF ATTENDANCE OF MEETING**

- 48.1 The Speaker shall prepare annually and include in the agenda of the relevant last meeting of each year, a return showing the attendance of each member at meetings of the Council and Committees.

**49. PENALTY CLAUSE**

- 49.1 Any person who contravenes or fails comply with any provision in these Standing Orders contained shall be guilty of an offence and liable, on conviction, to a fine not exceeding R2 000.00 or, in default of payment, to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

**50. CELLPHONES**

- 50.1 All cellphones must be switched off when Council is in session. In the event that a cellphone rings, a Councillor responsible shall be liable to a fine of R50.00 which shall be deducted from his or her salary at the end of the month.

**51. LATE ARRIVAL**

- 51.1 If a Councillor arrive twenty minutes late at the Council meeting, he or she shall be liable for a fine of R50.00 which shall be deducted from his or her salary at the end of the month.

**52. REPEAL OF STANDARD ORDERS**

- 52.1 The Standing Orders utilised by disestablished the Local Municipalities within its jurisdiction are hereby repealed.

## **ANNEXURE A**

### **CODE OF CONDUCT FOR COUNCILLORS**

**Preamble** – Councillors are elected to represent local communities on municipal Councils, to ensure that municipalities have structured mechanisms of accountability to local municipalities and to meet the priority needs of communities by providing service equitably, effectively and sustainably within the means of the municipality, in fulfilling this role Councillors must be accountable to local communities and report back at least quarterly to constituencies on Council matter, including the performance of the municipality in terms of established indicator, in order to ensure that Councillors fulfil their obligations to their communities, and support the achievement by the municipality of its objectives, set out in Section 19 of the Municipal Structures Act, the following Code of Conduct is established.

1. **Definition** – In this “partner” means a person who permanently lives with another person in a manner as if married.
2. **General conduct of Councillors** – A Councillor must-
  - a) Perform the functions of office in good faith, honestly and a transparent manner; and
  - b) at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.
3. **Attendance at meeting** – A Councillor must attend each meeting of the municipal Council and of a committee of which that Councillor is a member, except when –
  - a) Leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the Council; or
  - b) That Councillors is required in terms of this Code to withdraw from the meeting.
4. **Sanctions for non-attendance of meetings**
  - (1) A municipal Council may impose a fine as determined by the standing rules and orders of the municipal Council on a Council for:
    - a) Not attending a meeting which that Councillor is required to attend in terms of item 3; or
    - b) Failing to remain in attendance at such a meeting.

- (2) A Councillor who is absent from three or more consecutive meetings of a municipal Council, or from three or more consecutive meetings of a committee, which that Councillor is required to attend in terms of 3, must be removed from office as Councillor.
- (3) Proceedings for the imposition of a fine or the removal of a Councillor must be conducted in accordance with a uniform standing procedure which each municipal Council must adopt for the purposes of this item. The uniform standing procedure must comply with the rules of natural justice.

## **5. DISCLOSURE OF INTERESTS –**

- (1) A Councillor must –
  - a) Disclosure to the municipal Council, or to any Committee of which that Councillor is a member of which that Councillor is a member, any direct or indirect personal or private business interest that Councillor, or any spouse, partner or business associate of that Councillor may have in any matter before the Council or the committee; and
  - b) Withdraw from the proceedings of the Council or committee when that matter is considered by Council or committee, unless the Council or committee decides that the Councillor's direct or indirect interest in the manner is trivial or irrelevant.
- (2) A Councillor who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from contract concluded with the municipality, must disclose full particular of the benefit of which the Councillor is aware at the first meeting of the municipal Council at which it is possible for the Councillor to make disclosure.
- (3) This section does not apply to an interest or benefit which a Councillor, or a spouse, partner, business associated or close family member, has or acquires in common with other residents of the municipality.

## **6. Personal gain –**

- (1) A Council may not use the position or privileges of a Councillor, or confidential information obtained as a Councillor, for private gain or to improperly benefit another person.
- (2) Except with the prior consent of the municipal Council, a Councillor may not-
  - a) Be a party to or beneficiary under contract for –
    - (i) The provision of goods or services to the municipality; or

- (ii) The performance of any work otherwise than as a Councillor for the municipality.
  - b) Obtain a financial interest in any business of the municipality; or
  - c) For a fee or other consideration appear on behalf of any person before the Council or committee.
- (3) If more than one quarter of the Councillors object to consent being given to a Councillor in terms of sub item (2), such consent may only be given to the Councillor with the approval of the Member of the Executive Council (MEC) for Local Government in the Province.

**7. Declaration of interest –**

- (1) When elected or appointed, a Councillor must within 60 days declare in writing to the Municipal Manager the following financial interests held by that Councillor:
- a) Shares and securities in any company;
  - b) Membership of any close cooperation;
  - c) Interest in any trust;
  - d) Directorship;
  - e) Partnership;
  - f) Other financial interests in any business undertaking;
  - g) Employment and remuneration;
  - h) Interest in property;
  - i) Pension; and
  - j) Subsidies, grants and sponsorship by any organisation.
- (2) Any change in the nature or detail of the financial interests of the Councillor must be declared in writing to the Municipal Manager annually.
- (3) Gifts received by a Councillor above a prescribed amount must also be declared in accordance to sub-item (1).
- (4) The municipal Councillor must determine which of the financial interests in sub-item (1) must be made public having regard to the need for confidentiality and the public interest for disclosure.
- 8. Full-time Councillor –** A time Councillor who is full-time Councillor may not undertake any other paid work except with the consent of a municipal Council which consent shall not unreasonably be withheld.
- 9. Rewards, gift and favours –** A Councillor may not request, solicit or accepted my reward, gift or favour for -

- a) Voting or not voting in particular manner or any matter before a committee of which that Councillor is a member;
- b) Persuading the Council or any committee in regard to the exercise of any power, function or duty;
- c) Making a representation to the Council or any committee of the Council; or
- d) Disclosing privileged or confidential information.

**10. Unauthorised disclosure information –**

- (1) A Councillor may not without the permission of the municipal Council or a committee disclose any privileged or confidential information of the Council or committee to any unauthorised person.
- (2) For the purpose of this item privileged or confidential includes any information –
  - a) Determined by the municipal Council or committee to be privileged or confidential.
  - b) Discussed in close session by the Council or committee.
  - c) Disclosure of which would violate a person's right to privacy; or
  - d) Disclosure to be privileged, confidential or secret in terms of the law.
- (3) This item does not derogate from the right of any person to access to information in terms of national legislation.

**11. Intervention in administration – A Councillor may not, except as provided by law –**

- a) Interfere in the management or administration of any department of the municipal Council unless mandated by Council.
- b) Give or purport to give any instruction to any employee of the Council except when authorised to do so,
- c) Obstruct or attempt to obstruct the implementation of any decision of the Council or a committee by an employee of the Council; or
- d) Encourage or participate in any conduct which would cause or contribute to maladministration in the Council.

**12. Council property – A Councilor may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the municipality to which that Councilor has no right.**

**13. Duty of chairpersons of municipal Councils –**

- (1) If the chairperson of a municipal Council, on reasonable suspicion, is of the opinion that a provision of this Code has been breached, the chairperson must –
  - a) Authorise an investigation of the facts and circumstances of the alleged breach; and
  - b) Give the Councillor a reasonable opportunity to reply in writing regarding the alleged breach; and
  - c) Report the matter to a meeting of the municipal Council after paragraph (a) and (b) have been complied with.
- (2) A report in terms of sub-item (10 (c) is open to the public.
- (3) The chairperson must report the outcome of the investigation to the Member of the Executive Council (MEC) for Local Government in the Province concerned.
- (4) The chairperson must ensure that each Councillor when taking office is given a copy of this Code is available in every room or place where the Councillor meets.

**14. Breaches of Code –**

- (1) A municipal Council may-
  - a) Investigate and make a finding on any alleged breach of a provision of this Code; or
  - b) Establish a special committee –
    - (i) To investigate and make a finding on any alleged breach of this Code; and
    - (ii) To make appropriate recommendations to the Council.
- (2) If the Council or a special committee finds that a Councillor has breached a provision of this code, the Council may –
  - a) Issue a formal warning to the Councillors;
  - b) Reprimand the Councillor;
  - c) Request the Member of the Executive Council (MEC) for Local Government in the Province to suspend the Councillor for a period;



- d) Fine the Councillor; and
  - e) Request the Member of the Executive Council (MEC) to remove the Councillor from office.
- (3) Any Councillor who has been warned, reprimanded or fined in terms of paragraph (a), (b) or (d) of sub-section (2) may within 14 days of having been notified of the decision of Council appeal to the Member of the Executive Council (MEC) for Local Government in writing.
- a) A copy of the appeal must be provided to the Council.
  - b) The Council may within 14 days of receipt of the appeal referred to in paragraph (b) make any representation pertaining to the appeal to the Member of the Executive Council (MEC) for Local Government in writing.
  - c) The Member of the Executive Council (MEC) for Local Government, after having considered the appeal, confirm, set aside or vary the decision of the Council and inform the Councillor and Council of the outcome of the appeal.
- (4) The Member of the Executive Council (MEC) for Local Government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation on whether the Councillor should be suspended or removed from office.
- (5) The Commission Act, 1947 (Act No. 8 of 1947), may be applied to an investigation in terms of sub-section (3).
- (6) If the Member of the Executive Council (MEC) for Local Government is of the opinion that the Councillor has breached a provision of this Code, and that such Contravention warrants a suspension or removal from office, the Member of the Executive Council (MEC) may –
- a) Suspend the Councillor for a period and on conditions determined by the Member of the Executive Council (MEC) or
- (7) Any investigation in terms of this item must be in accordance with the rules of natural justice.

**15. Application of Code to traditional leaders –**

- (1) Items 1,2,5,9, (b) to (d), 10,11,12,13 and 14 (1) apply to a traditional leader who participate or has participated in the proceedings of a municipal Council in terms of Section 81 of the Municipal Systems Act.

- (2) These items must be applied to the traditional leader in the same way they apply to Councillors.
- (3) If a municipal Council or a special committee in terms of item 14 (1) finds that a traditional leader has breached a provision of this Code, the Council may-
  - a) Issue a formal warning to the traditional leader; or
  - b) Request the Member of the Executive Council (MEC) for Local Government in the province to suspend or cancel the traditional leader's right to participate in the proceedings of the Council.
- (4) The Member of the Executive Council (MEC) for Local Government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation on whether the right of the traditional leader to participate in the proceedings of the municipal Council should be suspended or cancelled.
- (5) The Commission Act, 1947, may be applied to an investigation in terms of sub-section (4).
- (6) If the Member of the Executive Council (MEC) is of the opinion that the traditional leader has breached a provision of this Code, and that such breach warrants a suspension of the traditional leader's right to participate in Council's proceedings, the Member of the Executive Council (MEC) may –
  - a) Suspend that right for a period and on conditions determined by the Member of the Executive Council (MEC); or
  - b) Cancel that right.
- (7) Any investigation in terms of this item must be in accordance with the rules of natural justice.
- (8) The suspension or cancellation of a traditional leader's right to participate in the proceedings of a Council does not affect that traditional leader's right to address the Council in terms of Section 81 (3) of the Municipal Structure Act.

## PROVINCIAL NOTICE 70 OF 2018

**MPUMALANGA DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS****PUBLICATION OF MUNICIPAL BY-LAWS FOR LOCAL MUNICIPALITIES IN TERMS OF  
THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT (ACT NO. 32 OF 2000)**

I, Speed Katishi Mashilo, in my capacity as Member of the Executive Council responsible for Co-operative Governance and Traditional Affairs, in the Mpumalanga Province, hereby publish municipal by-laws for Mkhondo, Chief Albert Luthuli, Lekwa and Emalahleni local municipalities, in terms of Section 13 (a) and (b) of the Local Government: Municipal Systems Act (Act No. 32 of 2000)

The municipal by-laws are concerning the following matters per local municipality, namely:

**Lekwa Local Municipality**

1. Electricity Supply
2. Advertising Signs
3. Encroachment on Municipal Properties
4. Public Participation
5. Street Trading
6. Contaminated Waste
7. Cemetery
8. Taxi
9. Informal Settlements
10. Open Space

**Chief Albert Luthuli Local Municipality**

1. Standing Rules and Orders
2. Electricity Supply
3. Fire Brigade Services
4. Sanitation
5. Waste Management
6. Water Supply

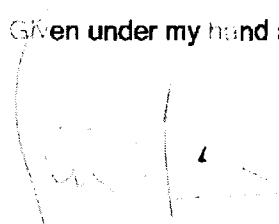
**Emalahleni Local Municipality**

1. Property Rates

**Mkhondo Local Municipality**

1. Credit Control and Debt Collection
2. Control of Outdoor Advertising
3. Encroachment on Municipal Properties

Given under my hand at Mbombela, on 03/04 2018



MR SK MASHILO (MPL)

MEC: DEPARTMENT OF CO-OPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS

# LEKWA LOCAL MUNICIPALITY



## DRAFT MUNICIPAL TAXI RANKS BY-LAW

The Council of Lekwa Local Municipality has in terms of section 156 of the Constitution, 1996, read in conjunction with Section 11 and 98 of the Local Government: Municipal Systems Act, 2000, (Act No. 32 of 2000, as amended), made the following By-law:

### MUNICIPAL TAXI RANKS BY-LAW

## TABLE OF CONTENTS

1. Definitions
2. Establishment and maintenance of taxi ranks
3. Parking permitg discs
4. Application for parking permits
5. Presumption of driver
6. Seizure and impoundment of taxis
7. Delegation
8. Offences and Penalties
9. Repeal
10. Short title

### 1. DEFINITIONS

For the purposes of this By-law, unless the context otherwise indicates –

**“Bus”** means a bus as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

<b>"Chief of Traffic"</b>	means the municipal traffic officer appointed by the Municipality as head of the component of the Municipality responsible for the administration of road traffic matters;
<b>"Financial year"</b>	means a year starting on the first day of July of any year and ending on the last day of June of the following year;
<b>"Motor vehicle"</b>	means a motor vehicle as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996);
<b>"Municipality"</b>	means the Lekwa Local Municipality;
<b>"Municipal Council"</b>	means the Council of the Municipality as referred to in section 157 of the Constitution No.108 of 1996:
<b>"Municipal Manager"</b>	<p>means the person appointed by the municipal council as the Municipal Manager of the Municipality in terms of section 54A of the Local Government: Municipal Systems Act, 32 of 2000 and includes any person –</p> <p>a) acting in such a position;</p> <p>b) to whom the municipal manager has delegated the power, function or duty in respect of such delegated power, function or duty;</p>
<b>"Municipal taxi rank"</b>	means an area demarcated in terms of section 2(2) to be used by taxis displaying valid parking permit discs to park and load and off-load passengers and shall include the waiting area of such taxi rank;
<b>"Municipal traffic officer"</b>	means a traffic officer appointed by the Municipality in terms of the provisions of the National Road Traffic Act, 1996 (Act No. 93 of 1996), or an Act repealed by that Act, as the case may be;
<b>"Parking permit disc"</b>	means a disc issued in terms of section 4 to be displayed by a taxi making use of a municipal taxi rank;
<b>"Taxi"</b>	means any motor vehicle, except a bus, used for the conveyance of passengers and luggage, for hire or reward; and
<b>"This By-law"</b>	shall include the rules to be observed at Municipal taxi ranks as contemplated in section 2.

## 2. MUNICIPALITY MAY ESTABLISH, MAINTAIN AND MANAGE MUNICIPAL TAXI RANKS

- (1) The Municipality may, within its area of jurisdiction, establish, maintain and manage municipal taxi ranks.
- (2) A municipal taxi rank must be demarcated by notice in the Provincial Gazette.
- (3) At the entrance of each municipal taxi rank, as well as at the entrance of its waiting area, a signboard must be displayed setting out the rules to be observed at that rank or area, respectively, by –
  - (a) taxi drivers;
  - (b) taxi owners; or
  - (c) members of the public,who enters into, parks at or makes use of taxi services at that rank or area.
- (4) Rules contemplated in subsection (3) must be adopted by the Municipality and promulgated in the Provincial Gazette.

### **3. TAXIS TO DISPLAY PARKING PERMIT DISCS WHEN BEING DRIVEN INTO OR PARKED AT MUNICIPAL TAXI RANKS.**

- (1) No taxi shall be driven into or parked at a municipal taxi rank without displaying a valid parking permit disc attached in the manner set out in subsection (2).
- (2) The parking permit disc referred to in subsection (1), shall be displayed on the left side of the front windscreen of the taxi, in such a manner that the face thereof may be clearly visible to, and the inscriptions thereon easily legible by a person standing in front of or to the left front of the taxi.
- (3) A parking permit disc shall –
  - (a) be of the design and contain the particulars set out in the Schedule; and
  - (b) Be of a colour or made up of a combination of colours determined by the Municipality for the financial year concerned.

### **4. APPLICATION FOR, ISSUE AND DURATION OF A PARKING PERMIT DISC**

- (1) The owner of a taxi, desirous to make use of the municipal taxi ranks, must apply to the Municipality in writing for the issue of a parking permit disc for each taxi to make use of any such rank.
- (2) An application for the issue of a parking permit disc must –
  - (a) be in the form determined by the Municipality;
  - (b) be directed to the Municipal Manager;
  - (c) be accompanied by the fees determined by the Municipality;
  - (d) in respect of the next ensuing financial year, be made no later than the last day of April of each year.



- (3) On receipt of the application, the Municipal Manager must consider the application and, no later than the last day of May of the year concerned –
- (a) issue the parking permit disc to the applicant; or
  - (b) in writing, notify the applicant that the application was not successful, stating the reasons for his or her decision.
- (4) If an application was turned down by the Municipal Manager –
- (a) because of a shortcoming in the application that can be rectified by the applicant, the applicant may rectify the shortcoming and, without the payment of any further fee, submit the application again;
  - (b) for any other reason, a new application for the same period may not be brought for the same taxi, but the applicant may appeal against the decision of the Municipal Manager, in which case the provisions of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), shall mutatis mutandis apply.
- (5) In the case where application for the issue of a parking permit disc is made during a financial year for the remainder of that financial year, the Municipal Manager shall process and finalize the application within a reasonable time.
- (6) The owner of a taxi making use of a municipal taxi rank must –
- (a) at all times keep written record of the identity of the driver of such taxi at any specific time, if he or she is not the driver of the taxi concerned;
  - (c) keep such records for at least one year after the end of the financial year in which it was made; and
  - (d) on request by a municipal traffic officer, make the records available for inspection by the Municipality.
- (7) A parking permit disc shall lapse at the end of each financial year.

## **5. PRESUMPTION THAT OWNER DROVE OR PARKED TAXI**

- (1) Notwithstanding the provisions of section 4(6), the provisions of section 73 of the National Road Traffic Act, 1996 (Act No. 93 of 1996), shall, mutatis mutandis apply to a taxi making use of a municipal taxi rank.

## **6. SEIZURE AND IMPOUNDMENT OF TAXIS AT MUNICIPAL TAXI RANKS**

- (1) Over and above any prosecution in terms of this By-law, a municipal traffic officer may seize and impound a taxi at a municipal taxi rank for a period of 7 days –
- (a) If the taxi is driven into or parked at that taxi rank without displaying a valid parking permit disc in the manner set out in section 3(2);

- (b) if the taxi is parked and left unattended in contravention of any rule to be observed at that taxi rank by the owner or driver of a taxi making use of the taxi rank; or
  - (c) if an owner or driver of a taxi contravenes any rule to be observed at that taxi rank and after a direction by a municipal traffic officer to terminate such contravention, persists in his or her actions.
- (2) A taxi impounded by the Municipality in terms of subsection (1), must be returned to its owner on payment of the impoundment fees determined by the Municipality in respect of municipal taxi ranks, if the taxi is to be released before the 7-day period has expired.
- (3) No person may hinder, impede or obstruct a municipal traffic officer in the execution of his or her duties in accordance with subsection (1).

#### **7. DELEGATION**

- (1) The Municipal Manager may, in writing, delegate the powers and functions vested in him or her by section 4, to the Chief: Traffic Services.

#### **8. OFFENCES AND PENALTIES**

- (1) Any person contravening or failing to comply with any provision of this by-law shall be guilty of an offence and shall on conviction thereof be liable to a fine not exceeding R 5 000.00 (five thousand) or imprisonment for a period not exceeding 6 (six) months.

#### **9. REPEAL**

- (1) The By-laws relating to the Municipal Taxi Rank By-law for the Lekwa Local Municipality or its successor in title, are hereby repealed and replaced by this By-laws, which are to become effective on promulgation hereof.

#### **10. SHORT TITLE**

- (1) This By-law shall be called the Municipal Taxi Ranks By-law 2015.

**SCHEDULE**

(Section 3(3) (a))

1. A parking permit disc shall be circular in form, with a diameter of 75 millimeter.

2. The words "**PARKING PERMIT**"

shall be printed on the disc and provision shall be made on the disc for inscriptions indicating –

(a) the name of the owner of the taxi;

(b) the registration number of the taxi;

(c) the financial year in respect whereof the permit was issued; and

(d) the number of the permit

**PROVINCIAL NOTICE 71 OF 2018****MPUMALANGA DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS****PUBLICATION OF MUNICIPAL BY-LAWS FOR LOCAL MUNICIPALITIES IN TERMS OF  
THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT (ACT NO. 32 OF 2000)**

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**Lekwa Local Municipality**

1. Electricity Supply
2. Advertising Signs
3. Encroachment on Municipal Properties
4. Public Participation
5. Street Trading
6. Contaminated Waste
7. Cemetery
8. Taxi
9. Informal Settlements
10. Open Space

**Chief Albert Luthuli Local Municipality**

1. Standing Rules and Orders
2. Electricity Supply
3. Fire Brigade Services
4. Sanitation
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6. Water Supply

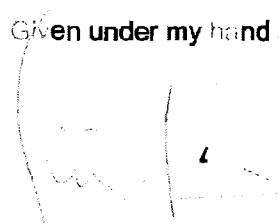
**Emalahleni Local Municipality**

1. Property Rates

**Mkhondo Local Municipality**

1. Credit Control and Debt Collection
2. Control of Outdoor Advertising
3. Encroachment on Municipal Properties

Given under my hand at Mbombela, on 03/04 2018



**MR SK MASHILO (MPL)**

**MEC: DEPARTMENT OF CO-OPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS**

# LEKWA LOCAL MUNICIPALITY



## DRAFT ADVERTISING SIGNS BY-LAW

The Council of Lekwa Local Municipality has in terms of section 156 of the Constitution, 1996, read in conjunction with Section 11 and 98 of the Local Government: Municipal Systems Act, 2000, (Act No. 32 of 2000, as amended), made the following Bylaw:

### **ADVERTISING SIGNS BY-LAW**

#### **TABLE OF CONTENTS**

1. Definitions
2. Approval of advertisements and signs
3. Exempt advertisement and signs
4. Application, assessment and appeal procedure
5. Withdrawal or amendment of approval
6. Structural requirements
7. Electrical requirements
8. Maintenance of signs
9. Offences and removal of signs
10. Prohibitions
11. Discretionary powers
12. Signs on Council property and temporary advertisements
13. Presumptions
14. Savings in respect of existing signs
15. Offences and Penalties
16. Areas of control
17. Application
18. Repeal
19. Short title

## 1. **DEFINITIONS**

- (1) For the purpose of this By-law, the following words and expressions shall have the meanings respectively assigned to them hereunder, unless such meanings are repugnant to or inconsistent with the context in which they occur:

<b>“advertisement”</b>	means any representation of a word, name, letter, figure or object or an abbreviation of a word or name, or any sign or symbol, or any light which is not intended solely for illumination or as a warning against any danger, which has its object the furthering of any industry, trade, business undertaking, event, or activity of whatever nature and which is visible from any street or public place;
<b>“advertising signage structure”</b>	means any physical structure built to display advertising;
<b>“advertising vehicle”</b>	means a vehicle which has been constructed or adapted for use primarily for the display of advertisements;
<b>“aerial advertisement”</b>	means any advertisement displayed in the air by the use of a balloon, kite, inflatable object, aircraft or any other means;
<b>“affix”</b>	includes to paint onto and <b>“affixed”</b> shall have a corresponding meaning;
<b>“animated advertisement”</b>	means an electric advertisement that contains variable messages in which representation is made by the appearance of movement through an electric light source or beam;
<b>“applicant”</b>	means the person/s by whom an application for permission to erect a sign or display an advertisement is made, which application shall be endorsed by the owner of the premises upon which such advertisement or sign is to be located;
<b>“application”</b>	in relation to advertising sign/s may include all proposed advertising signs per business per site;
<b>“appropriate”</b>	means that the dimensions, installation, materials, place and/or supports are, in the opinion of the Council, suitable for, and appropriate in, all circumstances of the case;
<b>“approval”</b>	means approval by the Council or its delegated officials;



<b>“banner sign”</b>	is a temporary or permanent sign painted or embossed on flexible material suspended by ropes or other means;
<b>“bill-sticking”</b>	means an advertisement or poster pasted directly onto an existing surface which is not intended specifically for the display of a poster or advertisement;
<b>“building”</b>	means any structure whatsoever with or without walls, having a roof or canopy and a normal means of ingress and egress thereunder, covering any area in excess of 5m <sup>2</sup> and having an internal height of more than 1,7m;
<b>“canopy”</b>	means a rigid roof-like projection from the wall of a building;
<b>“cantilever”</b>	means a projecting feature that is dependant for its support on the main structure of a building without independent vertical or other supports;
<b>“change of face”</b>	means an alteration to the content of the advertisement displayed on an approved signage structure;
<b>“clear height”</b>	in relation to a sign means the vertical distance between the lowest edge of the sign and the level of the ground, footway or roadway immediately below the sign;
<b>“cluster sign”</b>	means a number of signs, all of the same size, erected symmetrically on one or more standards or pylons;
<b>“combustible”</b>	means will burn or ignite at or below a temperature of 750°C when tested for combustibility in accordance with British Standard 476: 1932: Definitions of fire-resistance, incombustibility and non-inflammability of building materials and structures (including methods of test);
<b>“Council property”</b>	includes all property, whether movable or immovable, which is owned by, vests in or is under the control of the Council;
<b>“curtilage”</b>	is the whole of the area of land within the boundaries of the subdivision/s forming the site of any building;
<b>“depth of a sign”</b>	means the vertical distance between the uppermost and lowest edges of the sign;
<b>“deemed to comply”</b>	means that if an advertising signage structure meets certain specified criteria it may be deemed to satisfy the requirements of the Council for consent purposes;
<b>“designated areas”</b>	are areas of maximum, partial or minimum control that have been specifically designated in the policy for the display of various types of advertising signs;
<b>“display”</b>	means the display or erection of an advertising sign or structure;

<b>“electronic sign”</b>	means a sign that has an electronically controlled, illuminated display surface which allows the advertisement to be changed, animated or illuminated in various ways;
<b>“election advertisement”</b>	means an advertisement used in connection with any national, provincial or municipal election, by-election or referendum;
<b>“environmental impact assessment”</b>	in relation to outdoor advertising means an assessment of the impact that an advertising sign or structure may have on the environment;
<b>“estate agents’ board”</b>	means an advertisement that is temporarily displayed to advertise the fact that land, premises, development or other forms of fixed property are for sale or to let;
<b>“flag”</b>	means a piece of cloth (or similar material) upon which an advertisement is displayed which is attached to a single rope, pole or flagstaff projecting vertically in such a way that its contents are normally not readable in windless conditions. Flags exclude—
(a)	national flags that do not carry advertisement in addition to the design of the flag or flagstaff; and
(b)	flags carried as part of a procession;
<b>“flashing advertisement”</b>	means an electric advertisement which intermittently appears and disappears;
<b>“flat sign”</b>	means any wall sign, other than a projecting sign, which is directly attached to the face of an external wall of a building or on a wall external to and not part of a building;
<b>“gore”</b>	means the area immediately beyond the divergence of two roadways bounded by the edges of those roadways;
<b>“ground sign”</b>	is a self-supporting sign erected on the ground and which is not attached to a building or a wall;
<b>“illuminated advertisement”</b>	means an advertising signage structure which has been installed with electrical or other power for the purpose of illuminating the message of such sign;
<b>“lawfully displayed”</b>	means displayed within the public view in accordance with the By-laws applicable at the time of the erection of the sign;
<b>“main wall”</b>	means any external wall of a building but shall not include a parapet wall, balustrade or railing of a veranda or balcony;
<b>“mobile sign”</b>	means a sign mounted on a vehicle or trailer and used specifically for advertising purposes;

<b>"Municipality"</b>	means the Lekwa Local Municipality;
<b>"Municipal Council"</b>	means the Council of the Municipality as referred to in section 157 of the Constitution No.108 of 1996;
<b>"Municipal Manager"</b>	means the person appointed by the municipal council as the Municipal Manager of the Municipality in terms of section 54A of the Local Government: Municipal Systems Act, 32 of 2000 and includes any person – <ul style="list-style-type: none"> <li>a) acting in such a position;</li> <li>b) to whom the municipal manager has delegated the power, function or duty in respect of such delegated power, function or duty;</li> </ul>
<b>"non-profit body"</b>	is a body established to promote a social goal without the personal financial gain of any individual or profit-making commercial organisation involved;
<b>"occupier"</b>	includes any person in actual occupation of land or premises without regard to the title under which he/she occupies;
<b>"on-show sign"</b>	means a temporary sign erected to indicate that a property is on view for sale;
<b>"on site or directional"</b>	in relation to any advertisement, means that such advertisement conveys only the name and the nature of the industry, trade, business, undertaking or activity which is carried on within the building or premises on which the advertisement is displayed;
<b>"outdoor advertising"</b>	means any form of advertising as defined, visible from any street or public place and which takes place out of doors;
<b>"overall height"</b>	in relation to a sign, means the vertical distance between the uppermost edge of the sign and the level of the ground, pathway or roadway immediately below it;
<b>"portable board"</b>	is any self-supporting sign or any other collapsible structure which is not affixed to the ground and which is capable of being readily moved;
<b>"posters"</b>	are placards intended to be temporarily displayed in a street or public place as an announcement of a meeting, function or event relating to an election, activity or undertaking;
<b>"premises"</b>	means any building together with the land on which such building is situated;
<b>"projected sign"</b>	means any sign projected by a cinematograph or other apparatus, but does not include a sign projected onto the audience's side of a drive-in cinema screen during a performance;

<b>“projecting sign”</b>	means any wall sign which is affixed to a building and protrudes more than 300mm from the wall of such building;
<b>“public place”</b>	means any road, street, thoroughfare, bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden, park or enclosed space vested in the Council and to which the public has access;
<b>“remote or third party advertising”</b>	means that the content of such advertisement is unrelated to anything being undertaken on the premises on which such advertisement is displayed;
<b>“return wall”</b>	means any external wall of a building or any other wall, which faces any boundary other than a street façade.
<b>“road reserve”</b>	means the area contained within the statutory width of a road;
<b>“Road Traffic Act”</b>	means the National Road Traffic Act, 1996 (Act No. 93 of 1996) and the Regulations promulgated in terms of this Act, as amended from time to time;
<b>“road traffic sign”</b>	means any road traffic sign as defined in the Road Traffic Act, 1996;
<b>“roof sign”</b>	means a sign painted or affixed directly onto the roof covering of a building;
<b>“SAMOAC”</b>	means the South African Manual for Outdoor Advertising Council;
<b>“sandwich board”</b>	is a portable, double-sided, freestanding, vertically splayed sign standing on the ground or carried by a person or vehicle;
<b>“sign”</b>	means any physical structure or device intended for the display of an advertisement;
<b>“signalised traffic intersection”</b>	means an intersection controlled by traffic lights;
<b>“sky sign”</b>	means a sign that is placed or erected on or above the roof, parapet wall or eaves of a building;
<b>“specific consent”</b>	means the written approval of the Council which is required on submission of a formal application;
<b>“street furniture”</b>	means public facilities and structures which are not intended primarily for advertising and includes seating benches, planters, sidewalk litter bins, pole-mounted bins, bus shelters, sidewalk clocks and drinking fountains, but excludes road signs, traffic lights, street lights, or any other road-related structures;

- |                            |   |
|----------------------------|---|
| <b>“street name signs”</b> | means pole-mounted, double-sided, internally illuminated advertisements displayed in combination with street naming;  |
| <b>“street line”</b>       | means the boundary of a public street;  |
| <b>“temporary sign”</b>    | means a sign, not permanently fixed and not intended to remain fixed in one position, which is used to display an advertisement for a temporary period;   |
| <b>“tri-vision”</b>        | means a display which, through the use of a triangular louvre construction, permits the advertising of three different copy messages in a predetermined sequence;   |
| <b>“under-awning sign”</b> | means a sign suspended or attached to the soffit or a canopy or veranda;  |
| <b>“veranda”</b>           | is a roofed structure attached to or projecting from the façade of a building and supported along its free edge by columns or posts;  |
| <b>“visual zone”</b>       | means the road reserve of a road and any area that is visible from any spot on such road reserve, but does not include an area situated at a distance of more than 250m from the road reserve boundary of a freeway in an urban area; and |
| <b>“zone”</b>              | means the use of zone as defined in the Town Planning Schemes of Lekwa jurisdiction.  |
- (2) For the purpose of the application of the measurements, dimensions or areas specified in this By-law in relation to signs, the same shall be applied to the sign as a whole, inclusive of any space between letters, words, figures, symbols, pictures, drawings and the like appearing thereon, and also any space between the perimeter of the sign and the actual advertisement appearing thereon.
- (2) Words applying to any individual shall include persons, companies and corporations, and the masculine gender shall include females as well as males, and the singular number shall include the plural and *vice versa*.

## **2. APPROVAL FOR ADVERTISEMENTS AND SIGNS**

- (1) Subject to the provisions of this By-laws, no person shall erect or cause or allow to be erected, altered, displayed or maintained any advertisement or sign which is visible from any street or public place or on any Council property without first having obtained the written approval of the Council or its duly delegated officials.
- (2) Temporary or portable signs being posters or bills or the like temporarily displayed solely for or in connection with the particular occasion, function or event to which they relate, including directional signs to such an event, signs relating to an election or referendum held or conducted under the authority of any law, and signs carried through the streets, shall only be displayed with the prior written consent of the Director: Technical Services and subject to such conditions as he may impose. Such signs shall not exceed 0,5m<sup>2</sup> in area.

**3. EXEMPT ADVERTISEMENT AND SIGNS**

- (1) Subject to the provisions of this By-laws, advertisements or signs for which no approval is required are as follows:
- (a) Any advertisement or sign not exceeding 2m<sup>2</sup> which is required to be displayed in terms of any national, provincial or municipal legislation; i.e. company, close corporation, co-operative, licensed premises or professional offices, or any security sign limited to one per street frontage or premises.
  - (b) Any advertisement or sign over or near the main entrance to any premises in which a business is carried on and which bears only the name of the business.
  - (c) One advertisement or sign per street frontage indicating only the name and nature of an enterprise, practice, accommodation facility and place of residence as well as the name of the proprietor, partner or practitioner with a maximum area of 1,5m<sup>2</sup> per sign; or indicating the name and nature of institutions and other community facilities with a maximum area of 3m<sup>2</sup> per sign.
  - (d) Any non-illuminated advertisement displayed inside a building or on a display- or shop front window.
  - (e) Any advertisement not exceeding 4,5m<sup>2</sup>, displayed with the curtilage of the premises relating to the accommodation being offered to let or purchase in the building, limited to one advertisement per advertising agent per street frontage and not displayed for longer than 30 (thirty) days after the date of sale or lease.
  - (f) Project boards advertising only the builders and professional consultants involved in a project, not exceeding 18m<sup>2</sup> and with a maximum erected height of 6m, displayed within the curtilage of the premises whilst building work is in progress, limited to one per street frontage and to be removed within 30 (thirty) days of completion of the project.
  - (g) A national flag of any country except when, in the Council's opinion, more than one national flag is used to promote, advertise or identify an economic activity, in which case the provisions of these By-laws shall apply.
  - (h) Any change of face to any remote advertisement displayed or erected if approval has already been granted by the Council for the advertising signage structure.
  - (i) Aerial advertising by means of an aircraft: Provided that the necessary approval has been obtained from Civil Aviation, including any conditions and requirements as prescribed.
  - (j) Signs not exceeding 0,25m<sup>2</sup> in area affixed to the wall of a building or erected within the boundary line indicating that the property can be leased and by whom it is maintained.
  - (k) Signs relating to the immediate sale of newspapers and the like within a public street.
  - (l) Signs required to be displayed By-law.
  - (m) Signs which, on merit, are exempted by the Municipal Manager in consultation with the Planning and Building Plan Portfolio Committee.

**4. APPLICATION, ASSESSMENT AND APPEAL PROCEDURE**

- (1) Every person intending to display, erect, alter or maintain any advertisement or sign, for which the prior written permission of the Council is required, shall submit a written application to the Council on the prescribed form, together with the prescribed fee in accordance with the Schedule of advertising sign charges (Schedule A). The application shall be signed by the owner of the proposed advertising sign and by the registered owner of the land or building on which the advertising sign is to be erected or displayed or, on behalf of the owner of the land or building, by his/her agent authorised in writing by such owner and shall be accompanied by the following plans drawn in accordance with the following requirements:
  - (a) A locality plan drawn to scale showing the sign in relation to surrounding roads and structures within a 500m radius, where applicable.
  - (b) A site plan showing the position of the sign or advertisement on the premises, drawn to a minimum scale of 1:500 and giving all dimensions, showing the position of the sign in relation to the boundaries, other buildings, structures, services and features on the site and showing the streets and buildings on properties abutting the site.
  - (c) Detailed dimensioned drawings sufficient to enable the Council to consider the appearance of the sign or advertisement including materials, construction and illumination details.
  - (d) Detailed dimensioned drawings showing the full text and graphic details of the advertisement to a scale of minimum 1:20 where applicable.
  - (e) Detailed dimensioned elevations and sections to a scale of minimum 1:100 showing the position of the advertisement or sign in relation to the buildings, structures, features and other existing advertising signs on the site and in the surrounds.
  - (f) Coloured photographs to illustrate the position of the sign in relation to the buildings, structures, features and other existing advertising signs on the site and in the surrounds.
  - (g) Such other additional drawings, environmental impact assessments and/or photographs as are necessary, in the opinion of the Council, to explain the true nature and scope of the application.
- (2) In certain circumstances, the Council may use discretion to accept drawings that show only a portion of the plan or elevation of a building/s, or drawings to a smaller scale, or computer generated graphics drawn to scale to illustrate the proposal where certain drawings may be difficult to provide or even photographs where this is considered sufficient.
- (3) In addition, where required, the applicant shall submit additional structural and other drawings and certifications as required giving full details of the calculations, size and materials used in the supporting framework, its fixings, securing and anchorage as well as for the structure and its advertisement to ensure this sign's stability, fire and safety compliance with the provisions of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977) as well as the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993); as amended from time to time.
- (4) In addition, the applicant shall indemnify the Council against any consequences arising from the erection, display or mere presence of such advertising sign.

- (5) All signs to be erected or displayed must comply with the applicable Town Planning Scheme Regulations, as well as other relevant legislation, as amended from time to time.
- (6) In considering applications, in addition to any other relevant factors, the Council shall ensure that the design and display of all advertising signs conforms to the Council's policy and to SAMOAC's guidelines for control in terms of the general conditions and principles as set out in these documents, as amended from time to time.
- (7) The Council may refuse an application or grant its approval, subject to such conditions as it may deem expedient but not inconsistent with the provisions of these By-laws or the Council's policy on outdoor advertising.
- (8) An approval or refusal of an application by the Council shall be made in writing with reasons provided within 60 (sixty) days of a complete application having been submitted in terms of these By-laws.
- (9) On approval, a complete copy of the application as submitted shall be retained by the Council for record purposes.
- (10) Any advertisement or sign erected or displayed shall be in accordance with the approval granted and any condition or amended condition imposed by such approval; and the person who erects an approved sign shall notify the Council within 7 (seven) days of such sign or advertisement being erected.
- (11) The person/s to whom permission has been granted for the display of any advertisement or sign which extends beyond any boundaries of any street or public place shall enter into a written encroachment agreement with the Council, indemnify the Council in respect of the sign and be liable to the Council for the prescribed annual encroachment rental.
- (12) Approval of all advertising signs shall be at the pleasure of the Council and will endure for a period as may be determined by the Council either in relation to the advertising structure or to the advertising content or both, whereafter a new application for consideration must be submitted to the Council for approval in terms of these By-laws.
- (13) The applicant may appeal in writing against any refusal, lack of decision or condition imposed by the duly authorised official/s.
- (14) The appeal referred to in subsection (13) shall be lodged within 30 (thirty) days of the date of the notice and will be submitted, together with a report, to the relevant committee of the Council for consideration.

## **5. WITHDRAWAL OR AMENDMENT OF APPROVAL**

- (1) The Council may, at any time, withdraw an approval granted or amend any condition or impose a further condition in respect of such approval if, in the opinion of the Council, an advertising sign does not conform to the guidelines for the control of signage in terms of the Council's policy and/or SAMOAC, as amended from time to time, or for any other reason Council may deem fit.
- (2) The Council may, at any time, revoke its approval for the display of an encroaching sign and cancel the encroachment agreement referred to in section 4(11), giving notice in writing to the owner/applicant of such decision. The owner/applicant shall also advise the Council in writing giving details of any intent to transfer ownership of any encroaching sign.



- (3) An approved sign shall be erected within 6 (six) months from the date of approval whereafter such approval shall lapse unless written application for extension is made, which may only be granted for a maximum period of 2 (two) months.
- (4) Any application which has been referred back to the applicant for amendment shall be resubmitted within 2 (two) months of the date of the referral notice, failing which the application shall lapse.
- (5) Permission for an advertising sign is granted to the applicant only and shall lapse if he ceases to occupy the premises, provided that written approval may be granted by the Council to transfer this right to the new occupier of the premises if such approval is sought within 30 (thirty) days from the date of the new occupation.
- (6) An electronic or illuminated advertisement which, in the opinion of the Council, causes a disturbance to the occupants of any affected premises shall be altered in such a manner as prescribed by the Council in writing, or be removed by the applicant/occupier within such period as may be specified.
- (7) The permission granted in respect of an advertisement or sign shall lapse if any alteration or addition is made to such advertisement or sign, provided that Council may approve minor alterations at its discretion by means of an endorsement on the original application.

## **6. STRUCTURAL REQUIREMENTS**

- (1) Every sign shall be neatly and properly constructed, executed and finished in a workmanlike manner.
- (2) Every sign attached to or placed on a building, fence or wall, shall be rigidly and securely attached thereto so that it is safe and that movement in any direction is prevented. The method of attachment shall be such that it is capable of effectively securing, supporting and maintaining not less than twice the weight of the sign in question, with the addition of any force to which the sign may be subjected. The use of nails or staples for the purpose of anchorage and support is prohibited.
- (3) Every projecting sign or suspended sign shall, unless the Director Technical Services otherwise approves, have not less than four supports –
  - (a) which shall be of metal;
  - (b) any two of which shall be capable of carrying the weight of the sign;
  - (c) the designed strength of which, acting together, shall be calculated on a weight of the sign with a horizontal wind pressure of 1,5kPa;
  - (d) which shall be neatly constructed as an integral part of the design of the sign or otherwise concealed from view.
- (4) All signs and supports thereof, which are attached to brickwork, masonry or concrete shall be securely and effectively attached thereto by means of bolts securely embedded in such brickwork, masonry or concrete or passing through the same and secured on the opposite side. The bolts shall be of such size and strength as will ensure effective compliance with paragraphs (2) and (3) hereof.
- (5) Glass

All glass used in signs (other than glass tubing used in neon or similar signs) shall be safety glass at least 3,5mm thick. Glass panels in signs shall not exceed 2m<sup>2</sup> in area, each panel being securely fixed in the body of the sign independently of all other panels.

(6) Electrical requirements

Every illuminated sign and every sign in which electricity is used shall -

- (a) be constructed of material which is not combustible;
  - (b) be provided with an external switch in an accessible position whereby the electricity supply to such a sign may be switched off;
  - (c) be connected according to statutory regulations.
- (7) All exposed metalwork in a sign, or its supports, shall be painted or otherwise treated to prevent corrosion and all timber shall be similarly treated to prevent decay.
- (8) No sign shall be constructed in whole or in part of cloth, canvas, cardboard, paper or like material, except where the sign relates solely to current or forthcoming programmes of public entertainment displayed upon a cinema or theatre, or is a sign on a sunblind.

**7. ELECTRICAL REQUIREMENTS**

Every electronic and illuminated advertising sign including its supports and framework shall be constructed entirely of non-combustible materials and shall be installed in accordance with the provisions of the Council's Standard Tariffs and Procedures and the Code of Practice for the wiring of premises in accordance with the SABS or applicable legislation/regulations.

**8. MAINTENANCE OF SIGNS**

- (1) The person having possession, or control of any sign, while such sign is erected and constructed in contravention of the provisions of this By-law, shall be guilty of an offence.
- (2) (a) No sign, which exists or extends beyond the street line shall remain, except during the pleasure of the Council. The Council may by written notice served on the person having possession or control of any such sign, require such person to remove such sign within a period of time specified in such notice, except where in the opinion of the Council the sign constitutes a potential source of danger to the public, or will or is likely to damage or interfere with any existing or proposed works of the Council or upon the public street, the Council shall have the right to remove such sign forthwith.

Any such person who fails to comply with such notice shall be guilty of an offence.

- (b) The person having possession or control of any sign extending or existing beyond the street line, shall at all times indemnify the Council against all actions or claims which may be brought against it by any person for loss, injury or maintenance, repair or removal of the sign, and shall also reimburse the Council in respect of all expenses incurred in defending any action or resisting any claim.
- (c) The person having possession or control of any sign extending or existing beyond the street line shall pay to the Council the fee prescribed in the schedule of tariffs and charges in respect of the sum total of the surface area containing any advertisement (inclusive of any space between lettering and the like and any space between the actual advertisement and the perimeter of the sign).

- (i) The above charges shall be payable to the municipality or its duly appointed agents upon application in advance, and thereafter annually on the anniversary of the date of application for the time the sign is in place.
  - (ii) No charge shall be payable unless the sign projects, or is more than 100mm, beyond the street line.
  - (iii) Where during the course of the period of 12 (twelve months) referred to in paragraph (i) hereof, any sign is lawfully replaced by another sign, no additional charge in respect of that period shall be made unless the sign substituted has a greater surface area than the former sign, in which event a further charge calculated as above in respect of the excess area shall become immediately due and payable to the Council.
  - (iv) Where any sign is removed voluntarily, or at the instance of the Council, no refund of any charges paid shall be made by the Council.
  - (v) The payment of any charges as herein provided shall not in any way prejudice or affect the provisions of paragraph (a) of this By-law.
- (c) The person having possession or control of any sign extending, or existing beyond the street line, shall when required in writing by the Director Technical Services, enter into a written agreement with the Council in respect of such sign, undertaking the obligations contained in paragraphs (b) and (c) of this By-law; provided that the absence of any such agreement shall in no way affect the provisions of these Bylaws. Whenever any change occurs in the identity of the person having possession or control of any such sign, such change shall forthwith be notified to the Director Technical Services in writing by the person formerly having such possession or control.

## 9. **OFFENCES AND REMOVAL OF SIGNS**

- (1) Any person who displays or erects any advertisement or sign for which no approval has been granted by the Council in terms of section 2, or which approval has expired, or has been withdrawn, or which advertisement or sign does not conform with the approved application or any of its conditions, or does not comply with or is contrary to any provision of this By-law or to any other applicable Act or Regulation, shall be guilty of an offence.
- (2) Any person who erects or continues to display any advertisement or sign which ceases to be relevant to the premises on which it is displayed by virtue of a change in use, ownership or occupancy of the premises to which it relates or for any other reason, shall be guilty of an offence.
- (3) Any person who displays or erects any advertisement or sign which contravenes or fails to comply with any provision, requirements or conditions as set out in any notice issued and served in terms of this By-law or other applicable legislation, or who knowingly makes any false statement in respect of any application in terms of this By-law, shall be guilty of an offence.
- (4) The Council may serve notice on the person/s who is displaying the advertisement or who has erected the sign or cause the advertisement or sign to be displayed or erected, or the owner or occupier of the premises upon which such advertisement or sign is being displayed or erected or upon both such persons, directing those persons to remove such advertisement or sign or to do such other work as may be set forth in the notice, within a time frame specified therein which shall not be less than 14 (fourteen) days from the date

of receipt of the notice, so as to bring the advertisement or sign into conformity or compliance.

- (5) If any person/s to whom any notice has been given in terms of subsection (3) fails to comply with a direction/instruction contained in such notice within the specified period, the Council may remove or arrange for the removal of the advertisement or sign, or affect any of the alterations prescribed in the notice.
- (6) The Council may recover the expenses incurred as a result of any removal, action taken, repairs to Council property or for any other costs incurred from any person(s) to whom the notice was issued in terms of subsection (3). No compensation shall be payable by the Council to any persons in consequence of such removal, repairs or action taken.
- (7) Any person who fails to remove any poster, banner, flag or election advertisement within the prescribed period shall be guilty of an offence. The Council shall be entitled to remove any such advertisement and deduct the prescribed amount from any deposit made in respect of the advertisement(s) so removed by the Council: Provided that if the amount of money to be deducted exceeds the amount of the deposit made, the Council shall be entitled to recover such excess amount from such person(s); Provided further that when any such poster, banner or election advertisement is removed in terms of these By-laws, the Council shall be entitled to destroy any such advertisement without giving notice to anyone.
- (8) Any person/s who, having displayed or caused to be displayed any portable board in respect of which approval has been granted in terms of these By-laws, fails to remove such board within 2 (two) hours of the time as specified in section 9, shall be guilty of an offence and the Council shall be entitled to remove any such portable board and to recover from such person/s the fee prescribed: Provided that any portable board so removed by the Council may be destroyed without giving notice to anyone.
- (9) Any advertisement or sign, other than those referred to in subsections (6) and (7), which were removed or confiscated by the Council in terms of this By-laws, may be reclaimed within 60 (sixty) days from the date of removal or confiscation and on payment of the charges due, failing which the Council shall have the right to use, dispose of or sell such sign at its discretion.
- (10) If, in the opinion of the Council, the advertising sign constitutes a danger to life or property and in the event of the applicant/owner and/or occupier failing to take the necessary action with immediate effect, the Council may carry out or arrange for the removal of such sign and recover the expenses so incurred.
- (11) Any person who, in the course of erecting or removing any advertising sign, causes damage to any natural feature, electric structure or service, or any other Council installation or property, shall be guilty of an offence and punishable in terms of section 15 of these Bylaws and shall be liable for damages so incurred.
- (12) The Council is entitled to summarily remove any unauthorised advertising signs on its own property without giving notice to anyone.

#### 10. **PROHIBITIONS**

- (1) The following advertisements and signs are prohibited:
  - (a) Any advertisement or sign, other than an exempted sign, for which neither a permit nor approval has been obtained or which does not comply with the requirements of, or which is not permitted by these By-laws or any other law.

- (b) Any advertisement which, in the opinion of the Council, is indecent, obscene or objectionable or of a nature which may produce a pernicious or injurious effect on the public or on any particular class of person/s or on the amenity of any neighbourhood.
- (c) Any advertisement or sign that is painted onto or attached in any manner to any tree, plant, rock or to any other natural feature.
- (d) Any advertisement or sign which obstructs any street, fire escape, exit way, window, door or other opening used as a means of egress or for ventilation or for fire fighting purposes.
- (e) Any illuminated sign whether laser, animated, flashing or static, which disturbs or is a nuisance to the residents and/or occupants of any building and/or to any member/s of the public affected thereby.
- (f) Any advertisement or sign which is prohibited in terms of any Town Planning Scheme Regulation or other legislation.
- (g) Any advertisement or sign not erected in accordance with these By-laws or not in accordance with the specifications approved by the City Council, or the terms or conditions attached by the Council to any such approval.
- (h) Any advertisement or sign which may obstruct or interfere with any traffic sign or signal for traffic control, or which is likely to interfere with or constitute a danger to traffic, shipping or aircraft or to the public in general.
- (i) Any advertisement or sign which may inhibit or obstruct the motorists' vision or line of sight thus endangering vehicular and pedestrian safety.
- (j) Any form of bill-sticking by means of posters or placards to any existing structure without the approval of the Council.

#### 11. **DISCRETIONARY POWERS**

- (1) The Council or its delegated officer/s shall exercise discretionary powers to permit or not to permit advertising signs in terms of the provisions of this By-laws in the following cases:
  - (a) Any advertisements on a portable board displayed on a street pavement.
  - (b) Any mobile advertising vehicles and their designated positions of display.
  - (c) Advertisements or signs painted on or in any way affixed to the surface of any window other than a display window.
  - (d) Advertisement or signs on top of a canopy or veranda.
  - (e) Advertisements painted on roofs or displayed or erected as a sky sign in an area other than industrial or harbour zone.
  - (f) Advertisements or signs displayed or erected in an area other than industrial or general business zone.
  - (g) Advertisements or signs made of certain materials not considered by the Council to be suitable or appropriate for the intended purpose.

- (h) Banners and flags affixed to flagpole/s as a ground sign or attached to an existing building or structure.
- (i) Any remote or third party advertising signs, sponsored signs and signs for non-profit organisations and institutions.
- (j) Any advertisements or signs of dimensions not in accordance with the provisions of these By-laws.

## **12. SIGNS ON THE COUNCIL PROPERTY AND TEMPORARY ADVERTISEMENTS**

- (1) Temporary advertisements and signs on the Council property are subject to the Council's specific consent as set out in this By-laws. Permanent advertisements and signs on the Council property; i.e. street furniture, street name signs, dustbins, bus shelters, suburban and community advertisements and any other remote advertising signs are subject to the Council's specific authority and/or tender procedure. The Council shall be obliged to set out and agree to the specifications and required performance standards for these signs prior to calling for proposals.
- (2) **Billboards**
  - (a) Every person who wishes to display or cause to display a billboard advertisement shall submit to the Council a written application on the prescribed form and pay the prescribed fee. Such applications shall be accompanied by an environmental impact assessment in the case of billboards in excess of 36m<sup>2</sup> and/or for smaller billboards at the Council's discretion.
  - (b) This type of sign shall be permitted only in urban areas of minimum control and in urban areas of partial control at the Council's discretion, subject to specific consent and assessment of their environmental impact as required, which shall include the visual, social and traffic safety aspects.
  - (c) The name of the owner of the billboard or sign must be clearly displayed on all boards together with the identification number approved by Council.
  - (d) Any billboard so displayed shall –
    - (i) comply with all legal requirements of the South African National Roads Agency Limited and Road Traffic Act where applicable;
    - (ii) comply with any other applicable National, Provincial or Local Government legislation and policy, including these By-laws and the Council's policy on outdoor advertising;
    - (iii) not be erected within an area of maximum control, unless, after an environmental impact assessment and public participation process, the Council identifies that such area, subject to such terms and conditions as it may impose, may be reclassified as an area of lesser control, which may not be relaxed further than the control type in the area adjacent to the site in question;
    - (iv) not be detrimental to the nature of the environment in which it is located by reason of abnormal size, intensity of illumination or design;
    - (v) not be, in its content, objectionable, indecent or insensitive to any sector or

member of the public;

- (vi) not unreasonably obscure partially or wholly any approved sign previously erected and legally displayed;
- (vii) not constitute a danger to any person or property;
- (viii) not encroach over the boundary line of the property on which it is erected; and
- (ix) not be erected if considered by the Council to be a distraction to drivers, cyclists or pedestrians which could contribute to unsafe traffic conditions.

(e) The positioning of billboards shall –

- (i) be spaced at least 120m, 200m or 250m apart when in view of each other on the side of the road/s to which they are directed or aimed with up to 60 km/h, 80 km/h or 100 km/h+ speed limit respectively;
- (ii) not be erected within 100m from the ramp gore of public roads and from overhead traffic directional signs;
- (iii) not be permitted within a radius of 100m from the centre of an intersection on any arterial road and within a radius of 50m from the centre of an intersection on any lower order road;
- (iv) not have an overall height in excess of 12m above the surface of the road level to which it is aimed;
- (v) not have an overall dimension which exceeds 64m<sup>2</sup> in the case of ground signs and 54m<sup>2</sup> in the case of wall signs;
- (vi) not have as main colours, red or amber or green when located at signalised traffic intersections and shall not obscure or interfere with any road traffic light or sign;
- (vii) not constitute a road safety hazard or cause undue disturbance or permitted to be illuminated if such illumination, in the opinion of the Council, constitutes a road safety hazard or causes undue disturbance;
- (viii) ensure that the traffic flow is not impeded during their erection and servicing on public roads, unless prior permission from the Council has been obtained and the necessary precautions taken and arranged;
- (ix) in the case of wall signs, be attached only to the side and back walls of buildings which do not fulfil the function of a street or front façade of the building.

(2) **Ground signs**

- (a) Only one on-site, locality bound, freestanding ground sign per premises shall be permitted either where such a sign is necessary to facilitate the location of the entrance or access to a business premises; or where it is not reasonably possible to affix appropriate signs to the building; or where the business premises is so set back as to make proper visibility of signs on the building not feasible, or where the existence of a freestanding composite sign may prevent the proliferation of signage.

- (b) On-site, locality and non-locality bound freestanding ground signs in the form of business signs and tower structures may not exceed 7,5m in overall height and 6m<sup>2</sup> in total area. In addition, they may not exceed 4,5m<sup>2</sup> in total area in respect of any individual advertisement thereon and have a clear height of less than 2,4m. Where a more solid structure is used, the maximum area per sign may be increased to 9m<sup>2</sup> and where the sign incorporates a combination sign, the maximum area per signage structure may be increased to 12m<sup>2</sup>. Only one sign or advertising panel on a combination sign shall be allowed per enterprise per street frontage.
- (c) A remote, non-locality bound ground sign which does not have an overall height in excess of 7,5m above the ground at any point nor dimensions which exceed 6m in length and 3m in height, a total area of 18m<sup>2</sup>, shall be deemed to be of appropriate dimensions: Provided that a ground sign which has greater dimensions shall not be erected unless, in the opinion of the Council, such sign will be or is deemed to be erected or displayed in an appropriate place.
- (d) All signs erected on a monopole shall be appropriately designed so that the height of the support is proportionally not too long in relation to the size of the sign.
- (e) A maximum of 2 pylon signs per tower, bridge or pylon shall be permitted. The maximum sign area per tower may not exceed 36m<sup>2</sup>. The sign must be wholly contained within the structure and must have no projections.
- (f) Every ground sign or sign on towers, bridges and pylons shall be independently supported and properly secured to an adequate foundation and be without the aid of guys, stays, struts, brackets or other restraining devices and/or be entirely selfsupporting and not dependant upon any existing structure for its support in any way.

(3) **Wall signs**

(a) **Flat signs**

- (i) Unless otherwise stipulated, flat signs shall, at no point, project more than 300mm from the surface of the wall to which they are attached. The maximum projection of any part of a flat sign shall be 100mm where the underside of such sign measures less than 2,4m from a footway or pathway immediately below it and the maximum projection shall be 300mm where the underside of such sign measures more than 2,4m above such footway or ground level.
- (ii) On-site, locality bound flat signs shall be permitted to be attached to the front, side and back walls of buildings; remote, non-locality bound flat signs shall only be permitted to be attached to the side and back walls of buildings which do not fulfil the function of a building façade and to construction site boundary walls and fences.
- (iii) No more than two locality bound flat signs per enterprise shall be permitted and no more than one non-locality bound flat sign per wall shall be permitted.
- (iv) Flat signs shall not cover any windows or other external openings of a building or obstruct the view from such openings.
- (v) Flat signs shall not exceed 54m<sup>2</sup> in total area and shall not exceed 30% of the overall area of the wall surface to which they are attached, affixed or



painted, whichever is the lesser, provided that in urban landscapes of maximum control the signs may not exceed 20% of the wall surface area.

- (vi) An environmental impact assessment shall be required for all flat signs in excess of 36m<sup>2</sup>.

**(b) Projecting signs**

- (i) The minimum clear height of a projecting sign shall be in excess of 2,4m. (ii) Projecting signs shall be 300mm in maximum thickness.
- (iii) Projecting signs shall not be allowed to extend within 600mm of the edge of a roadway.
- (iv) The maximum projection shall be 1,5m in the case of a projecting sign which has a clear height of more than 7,5m; and 1m where the sign has a clear height of less than 7,5m.
- (v) Projecting signs shall be installed perpendicular to the street façade or to the direction of oncoming traffic.
- (vi) All projecting signs shall be locality bound

**(4) Roof signs**

- (a) The maximum permitted size of a roof sign shall be 18m<sup>2</sup> or 6m<sup>2</sup> per face for threesided units: Provided that only one sign per building shall be allowed.
- (b) Roof signs shall not project in front of a main wall of a building so as to extend beyond the roof of such building in any direction.
- (c) Roof signs shall not obstruct the view or affect the amenity of any other building.
- (d) Roof signs shall be placed in such a manner so as not to interfere with the run-off of rainwater from the roof of the building.
- (e) Roof signs shall be thoroughly secured and anchored to the building on or over which they are to be erected and all structural loads shall be safely distributed to the structural members of the building without the use of guys, stays or other restraining devices.
- (f) A roof sign, including all its supports and framework, shall be constructed entirely of non-combustible materials approved by the Council or its duly authorised official/s and if illuminated, shall not be placed on or over the roof of any buildings unless such sign, as well as the entire roof construction, is of non-combustible material.

**(5) Veranda, balcony, canopy and under-awning signs**

- (a) Signs may be affixed flat onto or painted on a parapet wall, balustrade or railing of a veranda or balcony, and beam or fascia of a veranda or balcony. Such signs may not exceed 1m in height, project beyond any of the extremities of the surface to which it is affixed, or project more than 300mm in front of the surface to which it is affixed or extend within 600mm of the edge of a roadway.

- (b) Signs may be affixed flat onto or painted on supporting columns, pillars and posts. Such signs may not project more than 50mm in front of the surface to which it is affixed and shall not extend beyond any of the extremities of such column, pillar or post. Sign affixed flat onto cylindrical supporting structures shall be curved to fit the form of such structure and only one sign shall be allowed per column, pillar or post.
  - (c) Subject to the provisions of subsections (a) and (b), signs shall not be allowed on or over architectural features of buildings nor shall they be allowed to cover any window or obstruct the view from any such opening.
  - (d) Under-awning signs suspended below the roof of a veranda, canopy or balcony shall have a maximum sign area of 1m<sup>2</sup> per face with a maximum of 2m<sup>2</sup> in total sign area and shall not exceed 1,8m in length or 600mm in height. The allowable thickness of such signs is between 100mm and 300mm. Every such sign shall be perpendicular to the building line and fixed at a clear height of not less than 2,4m. Only one sign per enterprise façade shall be allowed with a minimum spacing of 3m centre to centre between signs. Such signs shall not extend beyond the external edges of the canopy or veranda to which it is attached.
  - (e) Signs on the roof of a veranda, canopy or balcony, excluding the main roof of a building, shall be composed of a single line of freestanding, individual, cut out logos and/or letter without visible bracing or support. Signs shall only be placed on top of veranda roofs where such veranda does not have an appropriate wall, railing or beam to which the sign may be affixed. All such signs shall not extend beyond the extremities of the veranda roof, canopy or balcony and only one sign per enterprise façade shall be allowed with a maximum height of 1 m.
  - (f) Sunblinds and awnings shall be so made and fixed as to be incapable of being lowered to less than 2m above the footway or pavement directly beneath it. Such signs shall be parallel to the building line and placed in a manner so as not to interfere with vehicular or pedestrian traffic, traffic lights or traffic signs in any way.
  - (g) Signs on adjacent buildings shall be aligned as far as possible in order to achieve a straight line or parallel configuration.
- (6) **Posters, banners and flags**
- (a) Every person intending to display or cause or permit to be displayed any advertisement relating to an election or advertising any meeting, function or event of a sporting, civic, cultural, social, educational, religious, charitable, political or other similar character in any street or public place or on Council property shall first obtain the written permission of the Council.
  - (b) Every application for permission shall be made on the prescribed form and be accompanied by the prescribed fee and deposit as contain in the Schedule of Advertising Sign Charges (Schedule A); such deposit shall be refunded when all the advertisements have been removed to the satisfaction of the Council. The applicant shall, on application, submit a copy of all the posters to which the application relates and written details of the streets in which the posters are to be displayed.
  - (c) Any person who displays or causes a poster, banner or flag advertisement to be displayed shall comply with the following requirements to the Council's satisfaction;
    - (i) Any advertisement relating to an election, meeting, function or event shall be a maximum size of 600mm high x 450mm wide; shall have a clear height

of minimum 2m; and shall be securely fixed to durable hardboard or other approved backing board.

- (ii) In the case of banners or flags, the maximum size shall be 3m<sup>2</sup>, suspended between non-corrosive pole/s or other approved support/s; and which shall be placed and fastened in such a manner so as not to constitute a danger to any vehicular traffic, pedestrian, person/s or property in any street, public place or Council property.
  - (iii) Any person/s or, in the case of election advertising, each political party displaying or causing to display any poster advertisement relating to the same meeting, function or event shall only be permitted one poster per electricity lamppost. No posters are permitted to be displayed on bridges, traffic lights, traffic signs, natural features, freeways and/or national routes.
  - (iv) Any advertisement relating to an election, meeting, function or event shall not be placed in such a manner that the content of separate advertisements when read in succession, forms a continuous relative legend.
  - (v) Any advertisement relating to a meeting, function or event other than an election, shall not be displayed for longer than 14 (fourteen) days before the day on which it begins or longer than 3 (three) days after the day on which it ends. Election advertisements may be displayed from the beginning of the day of declaration of an election to the end of the third day after the election.
  - (vi) The total number of posters displayed at any one time relating to any meeting, function or event may not exceed 100, except in special circumstances and with the consent of the Council. In the case of election advertisements, no limitation will be placed on the number of posters displayed.
  - (vii) Any advertisement relating to an election shall be on the basis of a written agreement between the Independent Electoral Commission and the relevant political party.
  - (viii) Banners approved in terms of this section may not be larger than 6m<sup>2</sup>.
  - (ix) Auction posters approved in terms of this section may not be larger than 2m<sup>2</sup>.
  - (x) Banners and flags may be applied for as directional advertising for streetscaping urban areas such as pedestrian malls and gateways or for displaying only the name, corporate symbol and nature of enterprises.
- (d) Every poster for which permission is granted shall be provided with a Council sticker or marking which shall be visibly displayed to indicate the Council's approval and the Council shall be entitled to retain one such poster for identification purposes.

**(7) Estate agents' boards and portable boards**

- (a) Every agent or person intending to display, cause or permit to be displayed any portable board, shall annually submit the prescribed, written application to the Council and pay the prescribed fee for approval of the number of portable boards specified in such application.

- (b) Any person who displays or causes any such portable board to be displayed on any Council property other than a road reserve, unless specific approval has been granted for the display on other property of the Council, shall comply with the following requirements to the Council's satisfaction:
- (i) Portable boards are only to be used for the purpose of indicating the route to the property or premises to be sold or advertised.
  - (ii) Portable boards are to be of appropriate structure and size, not exceeding 600mm<sup>2</sup>, and collectively the number of boards displayed may not, in the opinion of the Council, detract from the amenities of the streetscape or environment.
  - (iii) Subject to the provisions of the Road Traffic Act and other applicable legislation, portable boards are not to be positioned nearer than 1,8m from the edge of the roadway, and placed at such height that the lower edge of the board does not exceed 600mm above the ground.
  - (iv) Portable boards are not to be positioned nearer than 10m from any road intersection, entrance or exit from a dual carriage way or freeway as defined in the Road Traffic Act or other applicable legislation.
  - (v) Portable boards are not to be positioned so as to obstruct the view of any road traffic sign or street name sign from any portion of roadway as defined in the Road Traffic Act or other applicable legislation.
  - (vi) Portable boards are not to be positioned so as to hinder or obstruct pedestrians' right of way on a sidewalk or to unfairly prejudice other traders.
  - (vii) The display of portable boards for show-houses will only be permitted on Saturdays, Sundays and public holidays. Other approved portable boards advertising services may only be displayed during normal trading hours, hereafter they shall be removed.
  - (viii) Only one portable board per street frontage per enterprise shall be allowed to advertise services and such signs shall be placed directly in front of the advertiser's premises.
  - (ix) Applicants will be required to indemnify the Council against any claims that may arise from the placement of such signs within the road reserve or on Council property and shall be required to procure third party insurance for this purpose.

**(8) Aerial advertisement**

- (a) Every person who wishes to display or cause to display an aerial advertisement, except by means of an aircraft, shall submit to the Council a written application on the prescribed form and pay the prescribed fee and such application shall be accompanied by -
- (i) particulars of the content of dimensions of the aerial advertisement and of the aerial device by means of which the advertisement is to be displayed as well as the materials used and method of construction and anchorage;

- (ii) particulars of the intended location with a description of the premises to which the aerial device will be anchored or tethered and details of electricity and telephone poles and cables and other structures within 30m of the point of anchorage;
  - (iii) the name and address of the person/s or contractor/s displaying the aerial advertisement and the name and address of the approved competent person in attendance of the aerial device and of its owner;
  - (iv) the period and times of intended display;
  - (v) where the applicant is not the owner of the premises to which the aerial device is to be anchored or tethered, the written consent of the owner for such anchoring;
  - (vi) proof of the provision of an automatic deflation device;
  - (vii) adequate public liability insurance to the Council's satisfaction; and
  - (viii) approval and any conditions and requirements prescribed by the National Civil Aviation Authority.
- (b) No aerial advertisement shall be displayed or caused to be displayed on, from or over Council property, including any street or public place, unless approval has been granted by the Council who may impose such conditions as it deems fit.
- (9) Advertising vehicles**
- (a) Every person who wishes to display or cause to display any advertisement on an advertising vehicle shall annually submit to the Council a written application on the prescribed form and pay the prescribed fee, and such application shall be accompanied by -
- (i) particulars of the materials of which the advertising sign is made, its dimensions, and the manner of its construction and the method by which it is secured to the advertising vehicle;
  - (ii) the name, address and telephone number of the owner of the vehicle or, if the owner resides or has his place of business outside the boundaries of the Council, of the person having control over the vehicle at all times; and
  - (iii) a copy of the current vehicle license issued in respect of such vehicle as well as the registration as required in terms of the Road Traffic Act.
- (b) No advertising vehicle shall be placed or caused to be placed on private property or Council property, including any demarcated parking bay, in a public road or within a road reserve -
- (i) unless the prior written approval of the Council has been obtained in terms of this By-law and designated display site(s) have been approved in terms of this By-law; and
  - (ii) provided that, if no approved designated site(s) exists, advertising vehicle signs shall only be permitted to be displayed if they are mobile at all times and comply with legislation and conditions imposed by the Council.

- (c) Advertising vehicles parked on private property for the purpose of storage shall be positioned in such a manner as not to be visible from a street or public place.
- (d) The advertising panel or portion of the vehicle used for transit advertising shall not exceed a cumulative total of 6m<sup>2</sup>.
- (e) Notwithstanding any provisions of these By-laws, the Council or its authorised officials may, without prior notice, remove an advertising vehicle from Council property, and in the case of an unauthorised advertising vehicle on private property, the Council may serve notice instructing the immediate removal thereof.
- (f) Unless an advertising vehicle impounded by the Council in terms of paragraph (e) has been reclaimed within a period of three (3) months from the date of notification, such vehicle shall be disposed of by the Council to defray any costs involved. Impounded advertising vehicles shall only be released by the Council after all removal costs and fines have been paid in full and a copy of the current licence registration papers have been submitted for verification.

### 13. **PRESUMPTIONS**

- (1) If any person is charged with an offence in terms of this By-law, it shall be presumed that—
  - (a) any person/s who erects or displays or who causes to be erected or displayed any advertisement or sign, whether such person/s be the applicant, the owner or the occupier of the premises, the manufacturer of any part of the signage structure or the proprietor of the undertaking or activity to which such an advertisement relates and any of their agents, shall be deemed to have displayed, caused, allowed or consented to such advertisement or sign being displayed until the contrary is proved;
  - (b) any person/s, club, body or political party responsible for organising, sponsoring, promoting or in control of any meeting, function or event to which a sign, poster, election or aerial advertisement relates, shall be deemed to have displayed, caused, allowed or consented to such advertisement or sign being displayed until the contrary is proved;
  - (c) any person/s whose name appears on the advertisement or sign or whose product or services are advertised on such sign shall be deemed to have displayed, caused, allowed or consented to such advertisement or sign being displayed until the contrary is proved;
  - (d) an advertisement displayed upon the exterior wall or fence constituting the apparent boundary of any premises and fronting any street or public place shall be deemed to be displayed in a street or public place;
  - (e) where any notice or other document is required by this By-law to be served on any person, it shall be deemed to have been properly served, within 5 (five) working days of dispatch, if served personally on him/her or any member of his household apparently over the age of sixteen years at his/her place of residence, or on any person employed by him at his place of business, or if sent by registered post to such person's residential or business address as it appears in the records of the Council, or if such person is a company, closed corporation or a trust, if served on any person employed by that company, closed corporation or trust at its registered office, or if sent by registered post to such office;

- (f) any advertisement or sign lawfully in existence prior to the date of promulgation of this By-law shall be presumed to have been lawfully displayed or erected in terms of this By-law: Provided that it is continuously displayed or kept in position without any alteration other than a minor alteration approved in writing by the Council; and
- (g) anything done under or in terms of any provision repealed by this By-law shall be deemed to have been done under the corresponding provisions of this By-law and such repeal shall not affect the validity of anything done under the By-law so repealed. Any application lodged and pending before the Council at the time of commencement of the policy and/or promulgation of this By-law, shall be dealt with in terms of these By-laws.

#### 14. **SAVINGS IN RESPECT OF EXISTING SIGNS**

The following provisions shall apply in respect of the existing signs lawfully displayed at the date of promulgation of this By-law:

- (1) Where any such sign complies with the provisions of this By-law such sign may be continued to be displayed, subject to the provisions of this By-law and shall be deemed to be a sign approved by the Council in terms of this By-law.
- (2) Where any such sign does not comply with the provisions of this By-law such sign may be continued to be displayed, subject otherwise to the provisions of this By-law: Provided that -
  - (a) if the sign is a sign to which the provisions of section 8 of this By-law are applicable, the Council may, without in any manner detracting from its right to require the removal of such sign, by notice in writing require the person having possession or control of such sign, to alter, modify or adjust such sign within a period of 90 (ninety) days from the date of receipt of such notice, or such longer period as the Council may specify, in order that it may be made to comply with this By-law.

Any such person who fails to comply with such notice, shall be guilty of an offence.

  - (b) No such sign shall be repainted, renovate or reconstructed, unless it is first made to comply with the provisions of this By-law, and the approval of the Council thereto has been obtained in terms of section 2 of this By-law. Any person who repaints, renovates or reconstructs any such sign in contravention of the provisions hereof, shall be guilty of an offence.
  - (c) The Council may, at any time after the expiration of a period of 3 (three) years from the date of the promulgation of this By-law by notice in writing, require the person having possession or control of any such sign (not being a sign to which the provisions of section 8 of this By-law are applicable) to alter, modify or adjust such sign in order that it may be made to comply with this By-law; or alternatively, to remove such sign, within a period of 30 (thirty) days from the date of receipt of such notice or such longer period as the Council may specify.

Any such person who fails to comply with such notice shall be guilty of an offence.

- (3) Any existing sign not lawfully displayed at the date of promulgation of this By-law shall be removed by the owner or person having possession or control thereof.

#### 15. **PENALTIES**

- (1) Any person who contravenes any provision of these By-laws shall be guilty of an offence and liable, upon conviction, to a fine of R 5 000.00 (five thousand rands) or imprisonment for a period not exceeding six months or both the fine and the imprisonment.

**16. AREAS OF CONTROL**

\* Refer to Schedule B.

**17. APPLICATION**

- (2) The Council may by notice in the *Provincial Gazette*, determine that the provision of this By-law do not apply in certain areas within its area of jurisdiction from a date specified in the notice.

**18. REPEAL OF BY-LAWS**

- (1) The By-laws relating to the Control of Outdoor Advertising for the Lekwa Local Municipality or its successor in title, are hereby repealed and replaced by this By-law, which are to become effective on promulgation hereof.

**19 SHORT TITLE**

- (1) This By-law shall be called the Control of Outdoor Advertising By-law, 2015.

**SCHEDULE A :**

**A. Application fees and deposits for a licence/permit for outdoor advertising**

Every person who applies to the Council for its approval or permission shall, on making application, pay to the Council the charge determined therefore and no application shall be considered until such charge has been paid; the charges are set out below:

1. A non-refundable application fee of R150.00 (One Hundred and Fifty Rand) must be tendered with each application for sign types 2 (ground signs), 3 (wall signs), 4 (roof signs) and 5 (veranda, balcony, canopy and under-awning signs). Any minor amendment to an application, considered by the duly authorised official of Council to be a minor amendment, may be submitted at a reduced application fee of R50.00 (Fifty Rand) each.
2. A non-refundable application fee of R450.00 (Four Hundred and Fifty Rand) must be tendered with each application for sign type 1 (billboards) and all non-locality bound signs in excess of 12m<sup>2</sup>.
3. The approval fee for 1 and 2 is R40.00 (Forty Rand) per square metre of advertising display or part thereof with a minimum fee of R40.00 (Forty Rand) per application.
4. A non-refundable application fee of R50.00 (Fifty Rand) must be tendered with each application for advertisements for sign types 6 (posters, banners and flags).
5. On approval of posters, the applicant must purchase non-refundable stickers from the Council which are to be clearly visible on all posters displayed as follows:
  - (a) R1.00 (One Rand) per sticker to be paid for each poster to be displayed for nonprofit bodies only. These posters must display the fundraising numbers of the



bodies or a formal constitution has to be submitted to the Council. No commercial advertising and logos of sponsors will be permitted to appear on such posters;

- (b) R2.50 (Two Rand and Fifty Cents) per sticker to be paid for each poster to be displayed for religious, sporting, social, cultural, political and other events. A subordinate percentage of commercial advertising and logos of sponsors is permitted to appear on such posters; or
  - (c) R5.00 (Five Rand) per sticker to be paid for each poster to be displayed for events considered by the Council or its duly authorised officials to be primarily of a commercial nature.
6. A non-refundable application fee of R600.00 (Six Hundred Rand) per annum or part thereof must be tendered with the annual application for sign type 7 (estate agents' boards); the maximum number of boards required at any given time to be specified in such application.
  7. A non-refundable application fee of R50.00 (Fifty Rand) each per annum must be tendered with the annual application for sign type 7 (portable boards or any other collapsible structure).
  8. A non-refundable application fee of R200.00 (Two Hundred Rand) must be tendered with each application for sign type 8 (aerial advertisements); adequate public liability insurance for the duration of display will also need to be furnished to Council's satisfaction.
  9. A non-refundable application fee of R1 200.00 (One Thousand Two Hundred Rand) per annum or part thereof must be tendered with each annual application for any sign type 9 (advertising vehicles); a certified copy of the current vehicle licence will also need to be furnished.
  10. An encroachment fee of R45/m<sup>2</sup> to be paid on approval of an application for each sign type that encroaches over Council property.

**Note:** The duration of approval for all advertising signs shall be at the Council's discretion.

**B. Fines and penalties for offences and removal of advertising signs in terms of sections 9 and 14**

1. Upon conviction of a first offence, the offender shall be liable to a fine or imprisonment for a period not exceeding 3 (three) months, or both the fine and imprisonment.
2. In the case of a continuing offence, the offender shall be liable to a further fine not exceeding R100.00 (One Hundred Rand) for every day during the continuance of such offence.
3. Upon conviction of a second or subsequent offence, the offender shall be liable to a fine or imprisonment for a period not exceeding 6 (six) months, or both the fine and imprisonment.
4. For the unauthorised display of sign types 6 (posters, banners or flags), the offender shall be liable to a fine or imprisonment for a period not exceeding 3 (three) months.
5. For the unauthorised display of sign types 7 (estate agents boards, portable boards or any other collapsible structure), the offender shall be liable to a fine or imprisonment for a period not exceeding 6 (six) months.
6. Any person contravening sections 9 and/or 14 shall upon conviction be liable to a fine or imprisonment for a period not exceeding 6 (six) months, or both the fine and imprisonment.

**Note:** Any advertising sign which has been removed and confiscated but not destroyed by the Council, as a result of non-compliance with these By-laws, may be repurchased by the original owner/applicant at the cost incurred as a result of such removal and/or storage.

Furthermore, any sign/s removed and not repurchased within 60 (sixty) days of confiscation, or 3 (three) months in the case of advertising sign type 9 (advertising vehicles), shall be disposed of by the Council to defray expenses.

**SCHEDULE B :**

Maximum			Partial	Minimum
Natural landscape	Rural landscape	Urban landscape	Urban landscape	Urban landscape
National parks	Municipal parks	Metropolitan	Central Business	Industrial areas
Game reserves	Horticultural areas	Open Space	Districts Commercial	Industrial zones
Nature reserves	Rural smallholdings	Systems	and office components	Transport nodes
Forestry areas	Private open	Urban smallholdings	of residential amenities	Traffic corridors
Natural environments	spaces	All residential zones	Commercial enclaves	Transportation
Marine reserves	Public open spaces	Private open spaces	in residential areas	terminals
Beaches and sea	Intensive	Public open spaces	Commercial nodes	
shores	agriculture	Pedestrian malls	and ribbon	
Oceans	Scenic drives	Pedestrian squares	Development	
Extensive agriculture	Scenic routes	Community facilities	Entertainment districts	
Scenic corridors	Scenic features	Scenic features	or complexes	
Scenic landscapes	Peri-urban and	Scenic drives	Educational institutions	
River corridors	Traditional areas	Gateways	Sports fields and	
Wetlands open spaces		River corridors	stadia	
		Wetlands	Municipal/government	
		Conservation areas	Mixed use and	
		Heritage sites	interface areas Visual	
		Historic or graded	zones along	
		buildings and	urban roads/freeways	
		areas		

## PROVINCIAL NOTICE 72 OF 2018

**MPUMALANGA DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS****PUBLICATION OF MUNICIPAL BY-LAWS FOR LOCAL MUNICIPALITIES IN TERMS OF  
THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT (ACT NO. 32 OF 2000)**

I, Speed Katishi Mashilo, in my capacity as Member of the Executive Council responsible for Co-operative Governance and Traditional Affairs, in the Mpumalanga Province, hereby publish municipal by-laws for Mkhondo, Chief Albert Luthuli, Lekwa and Emalahleni local municipalities, in terms of Section 13 (a) and (b) of the Local Government: Municipal Systems Act (Act No. 32 of 2000)

The municipal by-laws are concerning the following matters per local municipality, namely:

**Lekwa Local Municipality**

1. Electricity Supply
2. Advertising Signs
3. Encroachment on Municipal Properties
4. Public Participation
5. Street Trading
6. Contaminated Waste
7. Cemetery
8. Taxi
9. Informal Settlements
10. Open Space

**Chief Albert Luthuli Local Municipality**

1. Standing Rules and Orders
2. Electricity Supply
3. Fire Brigade Services
4. Sanitation
5. Waste Management
6. Water Supply

**Emalahleni Local Municipality**

1. Property Rates

**Mkhondo Local Municipality**

1. Credit Control and Debt Collection
2. Control of Outdoor Advertising
3. Encroachment on Municipal Properties

Given under my hand at Mbombela, on 03/04 2018



MR SK MASHILO (MPL)

MEC: DEPARTMENT OF CO-OPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS

# LEKWA LOCAL MUNICIPALITY



## DRAFT BY-LAW RELATING TO CEMETERIES

The Council of Lekwa Local Municipality has in terms of section 156 of the Constitution, 1996, read in conjunction with Section 11 and 98 of the Local Government: Municipal Systems Act, 32 of 2000, as amended, made the following By-law:

### **THE BY-LAW RELATING TO CEMETERIES**

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15. Cemetery hours
16. Offences and Penalties

17. Repeal of this By-law  
18. Short title

## 1. DEFINITIONS

(1) For the purpose of this by-law, unless the context indicates otherwise:

<b>"adult"</b>	means a deceased person over the age of 12 years, and any deceased person the dimensions of whose coffin cannot be accommodated in an excavation of 1.40m in length and 400mm in width;
<b>"anatomy subject"</b>	means a body delivered to an authorised school of anatomy in terms of the Anatomy Act, 1959;
<b>"berm"</b>	means a concrete base laid by the Municipality at the head of any grave, in a landscape section or a lawn section;
<b>"body"</b>	means the remains of any deceased person;
<b>"burial order"</b>	means an order issued in terms of the Births and Deaths Registration Act, 1992 (Act 51 of 1992)
<b>"caretaker"</b>	means a person or official appointed by the Municipality to be in charge of and to exercise control in or over a cemetery;
<b>"cemetery"</b>	means any piece of land or part thereof duly set aside and demarcated by the Municipality on an official plan for human burials within the area of the Municipality;
<b>"child"</b>	means a deceased person who is not an adult;
<b>"Headstone"</b>	A memorial work that is comprised of a slab placed on the head position of the interred body in the grave
<b>"landscape section"</b>	means a cemetery or section of a cemetery set aside by the Council where memorial work is restricted in size. Such place shall have grass/lawn on the body position of the grave
<b>"full memorial section"</b>	means a cemetery or section of a cemetery which is not a landscape section or a lawn section;
<b>"memorial work"</b>	means any headstone, monument, plaque or other similar work erected or intended to be erected in any cemetery commemorating a deceased person and includes a kerb demarcating any grave and a slab covering any grave;
<b>"Municipality"</b>	means the Lekwa Local Municipality;



<b>“Municipal Council”</b>	means the Council of the Municipality as referred to in section 157 of the Constitution No.108 of 1996;
<b>“Municipal Manager”</b>	means the person appointed by the municipal council as the Municipal Manager of the Municipality in terms of section 54A of the Local Government: Municipal Systems Act, 32 of 2000 and includes any person – <ul style="list-style-type: none"> <li>a) acting in such a position;</li> <li>b) to whom the municipal manager has delegated the power, function or duty in respect of such delegated power, function or duty;</li> </ul>
<b>“officer-in-charge”</b>	means any person authorised by the Municipal Council to be in control of any cemetery;
<b>“plot”</b>	means any area laid out in any cemetery for not less than two and not more than ten graves adjoining each other, in respect of which the exclusive right to inter has been acquired in terms of this by-law;
<b>“public grave”</b>	means any grave in a cemetery which is not a private grave;
<b>“private grave”</b>	means a grave in respect of which the exclusive right to inter therein has been acquired in terms of this by-law;
<b>“private rights”</b>	means the exclusive right to inter which has been granted in terms of subsection 7(1) of this by-law;
<b>“registrar of deaths”</b>	means any person appointed as registrar or assistant registrar of deaths in terms of the Birth and Death Registration Act, 1992;
<b>“tariff of charges”</b>	means any charges determined by Municipal Council from time to time.

## 2. DISPOSAL OF A BODY

- (1) No person shall, save without the prior written consent of the Municipal Council, dispose of or attempt to dispose of a body, other than by interment in a cemetery.
- (2) The Municipal Council reserves the right to provide for the separate burial of individuals in separate cemeteries or in separate areas of a cemetery, due to the existence of different religious and cultural groups.

## 3. CEMETERIES EXEMPTED FROM PROVISION OF THIS BY-LAW

- (1) The provisions of this by-law, other than that of subsection (2) and sections 2 shall not apply to any cemetery or section of a cemetery which –
  - (a) has been set aside by the Municipal Council for the interment of deceased persons who were members of the Hindu, Jewish or Moslem faith; and

- (2) The authorities operating and controlling interment processes in a cemetery as contemplated in subsection (1)(a), shall be liable to pay to the Municipal Council the appropriate charges prescribed in the applicable tariff of charges.

#### **4. INTERMENTS**

##### **(1) PERMISSION OF INTERMENTS**

- (a) No person shall inter a body in any cemetery or cause it to be so interred without the permission of the municipal officer-in-charge or without arranging a date and time for the interment with such officer.
- (b) Such permission shall not be granted unless –
- (i) a copy of death certificate and burial order in terms of Births and Death Registration Act, 1992, has been issued and produced to the officer-in-charge;
  - (ii) all appropriate charges prescribed have been paid; and
  - (iii) an application is concluded with the responsible office in the municipality within 48 hours or two working days before the funeral.
  - (iv) In considering the granting or refusal of the permission referred to in subsection (1), the officer-in-charge shall have regard to the customs of the people making use of the cemetery.

##### **(2) APPLICATION FOR INTERMENT**

- (a) Any person desiring to have a body interred shall in accordance with the provisions of subsections (2) and (3), submit to the officer-in-charge an application completed in the form prescribed by Council, signed by the nearest surviving relative of the deceased person or person authorised by such relative, or if the officer-in-charge is satisfied that the signature of such relative or person authorised cannot be obtained timeously, any other person who satisfies the officer-in-charge as to his/her identity and interest in the interment concerned.
- (b) Subject to the provisions of subsection (3), every application for interment shall be submitted at least forty-eight (48) hours or two working days before such interment.
- (c) Notice of any postponement or cancellation of any interment shall be given to the officer-in-charge not later than one hour before the interment was to have taken place.

##### **(3) INTERMENT ONLY IN ALLOTTED GRAVE**

- (a) Subject to the provisions of this by-law, no interment shall take place in any grave not allotted by the officer-in-charge.
- (b) No any other person other than the officer in charge shall have authority to re-arrange numbers at the grave yard without the permission of the officer in charge.
- (c) Where numbers were re-arranged by the officer in charge due to circumstances prevailing at the grave site on the day of burial, the correction of numbers shall be duly inserted in the graves register on the first working day after such change was effected.

**(4) RESERVATION OF GRAVES**

- (a) No plots shall be reserved in any public cemetery for exclusive use by a particular group, family, clan or whatsoever.
- (b) All graves sold by the municipality shall be used within thirty (30) days after application has been concluded with the officer in charge.
- (c) Where the two subparagraphs above are not possible for whatever reasons, the officer in charge must be notified in writing and exact period of burial be furnished.
- (d) No burial plots will be sold without provision of death certificate and provision of burial order as indicated in 3 (1) (a) above.
- (e) Where a person claim to have private rights to a particular plot in a cemetery, such person shall be required to demonstrate with proof of such rights indicating the extent of plots or number of graves for which the rights are held to the officer in charge before interment can be so allowed.
- (f) The holder of rights referred to above shall be required to follow all other procedures provided above before an interment can be performed in any municipal cemetery.

**(5) TRANSFER OR DISPOSAL OF RIGHTS**

- (a) No one shall have a right to make arrangements to transfer burial rights to another person without the approval of the officer in charge.
- (b) Where such rights are transferred, the interment shall only be approved upon furnishing the officer in charge with the Death Certificate, Burial Order or any legal document that may be required in terms of Death and birth Register Act or any other legislation applicable.

**(6) MULTIPLE INTERMENT IN A SINGLE GRAVE**

- (a) More than one interments in a single may be permitted in cemeteries where graves are dug up to 8ft deep: Provided that a third interment may be made in such grave with the consent of the officer-in-charge if the grave has been deepened to accommodate such.
- (b) The person making application for second interment shall-
  - (a) remove all memorial work on such grave at his/her own expense and comply with any requirement of the officer-in-charge in respect of such removal;
  - (b) after compliance with paragraph (a), give at least 48 hours or two (2) working days written notice to the officer-in-charge in the form prescribed by Council of such interment, which period shall be calculated exclusive of any Saturday, Sunday and public holiday.

**(7) DIMENSIONS OF GRAVES**

Subject to the provisions of section 12 –

- (a) in any cemetery existing at, and the planning and layout of which have been completed prior to the commencement of this by-law –
  - (i) an adult's grave shall –

- (aa) measure 2 400mm in length and 900mm in width, at ground level; and
  - (bb) have an excavation of 2 200mm in length, 1 800mm in depth and 770mm in width;
- (ii) a child's grave shall –
  - (aa) measure 1 500mm in length and 600mm in width, at ground level; and
  - (bb) have an excavation of 1 400 mm in length, 1 500mm in depth and 400 mm in width;
- (b) in any cemetery existing at the coming into operation of this by-law but in respect of which the planning or the layout has not been completed, and in any cemetery established after such commencement of operation, an adult's grave in a memorial section shall –
  - (i) an adult's grave shall –
    - (aa) measure 2 500mm in length and 1 500mm in width, at ground level;
    - (bb) have an excavation as set out in paragraph (a)(i)(bb);
  - (ii) an adult's grave in a lawn section or a landscape section shall –
    - (aa) measure 2 500mm in length and 1 200mm in width, at ground level; and
    - (bb) have an excavation as set out in paragraph (a)(i)(bb);
  - (iii) a child's grave in a memorial section shall –
    - (aa) measure 1 500mm in length and 1 000mm in width, at ground level; and
    - (bb) have an excavation as set out in paragraph (a)(ii)(bb);
  - (iv) a child's grave in a lawn section or a landscape section shall –
    - (aa) measure 1 500mm in length and 700mm in width, at ground level; and
    - (bb) have an excavation as set out in paragraph (a)(ii)(bb);

## 5. ENLARGEMENT OF GRAVES

- (1) Notwithstanding the provisions of Section 3
  - (a) If a coffin is too large to be accommodated within the excavation of an adult's grave, such excavation may be enlarged to a size which will accommodate such coffin;
- (2) If the excavation of a grave is to be enlarged, or deepened as contemplated in subsection (1), the officer-in-charge shall be notified accordingly, at least 48 hours before the interment, which period shall be calculated exclusive of any Saturday, Sunday and public holiday, and such notice shall be accompanied by payment of the appropriate fee.

## **6. COVERING OF COFFINS**

- (1) There shall be at least 1 2 m of soil between any adult's coffin and the surface of the ground, and at least 900mm of soil in the case of a child's coffin immediately after interment.

## **7. CONSTRUCTION OF COFFINS**

1. No coffin intended to be placed in a grave shall be constructed of any material other than natural timber or bio degradable or decomposable material.

## **8. FUNERALS**

### **8.1 RELIGIOUS OR MEMORIAL SERVICES**

- (1) Subject to the directions of the officer-in-charge, a religious ceremony or memorial service may be conducted in any cemetery with facilities such as chapel or whatsoever. Such service shall be restricted to not more than 30 minutes.

### **8.2 CONTROL OF HEARSE**

- (1) No person shall within any cemetery, drive a hearse or cause any hearse to be driven elsewhere than on a roadway, or leave or detain any hearse in such roadway after removal of the coffin from such hearse.

### **8.3 CONVEYING OF BODIES**

- (1) No person shall in any street, cemetery or public place –
- (a) convey a body in an unseemly manner;
  - (b) expose any part of such body;
  - (c) remove any lid or slide of a coffin in which a body has been placed.

### **8.4 CONVEYING OF COFFINS**

- (1) Every person who in terms of this by-law applies to have a body interred shall be responsible for ensuring that the coffin is conveyed to the grave.

### **8.5 COMPLIANCE WITH DIRECTIONS AT FUNERALS**

- (1) Any person taking part in a funeral, procession or ceremony within any cemetery shall comply with any reasonable direction of the officer-in-charge.

### **8.6 DURATION OF SERVICES**

- (1) No person shall occupy for more than 30 minutes any chapel in a cemetery for the purpose of a service or ceremony without the consent of the officer-in-charge.

### **8.7 FUNERAL HOURS**

- (1) No funeral shall take place before the hour of 07h00 or after of 16h00 except for those of Islamic, Jewish or Hindu religion.
- (2) No funeral shall take place on a Christmas Day and Good Friday, except for those of Islamic, Jewish or Hindu religion

## **9. REOPENING OF GRAVES AND EXHUMATIONS**

### **9.1 CONDITIONS OF EXHUMATION**

- (1) No person shall –
  - (a) exhume or cause to be exhumed any body without the prior written consent of the Municipal Council and the approval of the responsible authority in terms of the national and provincial legislation.
  - (b) exhume or cause to be exhumed any-body without prior arrangement with the officer in charge and has submitted all required documents, which may be but not limited to:
    - (i) Approval of exhumation from the provincial department of health.
    - (ii) Permission of exhumation from the municipality (iii)
  - (c) The officer in charge shall arrange such exhumation at times when there are no other funeral services on site.
- (2) If remains are to be exhumed from any grave, the officer-in-charge shall cause the grave to be excavated for such exhumation but shall not, except as provided by section 23, remove any body from the grave.
- (3) The removal of the body shall be the responsibility of the applicant or representative thereon
- (4) If a grave is required to be excavated for exhumation, the officer-in-charge shall be given at least 48 hours written notice of the proposed exhumation and such notice shall be accompanied by the appropriate charge prescribed.
- (5) The grave from which anybody is to be exhumed shall be effectively screened from view during the exhumation, and a suitable receptacle for the body shall be provided by the person carrying out such exhumation.
- (6) The person carrying out such exhumation shall ensure that the body and grave are properly disinfected and deodorised.

### **9.2 EXHUMATION AND RE-BURIAL BY THE MUNICIPAL COUNCIL AND OR OTHER PARTIES**

- (1) If, in the opinion of the Council, the exhumation of any body is advisable or necessary, or if a body has been interred in a grave in contravention of this by-law, the Council may, subject to the provisions of the national legislation and Mpumalanga Cemeteries, Crematoria and Exhumation of Bodies Act, 2005, cause such body to be exhumed and

re-interred in another grave: Provided that whenever possible a relative of the deceased person shall be notified of the intended re-interment and such relative shall be entitled to attend such re-interment.

- (2) Where in the opinion of Council provision of these by-laws were deliberately ignored, the costs of exhumation and reburial referred to in 2(1) above shall be claimed from the relative of the deceased person who applied for the initial interment.
- (3) All procedures in 1 above shall be done in compliance with the Dead Bodies and Graves Ordinance, 1925.
- (4) If the Premier of Mpumalanga Province consent to exhumation and re-burial, the Council may re-bury the remains in the grave and manner of its choice, subject to directives if any from the Premier or Provincial Health Department or the religious rites of the deceased at the costs of the relative of the deceased.
- (5) Council must notify the relative(s) of the deceased or the person who applied for the initial interment by letter, if their whereabouts are unknown advert in the national and local newspaper or radio station indicating its intention to exhume and rebury the remains of the deceased, stating reasons for such action.
- (6) Any party that wishes to exhume the remains of the deceased buried at municipal cemetery shall do so after satisfying the officer in charge that all the provisions of the Dead Bodies and Graves Ordinance of 1925, Section 14(1) of the Mpumalanga Cemetery, Crematoria and Exhumation of Bodies Act, 2005 and where applicable the order of the Court is provided.
  - (i) Municipality shall only consider application for exhumation when the requirements of the Ordinance mentioned in 6. above are satisfied.
  - (ii) Demonstrate to the municipality that the relatives of the deceased they intend to exhume have been notified accordingly.
  - (iii) Where the deceased are unknown the applicant shall provide sufficient proof that attempts were made to trace the relatives, such proof may include but not limited to, Newspaper advertisement, radio and any other means appropriate.
- (7) The party applying to exhume for the purpose of burial shall provide to the municipality or officer in charge the permission to rebury the remains at another cemetery. Such permit shall clearly indicate the location of the cemetery and the authority in control of such cemetery.
- (8) Re-burial of remains that have been exhumed elsewhere shall be made in writing to the Director: Community Services or delegated official stating the following:
  - (i) The number and or names of the remains to be buried.
  - (ii) Permission granted by the Premier and or Provincial Department of Health or Court Order.
  - (iii) That the relatives of the deceased have been notified, clearly stating their names and where possible furnishing copies of their identity documents.
  - (iv) Where it is alleged that the whereabouts of the relatives are unknown, proof of tracing or contacting them shall be provided, which shall be not not limited to newspaper advertisement, radio and any other appropriate means.

## **10. GARDENING OF GRAVES AND OBJECTS ON GRAVES**

- (1) No person other than the Council employee or representative shall garden any grave.

- (2) No person shall erect, place or leave upon a grave any object or decoration, except during the first twenty-eight days following the interment therein.
- (3) Notwithstanding the provisions of paragraph (a) natural or artificial flowers and the receptacles in which they are contained may be placed on a grave at any time: Provided that on a grave with a berm, natural or artificial flowers may only be placed in a receptacle placed in the socket provided in the berm or headstone.
- (4) The officer-in-charge or any member of his/her staff may remove natural or artificial flowers and any receptacle placed on a grave, when they become withered, faded or damaged.
- (5) Council or its representative shall remove any objects and or receptacles that are placed on the grave without prior arrangement with the municipality or are placed in contravention of (c) above without notifying anybody concern.

## **11. MEMORIAL WORK**

### **11.1 ERECTION OR RE- ERECTION OF MEMORIAL WORK**

- (1) No person shall, without the prior written consent of the officer-in-charge, erect any memorial work in any cemetery under the control of Govan Mbeki Municipality.
- (2) Application for consent in terms of subsection (1) shall be made at least five working days before the proposed date of the erection to the officer-in-charge in the form prescribed by Council and shall be accompanied by the appropriate charge.
- (3) If memorial work is removed for additional inscriptions or other alterations thereto, the provisions of subsection (1) shall apply *mutatis mutandis*.
- (4) Save with the permission of the officer-in-charge, no work on any memorial work shall be performed on a Saturday, Sunday of public holiday, or at any time between the hours 17h00 and 09h00.
- (5) No person shall erect or re-erect any memorial work at any time when the ground upon which such memorial work is to be erected or re-erected is, in the opinion of the officer-in-charge, in an unsuitable condition.
- (6) The person in charge of the erection or re-erection of any memorial work shall produce the written consent referred to in subsection (1), at the request of the officer-in-charge.
- (7) No memorial work or material for use in connection therewith shall be conveyed in any cemetery in such manner as may damage the paths or grounds.
- (8) Any surplus material, rubbish or rubble resulting from the erection or re-erection of any memorial work, shall be removed forthwith by the person responsible for such erection.
- (9) No memorial work extending beyond 765 mm measured from the head and along the length of the grave in a memorial section shall be erected unless all the appropriate charges have been paid.
- (10) No full memorial work shall be allowed at any section considered to be berm or landscape area.
- (11) Only headstones shall be permitted to be erected at a berm or landscape area or section of the cemetery and no headstone only shall be allowed on a section demarcated as full memorial by the municipality.



### **11.2 INFERIOR MEMORIAL WORK**

- (1) The Council may prohibit the erection or re-erection of any proposed memorial work, which in its opinion is of inferior workmanship or quality or which is in any way likely to disfigure any cemetery.

### **11.3 INSCRIPTIONS ON MEMORIAL WORK**

- (1) Any memorial work shall, when erected, display the number assigned to the grave concerned by the officer-in-charge, in permanent and visible markings on the side of the base of the memorial work, or in the case of a tablet erected on any grave in a landscape section, on the upper surface in the lower left hand corner of such tablet.
- (2) The only particulars of the maker of memorial work, which may appear thereon shall be his/her name, which shall be placed at the base of the memorial work.
- (3) No inscription with insulting or negative racial connotations shall be permitted at the cemetery under the control of Govan Mbeki Municipality

### **11.4 DISMANTLING OF MEMORIAL WORK**

- (1) Subject to the provisions of this section, no person other than the holder of private rights or a person authorised in writing by such holder shall dismantle, alter or disturb any memorial work on a grave and such holder or person shall only do so with the prior permission of the officer-in-charge.
- (2) Dismantled memorial work shall not be left in any part of the cemetery except on the grave on which such memorial work had been erected: Provided that this officer-in-charge may in the case of a second or subsequent interment in such grave permit such memorial work to be left elsewhere in the cemetery for a period not exceeding 30 days after such interment.
- (3) If a holder or person referred to in subsection (1), fails to re-erect dismantled memorial work within six months after it has been dismantled or if such memorial work is left within the cemetery in contravention of subsection (2), the Municipal Council may give 30 days written notice to such holder or person requiring him at his/her own expense to re-erect such memorial work or to remove such memorial work from the cemetery together with all rubble connected therewith.
- (4) If, in the opinion of the Council, any memorial work has become a danger to the public or has been erected in contravention of this by-law, or has become damaged, the Council may give written notice to the holder or person referred to in subsection (1), requiring him at his/her own expense, to render such memorial work safe or to alter such memorial work so that it complies with the provisions of this by-law or to dismantle and remove such material work from the cemetery together with all rubble connected therewith within a period specified in such notice.
- (5) If such holder or person fails to comply with a notice in terms of subsection (3) or (4), the Council may, without incurring any liability to pay compensation:
  - (a) re-erect the memorial work concerned; or
  - (b) dismantle and dispose of the memorial work concerned and remove any rubble connected therewith; or

- (c) render the memorial work concerned safe; and such holder or person shall be liable for any costs incurred by the Council in doing any act in terms of this subsection.
- (6) If, in the opinion of the Council, any memorial work has become so dangerous to the public that immediate steps to safeguard to the public that immediate steps to safeguard the public are essential, the Council may without giving any notice to the holder or person referred to in subsection (1), and without incurring any liability to pay compensation:
  - (a) dismantle the memorial work concerned and remove it and any rubble connected therewith; or
  - (b) render the memorial work concerned safe.
- (7) If the Council has acted in terms of subsection (6), it shall immediately, in writing, notify the holder or person referred to in subsection (1), of the work that it has done and if memorial work was dismantled in terms of subsection (6) (a), that unless such person reclaims and removes the memorial work from the cemetery within a reasonable period stipulated in the notice, the Council will dispose thereof.
- (8) Such holder or person shall be liable for any costs incurred by the Municipal Council in doing any act in terms of subsection (6).
- (9) If the holder or person referred to in subsection (1) fails to pay to costs referred to in subsection (8) or to reclaim and remove memorial work dismantled by the Council in terms of subsection (6) (a), the Council may dispose of such memorial work in any manner it deems fit and if any proceeds are derived from such disposal, they shall be offset against the cost of the dismantling, removing, storing and disposing of such memorial work and rubble connected therewith.

#### **11.5 GENERAL REQUIREMENTS OF MEMORIAL WORK**

- (1) Any person who erects or re-erects memorial work shall ensure that:
  - (a) whenever any part of such memorial work is to be joined to any other part, it shall be so joined by the use of copper or galvanised iron clamps, pins or dowels of approved thickness and of a length sufficient to fit holes which shall not, without the prior written permission of the officer-in-charge, be less than 50 mm deep;
  - (b) a foundation which is adequate to support the proposed memorial work is provided for such memorial work;
  - (c) all kerb stones are squared and laid in accordance with the instructions of the officer-in-charge so as to ensure that when the ground surrounding such kerb stones has been leveled, such kerb stones do not exceed a height of 230 mm above the ground level; and
  - (d) if loose stone chips are placed on a grave, the level of such stone chips shall not be higher than 15 mm below the level of the surrounding kerb stone.

#### **11.6 REQUIREMENTS FOR MEMORIAL WORK IN BERM/LANDSCAPE/LAWN SECTION**

- (1) The following provisions shall apply to memorial work and graves in a lawn section:
  - (a) (i) The dimensions of the base of any headstone on an adult's grave shall not exceed 915 mm length and 255 mm in width, but if the base of the headstone is erected over two adjoining graves, such base shall not exceed 1 800 mm in length and 255 mm in width.

- ii) the dimensions of the base of any headstone on a child's grave shall not exceed 610 mm in length and 255 mm in width, but if the base of the headstone is erected over two adjoining graves, such base shall not exceed 1 200 mm in length and 255 mm in width.
- (b) no portion of any headstone shall extend beyond the horizontal dimensions of its base;
- (c) headstones shall only be erected on the berms provided by the Council;
- (d) no part of any memorial work other than the headstone shall exceed 1 070 mm in height above the berm;
- (e) any headstone shall be so positioned that the front edge of the base of the headstone is at least 130 mm from the front edge of the berm;
- (f) no object other than a headstone which may incorporate not more than two sockets for receptacles for flowers shall be placed on any grave: Provided that a vase in which natural or artificial flowers and foliage may be kept may be placed in a socket provided in a berm for such vase and such vase shall not exceed 300 mm in height and its horizontal dimensions shall not be more than 60 mm greater than its base;
- (g) no kerb demarcating any grave and no slab covering any grave shall be permitted.

#### **11.7 REQUIREMENTS FOR MEMORIAL WORK IN MEMORIAL SECTION**

- (1) In a cemetery existing at the coming into operation of this by-law, the maximum horizontal measurements of any memorial work erected on a grave in a memorial section shall be:
  - (a) in the case of an adult's grave, 2 500 mm in length and 1 050 mm in width;
  - (b) in the case of a child's grave, 1 500 mm in length and 600 mm in width.
- (2) In a cemetery established after the coming into operation of this by-law, the maximum horizontal measurements of any memorial work erected on a grave in a memorial section shall be:
  - (a) in the case of an adult's grave, set out in subsection (1)(a);
  - (b) in the case of a child's grave 1 500 mm in length and 1 000 mm in width, with a kerb width of 150 mm.

#### **11.8 REQUIREMENTS FOR MEMORIAL WORK IN LANDSCAPE SECTION**

- (1) Any memorial work erected on a grave in a landscape section shall not exceed 230 mm in length, 305 mm in width and 30 mm in height and shall be mounted on a berm.

#### **11.9 SUPERVISION OF WORK**

- (1) Any person engaged upon memorial work in a cemetery shall effect such work under the supervision, and to the satisfaction of the officer-in-charge.

## **12. PROHIBITED ACTS**

- (1) No person:
- (a) under 12 years of age shall enter any cemetery except in the care of a person over the age of 16 years;
  - (b) shall enter or leave any cemetery except by the gateways provided.
- (2) No person shall, within any cemetery
- (a) enter any office or any enclosed place where entry is prohibited by means of a notice displayed in a conspicuous position, except on business connected with such cemetery;
  - (b) solicit any business, or exhibit, distribute or leave any tract, business card of advertisement;
  - (c) sit, stand, climb upon, or deface or damage any memorial work of Council property;
  - (d) commit any offensive, indecent or objectionable act or any act which constitutes a nuisance or causes a disturbance;
  - (e) introduce any animal without the consent of the officer-in-charge;
  - (f) hold or take part in any demonstration;
  - (g) remove any plant or part thereof without the consent of the officer-in-charge;
  - (h) drive or park any vehicle without the prior consent of the officer-in-charge on any road where driving or parking is prohibited by means of a notice or parking in a conspicuous position or drive or park any vehicle contrary to any direction of the officer-in-charge;
  - (i) drive any vehicle or ride any cycle at a speed exceeding 20 km per hour;
  - (j) obstruct, resist or oppose the officer-in-charge or any member of his/her staff in the exercise of his/her powers or performance of his/her duties under this by-law, or refuse to comply with any lawful order or request of the officer-in-charge or any member of his/her staff;
  - (k) play or cause to be played any musical instrument or apparatus without the prior consent of the officer-in-charge;
  - (l) play any sport or conduct himself/herself in a manner not in keeping with the atmosphere of a cemetery.

## **13. LIABILITY OF THE MUNICIPAL COUNCIL IN RESPECT OF INJURY OR DAMAGE**

- (1) The Council shall not be liable for any injury to person or damage to any property if such injury or damage has been sustained in a cemetery, except where such injury or damage was caused by the wilful misconduct of or a negligent act of commission by an employee of the Municipal Council.

## **14. INDIGENT BURIAL**

- (1) If a person has died in indigent circumstances, and if no relative or other person can be found to bear the burial costs of such deceased person, the Municipal Council may provide a grave free of charge for the interment of such person.
- (2) Interment of such person shall only take place on Monday-Thursday at category C cemetery anywhere under control of the Lekwa Local municipality.

## 15. CEMETERY HOURS

- (1) Every cemetery shall be open to the public during such hours as are indicated on a notice board at each gate of such cemetery: **Provided that the officer-in-charge shall be entitled at any time to close off any cemetery or part thereof to the public for such period for such purpose as he may deem fit. The operating hours shall be 06:00-16:00 Monday-Sunday.**

## 16. OFFENCES AND PENALTIES

- (1) Any person who:

- (a) conceals any other fact or document in connection with an application for interment;
- (b) makes any false statement in his/her written application for interment;
- (c) fails to comply with any provision of this by-law; shall be guilty of an offence and liable on conviction to a penalty not exceeding **R 2 000**, or in default of payment, to imprisonment for a period not exceeding **three (3) months** or to both such fine and imprisonment.

## 17. REPEAL OF THIS BY-LAW

- (1) The By-laws relating to Cemeteries for the **Lekwa Local Municipality**, are hereby repealed and replaced by this By-law, which are to become effective on promulgation hereof.

## 18. SHORT TITLE

- (1) This By-law shall be called the Cemetery By-law 2015.

**PROVINCIAL NOTICE 73 OF 2018****MPUMALANGA DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS****PUBLICATION OF MUNICIPAL BY-LAWS FOR LOCAL MUNICIPALITIES IN TERMS OF  
THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT (ACT NO. 32 OF 2000)**

I, Speed Katishi Mashilo, in my capacity as Member of the Executive Council responsible for Co-operative Governance and Traditional Affairs, in the Mpumalanga Province, hereby publish municipal by-laws for Mkhondo, Chief Albert Luthuli, Lekwa and Emalahleni local municipalities, in terms of Section 13 (a) and (b) of the Local Government: Municipal Systems Act (Act No. 32 of 2000)

The municipal by-laws are concerning the following matters per local municipality, namely:

**Lekwa Local Municipality**

1. Electricity Supply
2. Advertising Signs
3. Encroachment on Municipal Properties
4. Public Participation
5. Street Trading
6. Contaminated Waste
7. Cemetery
8. Taxi
9. Informal Settlements
10. Open Space

**Chief Albert Luthuli Local Municipality**

1. Standing Rules and Orders
2. Electricity Supply
3. Fire Brigade Services
4. Sanitation
5. Waste Management
6. Water Supply

**Emalahleni Local Municipality**

1. Property Rates

**Mkhondo Local Municipality**

1. Credit Control and Debt Collection
2. Control of Outdoor Advertising
3. Encroachment on Municipal Properties

Given under my hand at Mbombela, on

03/04

2018

  
\_\_\_\_\_  
**MR SK MASHILO (MPL)**

**MEC: DEPARTMENT OF CO-OPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS**

# LEKWA LOCAL MUNICIPALITY



## DRAFT DISPOSAL OF CONTAMINATED AND OR INFECTIOUS WASTE BY-LAW



The Council of Lekwa Local Municipality has in terms of section 156 of the Constitution, 1996, read in conjunction with Section 11 and 98 of the Local Government: Municipal Systems Act, 2000, (Act No. 32 of 2000, as amended), made the following By-law:

**DISPOSAL OF CONTAMINATED AND OR INFECTIOUS WASTE BY-LAW**

**TABLE OF CONTENTS**

1. Definitions
2. Storage of infectious waste
3. Transport of infectious waste
4. Removal and disposal of infectious waste
5. Infectious waste
6. Offences and Penalties
7. Repeal
8. Short title

## 1. DEFINITIONS

(1) For the purpose of this by-law unless the context indicates otherwise:

**"Contaminated animal carcasses, body parts and bedding"**

means contaminated carcasses, body parts and bedding of animals that were intentionally exposed to pathogens in research, in the production of biologicals, or the in vivo testing of pharmaceuticals.

**"Contaminated sharps"**

means discarded sharps (e.g. hypodermic needles, syringes, pasteur pipettes, broken glass, scalpel blades) which have come into contact with infectious agents during use in patient care or in medical, research or industrial laboratories.

**"Cultures and stocks of infectious agents and associated biologicals"**

Means specimen cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals and live or attenuated vaccines and culture dishes and devices used to transfer, inoculate and mix cultures.

**"Human blood and blood products"**

means waste such as serum, plasma and other blood components

**"Infectious waste"**

means waste capable of producing an infectious disease.

**"Isolation waste"**

means waste generated by hospitalised patients isolated to protect others from communicable diseases.

**"Miscellaneous contaminated wastes"**

means wastes from surgery and autopsy (e.g. soiled dressings, sponges, drapes, lavage tubes, drainage sets, underpads and gloves), contaminated laboratory wastes (e.g. specimen containers, slides and cover slips, disposal gloves, laboratory coats and aprons), dialysis unit waste (e.g. tubing filters, disposable sheets, towels, gloves, aprons and laboratory coats), and contaminated equipment (e.g. equipment used in patient care, medical and industrial laboratories, research and in the production and testing of certain pharmaceuticals).

**"Municipality"**

means Lekwa Local Municipality

**"Municipal council"**

means the municipal council as referred to in section 157(1) of the Constitution, 1996

- "Municipal manager"** means a person appointed by the Municipal Council as the Municipal Manager of the Municipality in terms of section 54A of the Local Government; Municipal Systems Act, 32 of 2000, and includes any person –
- a) acting in such a position
  - b) to whom the municipal manager has delegated the power, function or duty in respect of such delegated power, function or duty;

**"Pathological waste"** means waste consisting of tissues, organs, body parts and body fluids that are removed during surgery and autopsy.

- (2) Words applying to any individual shall include persons, companies and corporations, and the masculine gender shall include females as well as males, and the singular number shall include the plural and *vice versa*.

## **2. STORAGE OF INFECTIOUS WASTE**

- (1) All infectious waste must be placed at the point of generation into a container approved by the Municipality.
- (2) The container used for the storage of sharp objects must be constructed of such a material that the object cannot pierce the container. The container must also be fitted with a safe and hygienic lid which must be sealed after use.
- (3) The container used for the disposal of other infectious waste must be constructed of a suitable material preventing the leakage of the contents. The container must also be fitted with a safe and hygienic lid which must be sealed after use.
- (4) All containers must be adequately labelled and marked with the universal Bio-hazardous waste symbol.

## **3. TRANSPORT OF INFECTIOUS WASTE**

- (1) All containers of infectious waste must be sealed intact at the point of generation.
- (2) The vehicle transporting infectious waste must be clearly marked indicating infectious waste in transit.
- (3) The vehicle used for the transport of infectious waste must be so designed that the driver's cab is separated from the load area. The load area must be enclosed with suitable sealable, lockable doors.
- (4) All infectious loads being carried or conveyed for disposal must be invoiced by the person or institution from which such waste is generated and the invoice must contain details of the premises from which the infectious waste was generated and the premises where the waste will be disposed of.

## **4. REMOVAL AND DISPOSAL OF INFECTIOUS WASTE**

- (1) The Municipality may remove infectious waste from the premises of generation and dispose thereof in a safe, sanitary and supervised manner, and the owner of such premises or the owner

of the waste as determined by the Municipality shall be liable to the Municipality for payment of the tariff charges in respect of the aforesaid removal services.

- (2) Private contractors may, with the written consent of the Municipality and subject to such terms and conditions as it may determine, remove and dispose of infectious waste.
- (3) Infectious waste may, with the written consent of the Municipality and subject to compliance with such terms and conditions as it may determine, be disposed of in an approved high temperature pollution free incinerator on the premises of origin of such waste.
- (4) Unless otherwise determined by the Municipality, the burning temperatures in the primary and secondary chambers of the incinerator shall, at all times, exceed 800 degrees C and 1000 degrees C respectively and also have rapid cooling to prevent carcinogenic chemicals from entering the atmosphere.
- (5) The Municipality may by resolution determine additional conditions pertaining to the storage, placement, removal and conveyance of contaminated and or infectious waste including conditions pertaining to vehicles used for the removal and transportation of such waste and such additional conditions shall apply in addition to the conditions contained in this by-laws.

## **5. INFECTIOUS WASTE**

- (1) For the purpose of this by-law, infectious waste shall include all the wastes referred to in section 1 hereof as well as contaminated animal carcasses, body parts, bedding, sharps, cultures and stocks of infectious agents and associated biologicals, human blood and blood products.

## **6. OFFENCES AND PENALTIES**

- (1) Any person who contravenes or fails to comply with any provision of these by-laws or any instruction or permit issued thereunder shall be guilty of an offence and be liable on conviction to a fine not exceeding R1000 or such higher amount as is determined from time to time by the Minister of Justice as contemplated in section 1(1)(a) of the Adjustment of Fines Act 1991 (Act No. 101 of 1991) or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

## **7. REPEAL OF THIS BY-LAW**

- (1) Any by-law relating to the disposal of contaminated and or infectious waste adopted by the Municipality or any Municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of this by-law.

## **8. SHORT TITLE**

- (1) This by-law shall be called the Disposal of Contaminated and or Infectious Waste By-law 2015.

## PROVINCIAL NOTICE 74 OF 2018

**MPUMALANGA DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS****PUBLICATION OF MUNICIPAL BY-LAWS FOR LOCAL MUNICIPALITIES IN TERMS OF  
THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT (ACT NO. 32 OF 2000)**

I, Speed Katishi Mashilo, in my capacity as Member of the Executive Council responsible for Co-operative Governance and Traditional Affairs, in the Mpumalanga Province, hereby publish municipal by-laws for Mkhondo, Chief Albert Luthuli, Lekwa and Emalahleni local municipalities, in terms of Section 13 (a) and (b) of the Local Government: Municipal Systems Act (Act No. 32 of 2000)

The municipal by-laws are concerning the following matters per local municipality, namely:

**Lekwa Local Municipality**

1. Electricity Supply
2. Advertising Signs
3. Encroachment on Municipal Properties
4. Public Participation
5. Street Trading
6. Contaminated Waste
7. Cemetery
8. Taxi
9. Informal Settlements
10. Open Space

**Chief Albert Luthuli Local Municipality**

1. Standing Rules and Orders
2. Electricity Supply
3. Fire Brigade Services
4. Sanitation
5. Waste Management
6. Water Supply

**Emalahleni Local Municipality**

1. Property Rates

**Mkhondo Local Municipality**

1. Credit Control and Debt Collection
2. Control of Outdoor Advertising
3. Encroachment on Municipal Properties

Given under my hand at Mbombela, on 03/04/2018

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**MR SK MASHILO (MPL)**

**MEC: DEPARTMENT OF CO-OPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS**

## **ELECTRICITY BY-LAWS**

The Council of Lekwa Local Municipality has in terms of section 156 of the Constitution, 1996 (Act No. 108 of 1996), read in conjunction with sections 11 and 98 of the Local Government: Municipal Systems Act, 2000, (Act No. 32 of 2000), made the following By-laws:

## **LEKWA LOCAL MUNICIPALITY**

### **ELECTRICITY BY-LAWS**

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## **CHAPTER I**

### **GENERAL**

#### **1. DEFINITIONS**

(1) In this By-law, unless inconsistent with the context -

<b>“accredited person”</b>	means a person registered in terms of the Regulations as an electrical tester for single phase, an installation electrician or a master installation electrician, as the case may be;
<b>“applicable standard specification”</b>	means the standard specifications as listed in Schedule 1 attached to this By-law;
<b>“certificate of compliance”</b>	means a certificate issued in terms of the Regulations in respect of an electrical installation or part of an electrical installation by an accredited person;
<b>“consumer”</b>	in relation to premises means: <ul style="list-style-type: none"> <li>(a) any occupier thereof or any other person with whom the Municipality has contracted to supply or is actually supplying electricity thereat; or</li> <li>(b) if such premises are not occupied, any person who has a valid existing agreement with the Municipality for the supply of electricity to such premises; or</li> <li>(c) if there is no such person or occupier, the owner of the premises;</li> </ul>
<b>“credit meter”</b>	means a meter where an account is issued subsequent to the consumption of electricity;
<b>“electrical contractor”</b>	means an electrical contractor as defined in the Regulations;
<b>“electrical installation”</b>	means an electrical installation as defined in the Regulations;
<b>“high voltage”</b>	means the set of nominal voltage levels that are used in power systems for bulk transmission of electricity in the range of 44kV<Un 220kV. [SABS 1019];

<b>“low voltage”</b>	means the set of nominal voltage levels that are used for the distribution of electricity and whose upper limit is generally accepted to be an a.c. voltage of 1000V (or a d.c. voltage of 1500V). [SABS 1019];
<b>“the law”</b>	means any applicable law, proclamation, ordinance, act of parliament or enactment having force of law;
<b>“medium voltage”</b>	means the set of nominal voltage levels that lie above low voltage and below high voltage in the range of $1\text{kV} < U_n < 44\text{kV}$ . [SABS 1019];
<b>“meter”</b>	means a device which records the demand and/or the electrical energy consumed and includes conventional and prepayment meters;
<b>“motor load, total connected”</b>	means the sum total of the kW input ratings of all the individual motors connected to an installation;
<b>“motor rating”</b>	means the maximum continuous kW output of a motor as stated on the maker’s rating plate;
<b>“motor starting current”</b>	in relation to alternating current motors means the root mean square value of the symmetrical current taken by a motor when energised at its rated voltage with its starter in the starting position and the rotor locked;
<b>“Municipality”</b>	means Lekwa Local Municipality, a municipality established in terms of the law or any legal entity duly authorised by the . . . . . Municipality to provide an electricity service within the jurisdiction of the Lekwa Local Municipality;
<b>“occupier”</b>	in relation to any premises means – <ul style="list-style-type: none"> <li>(a) any person in actual occupation of such premises;</li> <li>(b) any person legally entitled to occupy such premises;</li> <li>(c) in the case of such premises being subdivided and let to lodgers or various tenants, the person receiving the rent payable by such lodgers or tenants, whether on his own account or as agent for any person entitled thereto or interested therein; or</li> <li>(d) any person in control of such premises or responsible for the management thereof, and includes the agent of any such person when</li> </ul>

he/she is absent from the Republic of South Africa or his/her whereabouts are unknown;

**“owner”**

in relation to premises means the person in whom is vested the legal title thereto; provided that –

(a) in the case of immovable property –

- (i) leased for a period of not less than 50 (fifty) years, whether the lease is registered or not, the lessee thereof, or
- (ii) beneficially occupied under a servitude or right analogous thereto, the occupier thereof;
- (b) if the owner as hereinbefore defined –
  - (i) is deceased or insolvent, has assigned his estate for the benefit of his creditors, has been placed under curatorship by order of court or is a company being wound up or under judicial management, the person in whom the administration of such property is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be, or
  - (ii) is absent from the Republic of South Africa, or if his address is unknown to the Municipality, any person who as agent or otherwise receives or is entitled to receive the rent in respect of such property, and
  - (iii) if the Municipality is unable to determine who such person is, the person who is entitled to the beneficial use of such property, shall be deemed to be the owner thereof to the exclusion of the person in whom is vested the legal title thereto;

**“point of consumption”** means a point of consumption as defined in the Regulations;

**“point of metering”** means the point at which the consumer's consumption of electricity is metered and which may be at the point of supply or at any other point on the distribution system of the Municipality or the electrical installation of the consumer, as specified by the Municipality or any duly authorised official of the Municipality : Provided that it shall meter all of, and only, the consumer's consumption of electricity;

**“point of supply”** means the point determined by the Municipality or any duly authorised official of the Municipality at which electricity is supplied to any premises by the Municipality;

**“premises”** means any land or any building or structure above or below ground level and includes any vehicle, aircraft

<b>“prepayment meter”</b>	or vessel; means a meter that can be programmed to allow the flow of pre-purchased amounts of energy in an electrical circuit;
<b>“Regulations”</b>	means Regulations made in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), as amended;
<b>“SANS Codes”</b>	means the South African Standards Codes or the South African Bureau of Standards Codes as defined in Regulation No. 1373 published in <i>Government Gazette</i> 24002, dated 08 November 2002 in terms of the Standards Act, 1993 (Act No. 29 of 1993) or as may be published in the future in terms of that Act.
<b>“safety standard”</b>	means the Code of Practice for the Wiring of Premises SABS 0142 incorporated in the Regulations;
<b>“service connection”</b>	means all cables and equipment required to connect the supply mains to the electrical installation of the consumer at the point of supply;
<b>“service protective device”</b>	means any fuse or circuit breaker installed for the purpose of protecting the Municipality's equipment from overloads or faults occurring on the installation or on the internal service connection;
<b>“standby supply”</b>	means an alternative electricity supply not normally used by the consumer;
<b>“supply mains”</b>	means any part of the Municipality's electricity network;
<b>“tariff”</b>	means the Municipality's tariff or charges for the supply of electricity, and
<b>“token”</b>	means the essential element of a prepayment metering system used to transfer information from a point of sale for electricity credit to a prepayment meter and <i>vice versa</i> ;
<b>“voltage”</b>	means the root-mean-square value of electrical potential between two conductors.

- (2) Words applying to any individual shall include persons, companies and corporations, and the masculine gender shall include females as well as males, and the singular number shall include the plural and *vice versa*.

## 2. OTHER TERMS

All other terms used in this By-law shall, unless the context otherwise requires, have the meaning assigned thereto in the Electricity Act, 1987 (Act No. 41 of 1987), as amended, or the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), as amended.

### 3. HEADINGS AND TITLES

The headings and titles in this By-law shall not affect the construction thereof.

## **CHAPTER 2**

### **GENERAL CONDITIONS OF SUPPLY**

#### 4. PROVISION OF ELECTRICITY SERVICES

Only the Municipality shall supply or contract for the supply of electricity within the jurisdiction of the Municipality.

#### 5. SUPPLY BY AGREEMENT

No person shall use or be entitled to use an electricity supply from the Municipality unless or until such person shall have entered into an agreement in writing with the Municipality for such supply, and such agreement together with the provisions of this By-law shall in all respects govern such supply. If a person uses an electricity supply without entering into an agreement he/she shall be liable for the cost of electricity used as stated in section 44 of this By-law.

#### 6. SERVICE OF NOTICE

- (1) Any notice or other document that is served on any person in terms of this By-law 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 sixteen 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); or
  - (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.

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- 2) When any notice or other document must be authorised or served on the owner, occupier or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and it is not necessary to name that person.
- (3) Any legal process is effectively and sufficiently served on the Municipality when it is delivered to the Municipal Manager or a person in attendance at the municipal manager's office.

## 7. COMPLIANCE WITH NOTICES

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

## 8. APPLICATION FOR SUPPLY

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

## 9. PROCESSING OF REQUESTS FOR SUPPLY

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

## 10. WAYLEAVES

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

## 11. STATUTORY SERVITUDE

- (1) Subject to the provisions of subsection (3) the Municipality may within its municipal area:
  - (a) provide, establish and maintain electricity services;
  - (b) acquire, construct, lay, extend, enlarge, divert, maintain, repair, discontinue the use of, close up and destroy electricity supply mains;
  - (c) construct, erect or lay any electricity supply main on, across, through, over or under any street or immovable property and the ownership of any such main shall vest in the Municipality;
  - (d) do any other thing necessary or desirable for or incidental, supplementary or ancillary to any matter contemplated by paragraphs (a) to (c).
- (2) If the Municipality constructs, erects or lays any electricity supply main on, across, through, over or under any street or immovable property not owned by the Municipality or under the control of or management of the Municipality it shall pay to the owner of such street or property compensation in an amount agreed upon by such owner and the Municipality or, in the absence of agreement, be determined either by arbitration or a court of law.
- (3) The Municipality shall, before commencing any work other than repairs or maintenance on or in connection with any electricity supply main on immovable property not owned by the Municipality or under the control or management of the Municipality, give the owner or occupier of such property reasonable notice of the proposed work and the date on which it proposes to commence such work.

## 12. RIGHT OF ADMITTANCE TO INSPECT, TEST AND/OR DO MAINTENANCE WORK

- (1) The Municipality shall, through its employees, contractors and their assistants and advisers, have access to or over any property for the purposes of –
  - (a) doing anything authorised or required to be done by the Municipality under this By-law or any other law;
  - (b) inspecting and examining any service mains and anything connected therewith;
  - (c) enquiring into and investigating any possible source of electricity supply or the suitability of immovable property for any work, scheme or undertaking of the Municipality and making any necessary survey in connection therewith;
  - (d) ascertaining whether there is or has been a contravention of the provisions of this By-law or any other law, and
  - (e) enforcing compliance with the provisions of this By-law or any other law.



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- 2) The Municipality shall pay to any person suffering damage as a result of the exercise of the right of access contemplated by subsection (1), except where the Municipality is authorised to execute on the property concerned any work at the cost of such person or some other person or to execute on such property any work and recover the cost thereof from such person or some other person, compensation in such amount as may be agreed upon by the Municipality and such person or, in the absence of agreement, as may be determined by arbitration or court of law.
- (3) An employee of the Municipality authorised thereto by such Municipality may, by notice in writing served on the owner or occupier of any property, require such owner or occupier to provide, on the day and at the hour specified in such notice, access to such property to a person and for a purpose referred to in subsection (1).
- (4) The Municipality may gain access to or over any property without notice and may take whatever action as may, in its opinion, be necessary or desirable in consequence of the existence of a state of war or the occurrence of any calamity, emergency or disaster.

**13. REFUSAL OR FAILURE TO GIVE INFORMATION**

No person shall refuse or fail to give such information as may be reasonably required of him/her by any duly authorised official of the Municipality or render any false information to any such official regarding any electrical installation work completed or contemplated.

**14. REFUSAL OF ADMITTANCE**

No person shall wilfully hinder, obstruct, interfere with or refuse admittance to any duly authorised official of the Municipality in the performance of his duty under this By-law or of any duty connected therewith or relating thereto.

**15. IMPROPER USE**

If the consumer uses the electricity for any purpose or deals with the electricity in any manner which the Municipality has reasonable grounds for believing interferes in an improper or unsafe manner or is calculated to interfere in an improper or unsafe manner with the efficient supply of electricity to any other consumer, the Municipality may, with or without notice, disconnect the electricity supply but such supply shall be restored as soon as the cause for the disconnection has been permanently remedied or removed. The fee as prescribed by the Municipality for the disconnection and reconnection shall be paid by the consumer before the electricity supply is restored, unless it can be shown that the consumer did not use or deal with the electricity in an improper or unsafe manner.

**16. ELECTRICITY TARIFFS AND FEES**

Copies of charges and fees may be obtained free of charge at the offices of the Municipality.

**17. DEPOSITS**

The Municipality reserves the right to require the consumer to deposit a sum of money as security in payment of any charges which are due or may become due to the Municipality. The amount of the deposit in respect of each electricity installation shall be determined by the Municipality, and each such deposit may be increased if the Municipality deems the deposit held to be inadequate. Such deposit shall not be regarded as being in payment or part payment of any accounts due for the supply of electricity for the purpose of obtaining any discount provided for in the electricity tariff referred to in this By-law. On cessation of the supply of electricity, the amount of such deposit, free of any interest, less any payments due to the Municipality shall be refunded to the consumer.

**18. PAYMENT OF CHARGES**

- (1) The consumer shall be liable for all charges listed in the prescribed tariff for the electricity service as approved by the Municipality. A copy of the prescribed tariff is obtainable free of charge from the Municipality.
- (2) All accounts shall be deemed to be payable when issued by the Municipality and each account shall, on its face, reflect the due date and a warning indicating that

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the supply of electricity may be disconnected should the charges in respect of such supply remain unpaid after the due date.

- 3) An error or omission in any account or failure to render an account shall not relieve the consumer of his obligation to pay the correct amount due for electricity supplied to the premises and the onus shall be on the consumer to satisfy himself/herself that the account rendered is in accordance with the prescribed tariff of charges in respect of electricity supplied to the premises.
- (4) Where a duly authorised official of the Municipality has visited the premises for the purpose of disconnecting the supply of electricity in terms of subsection (2) and he/she is obstructed or prevented from effecting such disconnection, the prescribed fee shall become payable for each visit necessary for the purpose of such disconnection.
- (5) After disconnection for non-payment of an account, the prescribed fees and any amounts due for electricity consumed shall be paid before the electricity supply is reconnected.

#### 19. INTEREST ON OVERDUE ACCOUNTS

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

#### 20. RESALE OF ELECTRICITY

- (1) Unless otherwise authorised by the Municipality, no person shall sell or supply electricity, supplied to his/her premises under an agreement with the Municipality, to any other person or persons for use on any other premises, or permit or suffer such resale or supply to take place. Where municipal approval is given for the resale of electricity, such resale shall be subject to the conditions laid down in the Electricity Act, 1987 (Act No. 41 of 1987), provided that the reseller shall be permitted to recover his/her actual electricity cost, provided further that he/she must substantiate these costs if called upon to do so.
- (2) Further, in terms of Regulation 11(3)(a) of the Electricity Act, 1987 (Act No. 41 of 1987), the reseller of electricity may recover the administration costs incurred in metering reading and billing from the person so supplied with electricity, provided that, at the request of such person, the reseller must furnish such person with such information as may be necessary to enable him/her to determine whether the administration costs are fair and reasonable.

#### 21. RIGHT TO DISCONNECT SUPPLY

- (1) The Municipality shall have the right to disconnect the supply of electricity to any premises if the person liable to pay for such supply fails to pay any charge due to the Municipality in connection with any supply of electricity which he/she may at any time have received from the Municipality in respect of such premises, or, where any of the provisions of this By-law and/or the Regulations are being contravened, provided the Municipality has given the person 14 (fourteen) days

notice to remedy his/her default and the person has failed to remedy such default after notice has been given, or, in the case of a grave risk to person or property, or as envisaged in terms of section 26 of this By-law, without notice. After disconnection for non-payment of accounts or the improper or unsafe use of electricity, the fee as prescribed by the Municipality shall be paid.

- (2) In the case where an installation has been illegally reconnected on a consumer's premises after having been previously legally disconnected by the Municipality, or in the case where the Municipality's electrical equipment has been tampered (removing of seals) with to prevent the full registration of consumption by the meter, the electricity supply may be physically removed from those premises. In this case the consumer will liable to all cost on reconnection that include buying of the new meter, new circuit breaker and cable.

## 22. NON-LIABILITY OF THE MUNICIPALITY

- 1) The Municipality shall not be liable for any loss or damage, direct or consequential, suffered or sustained by a consumer as a result of or arising from the cessation, interruption or any other abnormality of the supply of electricity, unless caused by negligence on the part of the Municipality.
- 2) The municipal accepts no responsibility for any damages or loss originating from or in connection with the installation of an electrical installation of an electrical installation or any alteration or addition thereto, or which originates from the condition of the electrical installation.

## 23. LEAKAGE OF ELECTRICITY

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

## 24. FAILURE OF SUPPLY

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

## 25. SEALS OF THE MUNICIPALITY

The meter, service protective devices and all apparatus belonging to the Municipality shall be sealed or locked by a duly authorised official of the Municipality, and no person not being an official of the Municipality duly authorised thereto shall in any manner or for any reason whatsoever remove, break, deface, or tamper with such seals or locks.

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## 26. TAMPERING WITH SERVICE CONNECTION OR SUPPLY MAINS

- (1) No person shall in any manner or for any reason whatsoever tamper or interfere with any meter or metering equipment or service connection or service protective device or supply mains or any other equipment of the Municipality.
- 2) Where *prima facie* evidence exists of a consumer and/or any person having contravened subsection (1), the Municipality shall have the right to disconnect the supply of electricity immediately and without prior notice to the consumer. The person shall be liable for all fees and charges levied by the Municipality for such disconnection.
- (3) Where a consumer and/or any person has contravened subsection (1) and such contravention has resulted in the meter recording less than the true consumption, the Municipality shall have the right to recover from the consumer the full cost of his estimated consumption.

## 27. PROTECTION OF MUNICIPALITY'S SUPPLY MAINS

- (1) No person shall, except with the consent of the Municipality and subject to such conditions as may be imposed –
  - (a) construct, erect or lay, or permit the construction, erection or laying of any building, structure or other object, or plant trees or vegetation over or in such a position or in such a manner as to interfere with or endanger the supply mains;
  - (b) excavate, open up or remove the ground above, next to, under or near any part of the supply mains;
  - (c) damage, endanger, remove or destroy, or do any act likely to damage, endanger or destroy any part of the supply mains;
  - (d) make any unauthorised connection to any part of the supply mains or divert or cause to be diverted any electricity therefrom;
  - (e) the owner or occupier shall limit the height of trees or length of projecting branches in the proximity of overhead lines or provide a means of protection which in the opinion of the Municipality will adequately prevent the trees from interfering with the conductors should the tree or branch fall or be cut down. Should the owner fail to observe this provision the Municipality shall have the right, after prior written notification, or at any time in an emergency, to cut or trim the trees or other vegetation in such a manner as to comply with this provision and shall be entitled to enter the property for this purpose.
- (2) The Municipality may subject to obtaining an order of court demolish, alter or otherwise deal with any building, structure or other object constructed, erected or laid in contravention with this By-law.

- (3) The Municipality may in the case of an emergency or disaster remove anything damaging, obstructing or endangering or likely to damage, obstruct, endanger or destroy any part of the electrical distribution system.

28. PREVENTION OF TAMPERING WITH SERVICE CONNECTION OR SUPPLY MAINS

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

29. UNAUTHORISED CONNECTIONS

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

30. UNAUTHORISED RECONNECTIONS

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

31. TEMPORARY DISCONNECTION AND RECONNECTION

- (1) The Municipality shall, at the request of the consumer, temporarily disconnect and reconnect the supply of electricity to the consumer's electrical installation upon payment of the fee as prescribed by the Municipality for each such disconnection and subsequent reconnection.
- (2) In the event of the necessity arising for the Municipality to effect a temporary disconnection and reconnection of the supply of electricity to a consumer's electrical installation and the consumer is in no way responsible for bringing about this necessity, the Municipality shall waive payment of the fee hereinbefore referred to.
- (3) The Municipality may only under exceptional circumstances temporarily disconnect the supply of electricity to any premises without notice, for the purpose of effecting

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repairs or carrying out tests or for any other legitimate purpose. In all other instances adequate notice shall be given.

### 32. TEMPORARY SUPPLIES

It shall be a condition of the giving of any temporary supply of electricity, as defined in this By-law, that, if such supply is found to interfere with the efficient and economical supply of electricity to other consumers, the Municipality shall have the right, with notice, or under exceptional circumstances without notice, to terminate such temporary supply at any time and, the Municipality shall not be liable for any loss or damage occasioned by the consumer by such termination.

### 33. TEMPORARY WORK

Electrical installations requiring a temporary supply of electricity shall not be connected directly or indirectly to the supply mains except with the special permission in writing of the Municipality. Full information as to the reasons for and nature of such temporary work shall accompany the application for the aforesaid permission, and the Municipality may refuse such permission or may grant the same upon such terms and conditions as it may appear desirable and necessary.

### 34. LOAD REDUCTION

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

### 35. MEDIUM AND LOW VOLTAGE SWITCHGEAR AND EQUIPMENT

- (1) In cases where a supply of electricity is given at either medium or low voltage, the supply and installation of the switchgear, cables and equipment forming part of the service connection shall, unless otherwise approved by the Municipality or any duly authorised official of the Municipality, be paid for by the consumer.



- (2) In the case of a medium voltage supply of electricity, all such equipment shall be approved by any duly authorised official of the Municipality and installed by or under the supervision of any duly authorised official of the Municipality.
- (3) No person shall operate medium voltage switchgear without the written authority of the Municipality.
- (4) All earthing and testing of medium voltage equipment linked to the Municipality's network shall be conducted by or under the supervision of an employee of the Municipality.
- (5) In the case of a low voltage supply of electricity, the consumer shall provide and install a low voltage main switch and/or any other equipment required by the Municipality or any duly authorised official of the Municipality.

### 36. SUBSTATION ACCOMMODATION

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

### 37. WIRING DIAGRAM AND SPECIFICATION

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

### 38. STANDBY SUPPLY

No person shall be entitled to a standby supply of electricity from the Municipality for any premises having a separate source of electricity supply except with the written consent of

the Municipality and subject to such terms and conditions as may be laid down by the Municipality.

39. **CONSUMER'S EMERGENCY STANDBY SUPPLY EQUIPMENT**

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

40. **CIRCULAR LETTERS**

The Municipality may from time to time issue circulars detailing the requirements of the Municipality regarding matters not specifically covered in the Regulations or this By-law but which are necessary for the safe, efficient operation and management of the supply of electricity

## **CHAPTER 3**

### **SERVICE PROVIDERS**

41. **AGREEMENT AND ASSIGNMENT**

- (1) The municipality may, subject to its responsibilities under section 81 of the Systems Act, discharge any of its obligations under section of these By-laws by entering into a service delivery agreement with a service provider or service providers.
- (2) Subject to the provisions of the Systems Act or any other law, the municipality may assign to a service provider any right or power enjoyed by the municipality under these By-laws whenever the assignment is required to enable the service provider to discharge an obligation under its service delivery agreement.
- (3) If a municipality has entered into a service delivery agreement with a service provider, it must publish a notice in the *Provincial Gazette* for the province in which it is situated listing which rights and powers of the municipality under which provisions of these By-laws have been assigned to the service provider.

- (4) Where the term "municipality" appears in a provision of these By-laws listed in the notice in subsection (3) it shall be read as "service provider" in that provision.

42. **CUSTOMER CHARTER**

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

## **CHAPTER 4**

### **RESPONSIBILITIES OF CONSUMERS**

43. **CONSUMER TO ERECT AND MAINTAIN ELECTRICAL INSTALLATION**

Any electrical installation connected or to be connected to the supply mains, and any additions or alterations thereto which may be made from time to time, shall be provided and erected and maintained and kept in good order by the consumer at this own expense and in accordance with this By-law and the Regulations.

44. **FAULT IN ELECTRICAL INSTALLATION**

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

45. **DISCONTINUANCE OF USE OF SUPPLY**

In the event of a consumer desiring to discontinue using the electricity supply, he/she shall give at least 2 (two) full working days' notice in writing of such intended discontinuance to the Municipality, failing which he/she shall remain liable for all payments due in terms of the tariff for the supply of electricity until the expiration of 2 (two) full working days after such notice has been given.

46. **CHANGE OF OCCUPIER**

- (1) A consumer vacating any premises shall give the Municipality not less than 2 (two) full working days' notice in writing of his intention to discontinue using the electricity supply, failing which he/she shall remain liable for such supply.

- (2) If the person taking over occupation of the premises desires to continue using the electricity supply, he/she shall make application in accordance with the provisions of section 5 of this By-law, and if he/she fails to make application for an electricity supply within 10 (ten) working days of taking occupation of the premises, the supply of electricity shall be disconnected, and he/she shall be liable to the Municipality for the electricity supply from the date of occupation till such time as the supply is so disconnected.
- (3) Where premises are fitted with prepayment meters any person occupying the premises at that time shall be deemed to be the consumer. Until such time as an application is made by this person for a supply of electricity, in terms of section 5 of this By-law, he/she shall be liable for all charges and fees owed to the Municipality for that metering point as well as any outstanding charges and fees whether accrued by that person or not.

#### 47. SERVICE APPARATUS

- (1) The consumer shall be liable for all costs to the Municipality arising from damage to or loss or theft of any metering equipment, service protective device, service connection or other apparatus on the premises, unless such damage or loss is shown to have been occasioned by an Act of God or an act or omission of an employee of the Municipality or caused by an abnormality in the supply of electricity to the premises.
- (2) If, during a period of disconnection of an installation from the supply mains, the service main, metering equipment or any other service apparatus, being the property of the Municipality and having been previously used, have been removed without its permission or have been damaged so as to render reconnection dangerous, the owner or occupier of the premises, as the case may be, during such period shall bear the cost of overhauling and/or replacing such equipment.
- (3) Where there is a common metering position, the liability detailed in subsection (1) shall devolve on the owner of the premises.
- (4) The amount due in terms of subsection (1) shall be evidenced by a certificate from the Municipality which shall be final and binding.

### CHAPTER 5

#### **SPECIFIC CONDITIONS OF SUPPLY**

#### 48. SERVICE CONNECTION

- (1) The consumer shall bear the cost of the service connection, as approved by the Municipality.

- (2) Notwithstanding the fact that the consumer bears the cost of the service connection, ownership of the service connection, laid or erected by the Municipality, shall vest in the Municipality, the Municipality shall be responsible for the maintenance of such service connection up to the point of supply. The consumer shall not be entitled to any compensation from the Municipality in respect of such service connection.

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

#### 49. METERING ACCOMMODATION

- (1) The consumer shall, if required by the Municipality or any duly authorised official of the Municipality, provide accommodation in an approved position, the meter board and adequate conductors for the Municipality's metering equipment service apparatus and protective devices. Such accommodation and protection shall be provided and maintained, to the satisfaction of the Municipality, at the cost of the consumer or the owner, as the circumstances may demand, and shall be situated, in the case of credit meters, at a point to which free and unrestricted access shall be had at all reasonable hours for the reading of meters but at all times for purposes connected with the operation and maintenance of the service equipment. Access at all reasonable hours shall be afforded for the inspection of prepayment meters.

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- (2) Where sub-metering equipment is installed, accommodation separate from the Municipality's metering equipment shall be provided.
  - (3) The consumer or, in the case of a common meter position, the owner of the premises shall provide adequate electric lighting in the space set aside for accommodating the metering equipment and service apparatus.
  - (4) Where in the opinion of the Municipality the position of the meter, service connection, protective devices or main distribution board is no longer readily accessible or becomes a course of danger to life or property or in any way becomes unsuitable, the consumer shall remove it to a new position, and the cost of such removal, which shall be carried out with reasonable dispatch, shall be borne by the consumer.
  - (5) The accommodation for the Municipality's metering equipment and protective devices may, if approved, include the consumer's main switch and main protective devices. No apparatus other than that used in connection with the supply of electricity and use of electricity shall be installed or stored in such accommodation unless approved.

## **CHAPTER 6**

### **SYSTEMS OF SUPPLY**

#### **50. LOAD REQUIREMENTS**

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

#### **51. LOAD LIMITATIONS**

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

#### **52. INTERFERENCE WITH OTHER PERSONS' ELECTRICAL EQUIPMENT**

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

#### **53. SUPPLIES TO MOTORS**

Unless otherwise approved by the Municipality or any duly authorised official of the Municipality the rating of motors shall be limited as follows:

- (1) Limited size for low voltage motors –



The rating of a low voltage single-phase motor shall be limited to 2kW and/or the starting current shall not exceed 70A. All motors exceeding these limits shall be wound for three phases at low voltage or such higher voltage as may be required.

- (2) Maximum starting and accelerating currents of three-phase alternating current motors –

The starting current of three-phase low voltage motors permitted shall be related to the capacity of the consumer's service connection, as follows:

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

- (3) Consumers supplied at medium voltage –

In an installation supplied at medium voltage the starting current of a low voltage motor shall be limited to 1,5 times the rated full-load current of the transformer supplying such a motor. The starting arrangement for medium voltage motors shall be subject to the approval of the Municipality.

#### 54. POWER FACTOR

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

**55. PROTECTION**

Electrical protective devices for motors shall be of such a design as effectively to prevent sustained overcurrent and single phasing, where applicable.

**CHAPTER 7****MEASUREMENT OF ELECTRICITY****56. METERING**

- (1) The Municipality shall, at the consumer's cost in the form of a direct charge or prescribed fee, provide, install and maintain appropriately rate metering equipment at the point of metering for measuring the electricity supplied.
- (2) Except in the case of prepayment meters, the electricity used by a consumer during any metering period shall be ascertained by the reading of the appropriate meter or meters supplied and installed by the Municipality and read at the end of such period except where the metering equipment is found to be defective, or the Municipality invokes the provisions of section 60(2) of this By-law, in which case the consumption for the period shall be estimated.
- (3) Where the electricity used by a consumer is charged at different tariff rates, the consumption shall be metered separately for each rate.
- (4) The Municipality reserves the right to meter the supply to blocks of shops and flats, tenement-houses and similar buildings for the buildings as a whole, or for individual units, or for groups of units.
- (5) No alterations, repairs or additions or electrical connections of any description shall be made on the supply side of the point of metering unless specifically approved in writing by the Municipality or any duly authorised official of the Municipality.

**57. ACCURACY OF METERING**

- (1) A meter shall be conclusively presumed to be registering accurately if its error, when tested in the manner prescribed in subsection (5) hereof, is found to be within the limits of error as provided for in the applicable standard specifications.
- (2) The Municipality shall have the right to test its metering equipment, if it is established by test or otherwise that such metering equipment is defective, the Municipality shall –
  - (a) in the case of a credit meter, adjust the account rendered;
  - (b) in the case of prepayment meters,
    - (i) render an account where the meter has been under-registering, or
    - (ii) issue a free token where the meter has been over-registering;

- in accordance with the provisions of subsection (6).
- (3) The consumer shall be entitled to have the metering equipment tested by the Municipality on payment of the prescribed fee. If the metering equipment is found not to comply with the system accuracy requirements as provided for in the applicable standard specifications, an adjustment in accordance with the provisions of subsections (2) and (6) shall be made and the aforesaid fee shall be refunded.
- (4) In case of a dispute, the consumer shall have the right at his own cost to have the metering equipment under dispute tested by an approved independent testing authority, and the result of such test shall be final and binding on both parties.
- (5) Meters shall be tested in the manner as provided for in the applicable standard specifications.
- (6) When an adjustment is made to the electricity consumption registered on a meter in terms of subsections (2) or (3), such adjustment shall either be based on the percentage error of the meter as determined by the test referred to in subsection (5) or upon a calculation by the Municipality from consumption data in its possession. Where applicable, due allowance shall be made, where possible, for seasonal or other variations which may affect the consumption of electricity.
- (7) When adjustment is made as contemplated in subsection (6), the adjustment may not exceed a period of six (6) months preceding the date on which the metering equipment was found to be inaccurate. The application of this section does not bar a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.
- (8) Where the actual load of a consumer differs from the initial estimated load provided for under section 8(1) to the extent that the Municipality deems it necessary to alter or replace its metering equipment to match the load, the costs of such alteration or replacement shall be borne by the consumer.
- (9) (a) Prior to the Municipality making any upward adjustment to an account in terms of subsection (6), the Municipality shall –
- (i) notify the consumer in writing of the monetary value of the adjustment to be made and the reasons therefore;
  - (ii) in such notification provide sufficient particulars to enable the consumer to submit representations thereon, and
  - (iii) call upon the consumer in such notice to provide it with reasons in writing, if any, within 21 (twenty-one) days or such longer period as the Municipality may permit why his/her account should not be adjusted as notified.
- (b) Should the consumer fail to make any representations during the period referred to in subsection 9(a)(iii) the Municipality shall be entitled to adjust the account as notified in subsection 9(a)(i).

- (c) The Municipality shall consider any reasons provided by the consumer in terms of subsection 9(a) and shall, if satisfied that a case has been made out therefore, adjust the account appropriately.
- (d) If a duly authorised official of the Municipality decides after having considered the representation made by the consumer that such representations do not establish a case warranting an amendment to the monetary value established in terms of subsection (6), the Municipality shall be entitled to adjust the account as notified in terms of subsection 9(a)(i), subject to the consumer's right to appeal the decision of the official in terms of section 62 of the Municipal Systems Act, 2000.

#### 58. READING OF CREDIT METERS

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

#### 59. PREPAYMENT METERING

- (1) No refund of the amount tendered for the purchase of electricity credit shall be given at the point of sale after initiation of the process by which the prepayment meter token is produced.
- (2) Copies of previously issued tokens for the transfer of credit to the prepayment meter may be issued at the request of the consumer.
- (3) When a consumer vacates any premises where a prepayment meter is installed, no refund for the credit remaining in the meter shall be made to the consumer by the Municipality.

- (4) The Municipality shall not be liable for the reinstatement of credit in a prepayment meter lost due to tampering with, or the incorrect use or the abuse of, prepayment meters and/or tokens.
- (5) Where a consumer is indebted to the Municipality for electricity consumed or to the Municipality for any other service supplied by the Municipality (including rates) or for any charges previously raised against him/her in connection with any service rendered, the Municipality may deduct a percentage from the amount tendered to offset the amount owing to the Municipality, as set out in the section 5 agreement for the supply of electricity.
- (6) The Municipality may, at its discretion, appoint vendors for the sale of credit for prepayment meters and shall not guarantee the continued operation of any vendor.

## **CHAPTER 8**

### **ELECTRICAL CONTRACTORS**

60. In addition to the requirements of the Regulations the following requirements shall apply:
- (1) Where an application for a new or increased supply of electricity has been made to the Municipality, any duly authorised official of the Municipality may at his/her discretion accept notification of the completion of any part of an electrical installation, the circuit arrangements of which permit the electrical installation to be divided up into well-defined separate portions, and such part of the electrical installation may, at the discretion of any duly authorised official of the Municipality, be inspected, tested and connected to the supply mains as though it were a complete installation.
  - (2) The examination, test and inspection that may be carried out at the discretion of the Municipality or any duly authorised official of the Municipality in no way relieves the electrical contractor/accredited person or the user or lessor, as the case may be, from his responsibility for any defect in the installation. Such examination, test and inspection shall not be taken under any circumstances (even where the electrical installation has been connected to the supply mains) as indicating or guaranteeing in any way that the electrical installation has been carried out efficiently with the most suitable materials for the purpose or that it is in accordance with this By-law or the safety standard, and the Municipality shall not be held responsible for any defect or fault in such electrical installation.
61. The Municipality shall not be held responsible for the work done by the electrical contractor/ accredited person on a consumer's premises and shall not in any way be responsible for any loss or damage which may be occasioned by fire or by any accident arising from the state of the wiring on the premises.

## **CHAPTER 9**

## **COST OF WORK**

62. The Municipality may repair and make good any damage done in contravention of this By-law or resulting from a contravention of this By-law. The cost of any such work carried out by the Municipality which was necessary due to the contravention of this By-law, shall be to the account of the person who acted in contravention of this By-law.

## **CHAPTER 10**

### **ADMINISTRATIVE ENFORCEMENT PROVISIONS**

#### **Part I: Appointment of Authorised Officials**

#### **63. APPOINTMENT OF AUTHORISED OFFICIALS**

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

#### **Part II: Powers of Authorised Officials**

#### **64. RIGHT OF ADMITTANCE TO INSPECT, TEST OR DO MAINTENANCE WORK**

- (1) An authorised official may, by notice in writing served on the owner or occupier of any property, require the owner or occupier to provide, on the day and at the hour

specified in such notice, access to such property to the authorised official for the purpose of -

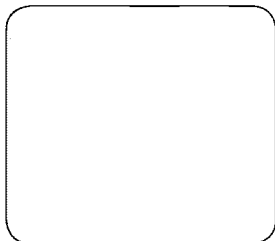
- (a) doing anything authorised or required to be done by the municipality under these By-law or any other law;
  - (b) inspecting and examining any service mains and anything connected with it;
  - (c) enquiring into and investigating any possible source of electricity supply or the suitability of immovable property for any work, scheme or undertaking of the municipality and making any necessary survey in this connection;
  - (d) ascertaining whether there is or has been a contravention of the provisions of these By-law or any other law, and
  - (e) enforcing compliance with the provisions of these By-laws or any other law.
- (2) Notwithstanding subsection 0, an authorised official who has reasonable grounds to suspect that harm or damage to property may arise or has arisen as a result of the electricity supply to a premises, or in any way related with the provision of electricity services, the authorised official may, without notice, enter and search any affected premises and take any action necessary to prevent the harm or damage to property including disconnecting the system in terms of section **Error! Reference source not found.**
- (3) Any action under this section, including subsection 0, 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.

## 65. REFUSAL OR FAILURE TO GIVE INFORMATION

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

**CONTINUES ON PAGE 386 - PART 4**





THE PROVINCE OF MPUMALANGA  
DIE PROVINSIE MPUMALANGA

# Provincial Gazette Provinsiale Koerant

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1 JUNE 2018  
1 JUNIE 2018

No. 2933

## 66. REFUSAL OF ADMITTANCE

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

### **Part III: Administrative Penalties**

## 67. ESTABLISHMENT OF AN ADMINISTRATIVE PENALTY SYSTEM

- (1) The municipality may establish an administrative penalty system in terms of this chapter.
- (2) A decision to establish an administrative penalty system in terms of subsection 0 must be published by a notice in the *Provincial Gazette* and comes into operation on the date announced in the notice which may not be less than three (3) months from the date of its publication.

## 68. INFRINGEMENT NOTICES

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

against the alleged offender in an appropriate Court in terms of Chapter 11 of these By-laws.

69. TRIAL

If a person who elects to be tried in court in terms of subsection 680(e)(ii) notifies the municipality of his election, the authorised official must within ten (10) calendar days take all necessary steps, as envisaged in the Criminal Procedure Act, 1977 (Act No. 51 of 1977), in order to secure the attendance and prosecution of the accused, in which event the infringement notice must be cancelled.

70. WITHDRAWAL OF INFRINGEMENT NOTICE

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

71. INFRINGEMENT NOTICE NOT AN ADMISSION

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

## **CHAPTER 11**

### **JUDICIAL ENFORCEMENT PROVISIONS**

72. OFFENCES

- (1) Subject to subsection 0, any person who-
  - (a) contravenes or fails to comply with any provisions of these By-laws, other than a provision relating to payment for electricity services;
  - (b) fails to comply with any notice or order issued or condition imposed in terms of or for the purposes of these By-laws;
  - (c) fails to comply with any lawful instruction given in terms of or for the purposes of these By-laws; or

- (d) who obstructs or hinders any authorised representative or employee of the municipality in the execution of his duties under these By-laws;
- is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding six (6) months and in the case of any continued offence, to a further fine not exceeding R50 or in default of payment, to imprisonment not exceeding one (1) day for every day during the continuance of such offence after a written notice has been issued by the municipality and served on the person concerned requiring the discontinuance of such an offence.
- (2) No person shall be liable to imprisonment if he is unable to afford to pay a fine, and shall instead be liable to a period of community service.
- (3) Any person committing a breach of the provisions of these by-laws shall be liable to recompense the municipality for any loss or damage suffered or sustained by it in consequence of the breach.

## **CHAPTER 12**

### **GENERAL**

#### **73. 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 electricity services, the address of the owner of the premises to which electricity services are provided is the place where service of documents and process shall be made.

#### **74. SERVICE OF NOTICES**

- (1) Any notice, order or other document that is served on any person in terms of these by-laws must, subject to the provisions of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), be served personally, failing which it may be regarded as having duly been served -
- (a) when it has been left at that person's place of residence or business, or, where his household is situated in the Republic, when it has been left with a person who is apparently sixteen (16) years or older;
- (b) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic either personally or in the manner provided by paragraphs 0, 0 or 0; or
- (c) if that person's address and the identity or the address of his agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates; or

- (d) subject to section 73, if sent by registered post, whether service by registered post is, or is not required, if effected by sending it by properly addressing it to the addressee's last known residence, place of business or postal address, prepaying and posting a registered letter containing the notice, order or other document, and unless the contrary be proved, shall be presumed to have been effected at the time at which the letter would be delivered in the ordinary course of post.
- (2) When any notice or other document must be authorised or served on the owner, occupier or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and it is not necessary to name that person.
- (3) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.
- (4) Any legal process is effectively and sufficiently serviced on the service provider when it is delivered to the managing director or a person in attendance at the managing director's office.

75. COMPLIANCE WITH NOTICES

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

## **CHAPTER 13**

### **REPEAL OF BY-LAWS**

76. REPEAL OF BY-LAWS

The By-laws specified in the first column of Schedule 1 are hereby repealed to the extent set out in the second column of Schedule 1: Provided that the repeal of such By-laws shall not affect anything done in terms of or any right, obligation or liability acquired or incurred under those By-laws.

77. DATE OF COMMENCEMENT

These By-laws commence on the date of publication in the *Provincial Gazette*.

## SCHEDULE 1

**“applicable standard specification” means –**

SANS 1607 - Electromechanical watt-hour meters;

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

SANS IEC 60211 - Maximum demand indicators, Class 1.0;

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

SANS 0142 – Code of Practice for the Wiring of Premises;

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

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

NRS 057 – Electricity Metering: Minimum Requirements.

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**PROVINCIAL NOTICE 75 OF 2018****MPUMALANGA DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS****PUBLICATION OF MUNICIPAL BY-LAWS FOR LOCAL MUNICIPALITIES IN TERMS OF  
THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT (ACT NO. 32 OF 2000)**

I, Speed Katishi Mashilo, in my capacity as Member of the Executive Council responsible for Co-operative Governance and Traditional Affairs, in the Mpumalanga Province, hereby publish municipal by-laws for Mkhondo, Chief Albert Luthuli, Lekwa and Emalahleni local municipalities, in terms of Section 13 (a) and (b) of the Local Government: Municipal Systems Act (Act No. 32 of 2000)

The municipal by-laws are concerning the following matters per local municipality, namely:

**Lekwa Local Municipality**

1. Electricity Supply
2. Advertising Signs
3. Encroachment on Municipal Properties
4. Public Participation
5. Street Trading
6. Contaminated Waste
7. Cemetery
8. Taxi
9. Informal Settlements
10. Open Space

**Chief Albert Luthuli Local Municipality**

1. Standing Rules and Orders
2. Electricity Supply
3. Fire Brigade Services
4. Sanitation
5. Waste Management
6. Water Supply

**Emalahleni Local Municipality**

1. Property Rates

**Mkhondo Local Municipality**

1. Credit Control and Debt Collection
2. Control of Outdoor Advertising
3. Encroachment on Municipal Properties

Given under my hand at Mbombela, on 03/04 2018

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**MR SK MASHILO (MPL)**

**MEC: DEPARTMENT OF CO-OPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS**



# LEKWA LOCAL MUNICIPALITY



## DRAFT PROPERTY ENCROACHMENT BY-LAW

LEKWA LOCAL MUNICIPALITY DRAFT  
PROPERTY ENCROACHMENT BY-LAW

**INDEX**

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2. Permission required
3. Rules for the construction of encroachments
4. Columns
5. Balconies and bay windows
6. Plinths, pilasters, corbels and cornices
7. Verandas around corners
8. Pavements openings
9. Encroachment erected in front of buildings
10. Maintenance, removal and tenancy of projections
11. Encroachments
12. Offences and penalties
13. regulations
14. Repeal of existing By-law
15. Short title and commencement

**DEFINITIONS****1. Definitions**

In these By-law, any word or expression that has been defined in the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977) has that meaning and, unless the context otherwise indicates-

**“Encroachment”** means any physical object which intrudes on Municipality property

**“Municipal property”** means any property, including but not limited to public roads-

- (a) which is owned by the Municipality
- (b) over which the Municipality has control over; or
- (c) in respect of which a servitude or other property right has been registered in favour of the Municipality;

**“Municipality”** means Lekwa Local Municipality as described in section 2 of the Local Government: Municipal Systems Act (Act No. 32 of 2000), and its area as determined from time to time in terms of the Local Government: Municipal Demarcation Act (Act No. 27 of 1998);

**“Prescribed”** means determined by resolution of the Municipality made from time to time;

**“Prescribed fee”** means a fee determined by the Municipality by resolution from time to time;

**“Public road”** means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes-

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare.

## **2. Permission required**

- (1) No person may, without prior written permission by the Municipality, make or construct any encroachment into, over or under any Municipality property.
- (2) The Municipality may-
  - (a) refuse the permission required in terms of subsection (1); or
  - (b) grant such permission either unconditionally or upon the conditions and subject to the payment of the prescribed fee annually or the performance of the works or services determined by the Municipality in each case.
  - (c) The prescribed fees mentioned in subsection (2) are payable in advance at the beginning of each year which is calculated from date of approval or the period determined by the Municipality, and the owner is liable for the payment of prescribed fees in terms of these By-laws for each encroachment.
- (3) The owner of any existing encroachment must within three months after the date of commencement of these By-laws make application to the Municipality on the

prescribed form for permission for the existence of the encroachment in terms of these By-laws.

### **3. Rules for the construction of encroachments**

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

### **4. Columns**

- (1) The Municipality may determine areas within the municipal boundary where no person is permitted to place veranda columns over any public road or pavement.
- (2) No person may place any veranda column-
  - (a) over any pavement where such 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 at less than 3 m centre to centre;
  - (c) over any pavement at the corner of a public road that is beyond the alignment of the building lines; and
  - (d) at a distance lesser than 600 mm back from the front edge of any kerb.
- (3) No person may place a twin or double veranda column over any public road or pavement.
- (4) Where verandas are supported on columns-
  - (a) the columns may not have square arrases;
  - (b) no base may project more than 50 mm beyond the bottom diameter of the column; and

- (c) the maximum horizontal axial dimensions of such base may not exceed 350 mm.
- (5) Where the form of a column is classic in character, the shaft must have suitable entasis and cap and base in due proportions.
- (6) Columns, 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) The minimum height from the footway or sidewalk to the underside of each cantilever or fascia girder is 3 m.
- (8) A 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.
- (9) Nothing in these By-laws prohibits-
  - (a) the erection and use of a party column common to two adjoining verandas if the column stands partly on the extended boundary lines of two properties or adjoins the same; or
  - (b) in the case of adjoining verandas, the placement of any column upon a plinth if this is necessary for alignment and all the other provisions of these By-laws are observed.

## **5. Balconies and bay windows**

- (1) Balconies, bay windows or other similar encroachments may not-
  - (a) overhang a public road if they are at a height of less than 3 m above the pavement;
  - (b) encroach more than 1,35 m over any public road; or
  - (c) encroach more than 900 mm over any public road.
- (2) The aggregate horizontal length of bay windows at any level over a public road may not exceed one-third of the length of the building frontage to that road.
- (3) Any balcony superimposed upon any veranda must be set back at least 1,2 m from the line of such veranda.

- (4) No part of any balcony that is attached to any veranda, may be carried up to a height greater than two storeys above the pavement level except that, 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.
- (5) Any dividing wall across a balcony over a public road may not exceed 1 m in height or 225 mm in thickness.
- (6) A balcony over any public road may not be the sole means of access to any room or apartment.
- (7) No person may place or permit or cause to be placed any article upon any balcony over a public road, except ornamental plants, tables, chairs, canvas blinds and awnings not used for signs or advertisements.
- (8) Where any floor of a building is used solely for the parking of a motor vehicle, bay windows at the level of the floor may not project over any public road for more than 1,35 m for the full length of the building frontage to that road.

#### **6. Plinths, pilasters, corbels and cornices**

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

#### **(7) Verandas around corners**

Where verandas are built around corners of public roads they must be properly splayed or rounded to follow the curves of the kerb.

**(8) Pavement openings**

(1) No pavement opening may-

- (a) be the sole means of access to any vault or cellar; and
- (b) extend more than 1,2 m beyond the building line.

(2) Where flaps are permitted in pavement openings each flap may not exceed 0,75 square metres in area and must open upwards and while open, must be provided with stout iron guard rails and stanchions.

(3) Flap openings 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.

(4) The front wall or wall parallel to the kerb in every opening must be built with a suitable batter to the satisfaction of the Municipality.

(5) No pavement opening may be covered with metal bar gratings or with metal plates or with wood.

**9. Encroachment erected in front of building**

Where any encroachment has been erected or constructed in front of any building, the owner must at his, her or its own expense-

- (1) pave the whole of the footway or pavement under the encroachment or in front of the building in which the pavement opening is fixed; and
- (2) lay the road kerbing and guttering and paving in front of the building for the full width of the footway or pavement.

**10. Maintenance, removal and tenancy of projections**

- (1) The owner of any encroachment must maintain the encroachment in good order and repair.
- (2) Pavement openings, pavement lights, walls thereof and basement walls must be made and kept water-tight by the owner.

- (3) The owner of any encroachment on, under or over any public road or pavement, or sign or other fixture on or over any public road, is regarded a tenant in respect of the encroachment, sign or fixture and, if called upon by the Municipality to remove any or all of them and restore the public road or pavement to its former conditions, and must do so within a reasonable time.

## **11. Encroachment**

- (1)(a) Any person other than the owner wishing to erect or construct an encroachment or any other fixture on, under or over any public road, or any immovable property owned by or vested in the Municipality, must apply to the Building Control Officer on a form provided by the Municipality for that purpose.
- (a) Where in the opinion of the Building Control Officer drawings are required for the conclusion of an encroachment agreement, the prescribed charge in addition to any other prescribed charge is payable to the Municipality.
- (2) The owner of the building in connection with which any encroachment or fixture exists, or is proposed-
- (a) must defray any cost incurred in connection with wires or property of the Municipality;
- (b) must allow the Municipality to erect on, or attach to the encroachment or fixture or anything required in connection with electrical or other activities.

## **12. Offences and penalties**

A person who contravenes any of these By-laws is guilty of an offence and be liable on conviction to a fine not exceeding R5000.00 adjusted in terms of the Adjustment of Fines Act or to imprisonment not exceeding 6 months or to both that fine and that imprisonment.

## **13. Regulations**

The municipality may make regulations not inconsistent with this By-law, prescribing-

- (a) any matter that may or must be prescribed in terms of this By-law; and
- (b) any matter that may facilitate the application of this By-law.

## **14. Repeal of existing By-laws**

Any By-laws relating to Property encroachment adopted by the municipality shall be repealed from the date of promulgation of this By-law.



**15. Short title and commencement**

This By-law shall be called the Property Encroachment By-law 2015.

**PROVINCIAL NOTICE 76 OF 2018****MPUMALANGA DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS****PUBLICATION OF MUNICIPAL BY-LAWS FOR LOCAL MUNICIPALITIES IN TERMS OF  
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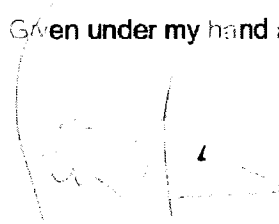
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1. Property Rates

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1. Credit Control and Debt Collection
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Given under my hand at Mbombela, on 03/04 2018



MR SK MASHILO (MPL)

MEC: DEPARTMENT OF CO-OPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS

# LEKWA LOCAL MUNICIPALITY



## DRAFT PUBLIC OPEN SPACES BY-LAW

LEKWA LOCAL MINICIPALITY  
DRAFT PUBLIC OPEN SPACES BY-LAW

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## CHAPTER 1

### INTERPRETATION AND FUNDAMENTAL PRINCIPLES

#### 1. Definitions and interpretation

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

**“active game”** means any physical sport, game or other activity participated in by one or more persons which is undertaken within a public open space other than in an area set aside for that purpose, and which may cause injury to other users of the public open space, a nuisance or damage to vegetation or municipal property within a public open space and includes rugby, golf, archery, football, tennis, badminton, hockey, netball, volleyball, skate-boarding, roller-skating and in-line skating;

**“authorised official”** means any official of the Council who has been authorised by the Council to administer, implement, and enforce the provisions of these By-laws;

**“conservation public open space”** means public open space which is managed by or on behalf of the Council for conservation purposes, and includes any nature reserve, greenbelt, ravine, bird sanctuary and site of historic, ecological or archaeological value;

**“council”** means the Lekwa Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);

**“designated area”** means an area designated by the Council as an area in which an active game or any other activity or conduct, which would otherwise be prohibited under Chapter 3 of these By-laws, may be undertaken;

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

- (a) the land, water and atmosphere of the earth
- (b) micro-organisms, plant and animal life;
- (c) any part or combination of paragraphs (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;

**“environmentally sustainable”** means the exercising of any decision-making powers or performance of any activities in a manner aimed at ensuring that –

- (a) the risk of harm to the environment and to human health and safety is minimised to the extent reasonably possible under the circumstances;
- (b) the potential benefits to the environment and to human health and safety are maximised to the extent reasonably possible under the circumstances; and

- (c) legislation intended to protect the environment and human health and safety is complied with;

**“local community”** means that body of persons comprising –

- (a) the residents of the area in which a public open space is situated;
  - (b) the ratepayers of the area in which a public open space is situated; and
  - (c) any civic organisation and non-governmental or private sector organisation
- (d) or body which are involved in local affairs in the area in which a public open space is situated;

**“municipal manager”** means a person appointed as such by the Council in terms of section 54A of the Local Government: Municipal Systems Act, 1998 (Act No 32 of 2000);

**“municipal property”** means any structure or thing owned or managed by or on behalf of the Council and which is incidental to the use and enjoyment of a public open space and includes any building, lapa, kiosk, bench, picnic table, playground equipment, fountain, statue, monument, fence, pole, notice and sign;

**“notice”** means a clear and legible official notice drawn up by the Council in English and Afrikaans and prominently displayed in a public open space;

**“Nuisance”** means an unreasonable interference or likely interference with– (a) the health or well-being of any person;

(b) the use and enjoyment by an owner or occupier of his or her property; or

(c) the use and enjoyment by a member of the public of a public open space;

**“organ of state”** means –

(a) any department of State or administration in the national, provincial or local sphere of government; and

(b) any other functionary or institution –

(i) exercising a power or performing a function in terms of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996) or a provincial Constitution; or

(ii) or performing a public function in terms of any legislation, but does not include a court of law and a judicial officer;

**“person”** means a natural person or a juristic person, and includes an organ of State;



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

**“printed matter”** includes any advertisement, billboard, poster, book, pamphlet or handbill;

**“prohibited activity”** means any activity or behaviour which is prohibited in terms of Chapter 3 from being undertaken in a public open space, either completely or without permission in terms of section 21, 22 or 23;

**“public open space”** means any land which –

- (a) is owned by an organ of State, or
- (b) over which an organ of State has certain real rights arising from the filing in the Deeds Office or other registration office of a general plan of a township, agricultural holding or other division of land, or any alteration, addition to or amendment of such land approved by the Surveyor-General, on which is marked the land to which the public has a common right of use; and
- (c) controlled and managed by the Council; and
- (d) is either –
  - (i) set aside in terms of any law, zoning scheme or spatial plan, for the purpose of public recreation, conservation, the installation of public infrastructure or agriculture; or
  - (ii) Predominantly undeveloped and open and has not yet been set aside for a particular purpose in terms of any law, zoning scheme or spatial plan;

**“public utility public open space”** means public open space which is managed by or on behalf of the Council for the purposes of providing a public service, which includes road reserves and areas subject to electrical, pipeline and other public utility servitudes, but excludes council housing, clinics and other social services;

**“recreational public open space”** means public open space which is managed by or on behalf of the Council for public recreational purposes, and includes any park, botanical garden, sportsground and playground, but excludes any golf course;

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

**“urban agricultural public open space”** means public open space which is managed by or on behalf of the Council for urban agricultural purposes.

**“vehicle”** means a device designed or adapted mainly to travel on wheels, but excludes a wheelchair and children’s pushchair and perambulator;

**“waste”** means any substance or article which a person wishes to dispose of because it is unwanted, superfluous, broken, worn out, contaminated or otherwise spoilt and that has been discarded or has been accumulated or stored so that it can be discarded, reused, reclaimed or recycled;

**“watercraft”** includes any boat, raft, yacht, canoe, inflatable mattress, model ship or boat, radio-controlled boat or similar device;

**“water body”** means any body of water within a public open space and includes a pond, fountain, artificial watercourse, dam, lake, canal, reservoir, stream, river and wetland.

- (2) If any provision in these By-laws vests or imposes any power, function or duty of the Council in or on an employee of the Council and such power, function or duty has in terms of section 81(2) of the Local Government: Municipal systems Act, 2000, or any other law been assigned to a service provider, the reference in such provision to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorised by it.

## CHAPTER 2

### MANAGEMENT AND ADMINISTRATION OF PUBLIC OPEN SPACES

#### **2. Application of By-laws**

- (1) These By-laws apply to every public open space which falls under the jurisdiction of the Council, but do not apply to cemeteries.
- (2) These By-laws are binding on the State.

#### **3. Purpose of By-laws**

- (1) The purpose of these By-laws is to provide, in conjunction with other applicable legislation, an effective legal and administrative framework-
- (a) to ensure that the way in which the Council controls, manages and develops public open spaces is environmentally sustainable, and is in the long-term interests of the whole community of Lekwa Municipality, including future generations; and
  - (b) which clearly defines the rights and obligations of the public in relation to public open spaces.

#### **4. Principles of By-laws**

- (1) Public open spaces must be managed, and where appropriate developed, in the interests of the whole community, and in determining the interests of the whole community –

- (a) the long-term collective interests of the people of Lekwa Municipality, and of South Africa, must be prioritised over the interests of any specific interest group or sector of society;
  - (b) long-term perspective, which takes account the interests of future generations, must be adopted; and
  - (c) the interests of other living organisms which depend on public open spaces must be taken into account.
- (2) Public open spaces must be managed in an environmentally sustainable manner.
- (3) Subject to the provisions of subsection (5) and section 7, people must be given access to public open spaces on a non-discriminatory and equitable basis.
- (4) If necessary, special measures must be taken to facilitate access to public open spaces by historically disadvantaged persons and by disabled persons.
- (5) Access to a public open space may be restricted in a manner which does not unjustifiably discriminate against any person or class of persons—
- (a) if the restriction is authorised by these By-laws or by any other law; or
  - (b) in order to achieve the purposes of these By-laws.
- (6) The recreational, educational, social and other opportunities which public open spaces offer must be protected and enhanced to enable local communities, particularly historically disadvantaged communities, and the public to improve and enrich their quality of life.
- (7) Local communities must be encouraged to use and care for public open spaces in their areas.
- (8) The natural environment and heritage resources within public open spaces must be identified, preserved, protected and promoted, for the benefit of the local community, the public and future generations.

## **5. Application of principles**

- (1) The public open space management principles set out in section 4, and the national environmental management principles set out in section 2 of the National Environmental Management Act, 1998 (Act 107 of 1998), must be considered and applied by any person—
- (a) exercising a power or function or performing a duty under these By-laws;

- (b) formulating or implementing any policy which is likely to have a significant effect on, or which concerns the use of, public open spaces within the Council's jurisdiction; or
- (c) exercising a public power or function or performing a public duty which is likely to have a significant effect on, or which concerns the use of, public open spaces.

## **6. General powers of Council**

(1) The Council may in relation to any public open space –

- (a) designate any area within a public open space as an area within which one or more activities otherwise prohibited in terms of these By-laws may be undertaken, and display a prominent notice to this effect at every entrance to the designated area;
- (b) develop any public open space in accordance with the principles set out in section 4;
- (c) erect, construct, establish or demolish municipal property; and
- (d) exercise any other power reasonably necessary for the discharge of the Council's obligations in terms of these By-laws relating to the management of public open spaces.

## **7. Fees**

(1) Any member of the public must pay –

- (a) a prescribed fee to use recreational or other facilities which the Council provides within any public open space;
- (b) a prescribed fee for entrance to any public open space which is significantly more expensive to maintain than other public open spaces, such as botanical gardens;
- (c) a prescribed fee for the right to undertake a special event;
- (d) a prescribed fee for the right to exclusively use municipal property for a specific period;
- (e) a deposit prior to undertaking a prohibited activity permitted by the Council;
- (f) an annual or monthly fee for the right to use urban agricultural public open space to the exclusion of any other person; and
- (g) a prescribed fee for processing applications for permits or letters of permission under these By-laws,

if such a fee or deposit has been determined by the Council.

## **8. Restricting access**

- (1) The Council may restrict access to any public open space or to any part of a public open space for a specified period of time –
- (a) to protect any aspect of the environment within a public open space;
  - (b) to reduce vandalism and the destruction of property;
  - (c) to improve the administration of a public open space;
  - (d) to develop a public open space;
  - (e) to enable a special event which has been permitted in terms of section 22, to proceed; or
  - (f) to undertake any activity which the Council reasonably considers necessary or appropriate to achieve the purposes of these By-laws.

## **9. Powers of authorised officials**

- (1) In relation to any public open space, an authorized official may –
- (a) to the extent authorised by the Council administer, implement and enforce the provisions of these By-laws;
  - (b) issue a notice in terms of section 20;
  - (c) instruct any person to leave a public open space if the authorized official reasonably believes that the person is contravening any provision of these Bylaws, and fails to immediately terminate such contravention upon the instruction of that official; and
  - (d) if such official is a peace officer, exercise any power which may be exercised by a peace officer under the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

## **10. Obligations in relation to public open spaces**

- (1) The Council must within a public open space display any notice required under these By-laws.
- (2) In relation to recreational public open spaces, the Council must –
- (a) ensure that they are open to the public between sunrise and sunset, unless specified otherwise in terms of a notice; and
  - (b) prominently display a notice at every entrance indicating:

- (i) the opening and closing times of that recreational public open space;  
and
- (ii) any rules made by the Council in relation to that recreational public open space.

### CHAPTER 3

## **PROHIBITED CONDUCT**

### **11. Prohibited activities**

- (1) Any person who undertakes an activity or behaves in a manner that is prohibited in terms of these By-laws, commits an offence unless, in addition to any exceptions contained in sections 12 to 19, that activity or conduct—
  - (a) takes place in a designated area within which that activity or conduct is allowed; or
  - (b) is authorised in terms of a permission granted or permit issued in terms of section 21, 22 or 23; or
  - (c) is deemed to be authorised by the Council under subsection (2).
- (2) Subject to the provisions of subsection (3), a person is not in contravention of any provision of section 12 to 19 if that person needs to undertake the prohibited activity –
  - (a) to perform his or her obligations as an employee, agent or contractor of the Council under his or her contract with, or mandate from, the Council or to achieve the purposes of these By-laws;
  - (b) to carry out public duties as an employee, agent or contractor of an organ of State within a public open space which is subject to a public utility servitude in favour of that organ of State;
  - (c) to fulfil his or her duties as an authorised official; or
  - (d) to fulfill his or her duties as a peace officer.
- (3) Subsection (2) must not be interpreted to allow a contravention of section 12(a) or (e) or any activity which the Council has expressly refused to permit.

### **12. General prohibition**

- (1) No person may within a public open space –
  - (a) act in a manner which is dangerous to life or property;

- (b) contravene the provisions of any notice within any public open space;
- (c) unlawfully enter a public open space to which access has been restricted in terms of section 8;
- (d) cause a nuisance; or
- (e) behave in an indecent or offensive manner.

### **13. Prohibited use**

(1) No person may within a public open space –

- (a) bathe, wade, or swim in or wash him- or herself, an animal or any object, including clothing, in any water body;
- (b) make, light or otherwise start a fire except in a facility provided by the Council for that purpose;
- (c) camp or reside;
- (d) consume, brew, store or sell any alcoholic beverage;
- (e) use any sound equipment, including a radio, portable hi-fi or car stereo;
- (f) play an active game, except in an area designated for that purpose on a sport playing field or on a golf course; or
- (g) shoot a projectile of any nature.

### **14. Waste**

(1) No person may within a public open space –

- (a) deposit, dump or discard any waste, other than in a receptacle provided by the Council for that purpose; or
- (b) pollute or deposit any waste or thing in a manner which may detrimentally impact on a water body.

### **15. Vehicles**

(1) No person may within a public open space –

- (a) except at times specified and on roads or pathways provided by the Council, drive, draw or propel any vehicle other than a bicycle;
- (b) drive, draw or propel a vehicle in excess of five kilometres per hour; or
- (c) park a vehicle in a public open space, except in designated area or other area where parking is otherwise permitted by the Council.

**16. Vegetation and animals**

(1) Subject to the provisions of subsection (2), no person may within a public open space—

- (a) disturb, damage, destroy or remove any tree, shrub or other vegetation;
- (b) affix or place any printed matter on a tree;
- (c) plant any vegetation;
- (d) alter the slope or drainage pattern so as to interfere with the access of water, air or nutrients to any tree or other plant;
- (e) capture or attempt to capture, chase, shoot at, injure, throw objects at, tease, molest or in any other way disturb any animal, fish, or bird;
- (f) disturb, damage or destroy any bird nest or egg;
- (g) ride a horse, except-
  - (i) in a public open space or any part thereof designated by the Council for that purpose; and
  - (ii) a person who in the performance of his or her official duties, patrols a public open space on horseback;
- (h) walk, carry, ride or bring an animal other than a horse or dog; or
- (i) walk any dog unless-
  - (i) it is in a public open space or any part thereof which has not been designated by the Council as an area where no dogs are allowed, and it is on a leash and under control of a person; or
  - (ii) it is in a public open space or any part thereof designated by the Council as an area where dogs may run free:

Provided that if any dog excretes in a public open space, the person in control of the dog must immediately remove such excrement and dispose of it in a waste bin or other receptacle provided by the Council for that purpose.

(2) The provisions of subsection (1)(a) and (c) do not apply to any person who has obtained a permit in terms of section 23 to undertake agricultural activities in an urban agricultural public open space.

**17. Municipal property and erection of structures**



- (1) Subject to the provisions of subsection (2), no person may within a public open space –
- (a) deface, damage, destroy or remove any municipal property;
  - (b) disturb the surface of any land, whether by digging, undertaking any earthworks or otherwise;
  - (c) erect, build or assemble any structure, including a hut, tent, screen, bulletin board, pole, stand or stage;
  - (d) affix or place on any municipal property, or distribute, any printed matter; or
  - (e) plug, tamper with, or in any way damage any plumbing, electrical, heating or other fixtures or installations.
- (2) The provisions of subsection (1)(b) do not apply to any person who has obtained a permit in terms of section 23 to undertake agricultural activities in an urban agricultural public open space.

#### **18. Selling and special events**

- (1) No person may within a public open space –
- (a) use municipal property in a way that unfairly restricts or prevents other users of the public open space from enjoying that municipal property; or
  - (b) except within a public open space or part thereof, which has been let to a person by the Council for that purpose, sell, hawk, offer or display any goods or articles for sale or hire;
- (2) No person may undertake a special event, except in terms of a permit issued in terms of section 22.

#### **19. Community service**

- (1) Except in terms of an agreement entered into in terms of section 24, no person may within a public open space undertake any community or voluntary work of any description.

#### **20. Restoration or removal notices**

- (1) Unless permission or a permit to do so has been obtained in terms of section 21, 22 or 23, an authorised official may issue a restoration or removal notice to any person who has in a public open space –
- (a) damaged, defaced, disturbed, destroyed, demolished or removed vegetation or a municipal structure;
  - (b) erected, built or assembled a structure; or

- (c) dumped, discarded or deposited any waste, other than in a receptacle provided by the Council for that purpose.
- (2) (2) The restoration or removal notice may direct the person concerned within a reasonable time specified in the notice to take stated reasonable steps specified in the notice-
  - (a) to restore or rehabilitate the affected area to the reasonable satisfaction of the Council; or
  - (b) to remove a structure or thing and restore the affected site, as nearly as practicable, to its former condition.

## **CHAPTER 4**

### **APPLICATIONS FOR AUTHORISATION**

#### **21. Application for permission**

- (1) Any person who wants to undertake a prohibited activity must make application in writing to the Council for permission to do so, which application must be accompanied by the prescribed fee.
- (2) The Council may, after receiving an application, request the applicant to provide additional information which the Council reasonably requires in order to consider the application.
- (3) The Council may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and if the prescribed fee has not been paid.
- (4) Subject to the provisions of subsections (2) and (3), the Council must consider the application within a reasonable time and must either-
  - (a) refuse the application; or
  - (b) grant permission in writing to the applicant subject to such conditions as the Council may consider appropriate to best achieve the purposes of these Bylaws, which may include payment of a deposit, a prescribed fee or both.
- (5) The Council may not grant permission for any person to behave in a manner which is prohibited in terms of section 12(a) or (e).

#### **22. Application for a special event permit**

- (1) An application for permission to hold a special event in a public open space must be made at least 21 days prior to the proposed date of the special event.
- (2) The time period referred to in subsection (1) may, on good cause shown, be reduced by the Council.
- (3) An application in terms of subsection (1), must contain the following information:
  - (a) The name and full contact details of the applicant, including name, postal address, telephone and fax numbers and email address, if available;
  - (b) the nature and purpose of the special event;
  - (c) the intended route or area proposed to be used for purposes of the special event; and
  - (d) any permission required under Chapter 3 of these By-laws.
- (3) Subject to any permit conditions imposed by the Council, the holder of a special events permit has the right to use the area of public open space specified in the permit to the exclusion of any other person during the period specified in the permit.

### **23. Application for permission to farm in an urban agricultural public open space**

- (1) An application for permission to farm in an urban agricultural public open space must contain the following information:
  - (a) The name and full contact details of the applicant, including name, postal address, telephone and fax numbers and email address, if available;
  - (b) the nature of the agricultural activity that the applicant proposes to undertake; and
  - (c) the size and location of the area on which the applicant wishes to undertake the proposed agricultural activity.
- (2) A permit under this section may require the permit holder to pay an annual or monthly fee for the use of the land.
- (3) The holder of an urban agricultural permit may, subject to any condition specified in the permit, use the area of public open space specified in the permit for agricultural purposes to the exclusion of any other person.

## **CHAPTER 5**

### **CO-OPERATIVE MANAGEMENT AGREEMENTS**

#### **24. Entering into agreements**

- (1) The Council may enter into a written agreement with any organ of State, local community or organization to provide for –
  - (a) The co-operative development of any public open space; or

- (b) the co-operative management of any public open space; and
  - (c) the regulation of human activities within a public open space.
- (2) The Council may not enter into an agreement in terms of subsection (1) (b) unless it reasonably believes that entering into such an agreement will promote the purpose of these By-laws.
- (3) The Council must monitor the effectiveness of any agreement entered into in terms of subsection (1), in achieving the purposes for which it was entered into and may cancel the agreement after giving reasonable notice to the other party if the Council has reason to believe that the agreement is not effective, or is inhibiting the attainment of the purpose of these By-laws.

## CHAPTER 6

### **TREE PRESERVATION ORDERS**

#### **25. General**

- (1) If the Council believes that any tree or group of trees in a public open space requires legal protection the Council may issue a tree preservation order in respect of that tree or group of trees.
- (2) A tree preservation order-
- (a) must indicate the tree or trees to which it relates; and
  - (b) may provide that any person who cuts, disturbs, damages, destroys, removes, transports, exports, purchases, sells, donates or in any other manner acquires or disposes of the tree or trees to which it relates, commits an offence.
- (3) The Council must prominently display a copy of a tree preservation order issued within 3 metres of the tree or trees to which the order relates.

#### **26. Procedure**

- (1) Unless, in the Council's opinion, the issuing of a tree preservation order is required as a matter of urgency, the Council must, before issuing a tree preservation order in terms of section 25 –
- (a) give notice of the proposal to protect the tree or group of trees and invite comments and objections within a specified period, by publishing a notice in the Provincial Gazette and in two newspapers circulating in the area in which the tree or group of trees is situated;
  - (b) notify any affected organs of State; and

- (c) consider any comments and objections received in response to the notice.

## CHAPTER 7

### **MISCELLANEOUS**

#### **27. Offences and penalties**

- (1) Any person who –

- (a) contravenes or fails to comply with any provisions of these By-laws;
- (b) fails to comply with any notice or other document issued or displayed in terms of these By-laws;
- (c) fails to comply with any lawful instruction given in terms of these By-laws; or
- (d) obstructs or hinders any authorised official in the execution of his or her duties under these By-laws

is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding six months and in the case of a continuing offence, to a further fine not exceeding R50, or in default of payment to imprisonment not exceeding one day, for every day during the continuance of such offence after a written notice has been issued by the Council and served on the person concerned requiring the discontinuance of such offence.

#### **28. Short Title**

- (1) This By-law is called the Lekwa Local Municipality Public Open Spaces By-law, 2015.

**PROVINCIAL NOTICE 77 OF 2018****MPUMALANGA DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS****PUBLICATION OF MUNICIPAL BY-LAWS FOR LOCAL MUNICIPALITIES IN TERMS OF  
THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT (ACT NO. 32 OF 2000)**

I, Speed Katishi Mashilo, in my capacity as Member of the Executive Council responsible for Co-operative Governance and Traditional Affairs, in the Mpumalanga Province, hereby publish municipal by-laws for Mkhondo, Chief Albert Luthuli, Lekwa and Emalahleni local municipalities, in terms of Section 13 (a) and (b) of the Local Government: Municipal Systems Act (Act No. 32 of 2000)

The municipal by-laws are concerning the following matters per local municipality, namely:

**Lekwa Local Municipality**

1. Electricity Supply
2. Advertising Signs
3. Encroachment on Municipal Properties
4. Public Participation
5. Street Trading
6. Contaminated Waste
7. Cemetery
8. Taxi
9. Informal Settlements
10. Open Space

**Chief Albert Luthuli Local Municipality**

1. Standing Rules and Orders
2. Electricity Supply
3. Fire Brigade Services
4. Sanitation
5. Waste Management
6. Water Supply

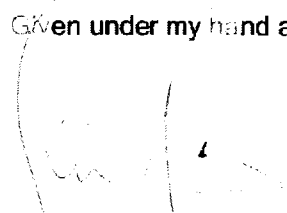
**Emalahleni Local Municipality**

1. Property Rates

**Mkhondo Local Municipality**

1. Credit Control and Debt Collection
2. Control of Outdoor Advertising
3. Encroachment on Municipal Properties

Given under my hand at Mbombela, on 03/04 2018



MR SK MASHILO (MPL)

**MEC: DEPARTMENT OF CO-OPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS**

# **LEKWA LOCAL MUNICIPALITY**



## **BY-LAWS RELATING TO THE MANAGEMENT AND CONTROL OF INFORMAL SETTLEMENTS**



## LEKWA LOCAL MUNICIPALITY

### BY-LAWS RELATING TO THE MANAGEMENT AND CONTROL OF INFORMAL SETTLEMENTS

#### Application of by-laws

1. These by-laws apply to all informal settlements within the area of jurisdiction of the Municipality.

#### Definitions

2. In these by-laws, unless the context otherwise indicates –

"authorised informal settlement" means any informal settlement which is recognised by the Municipality as an authorised informal settlement and which will be legalised and upgraded as a formal township in terms of the Municipality's existing Human settlement policies;

"consent" means the express or implied consent of the owner or person in charge to the occupation of land by a resident of a shack irrespective of whether such consent was given in writing or otherwise;

"contractual agreement" means the contractual agreement entered into between the head of a household and the Municipality in terms of which the household is authorised to occupy a shack in an authorized informal settlement;

"court" means any division of the High Court or the magistrate's court in whose area of jurisdiction the land is situated;

"eviction" means the permanent removal, in accordance with the provisions of a court order, of a person and his or her personal property from occupation of a shack or the land on which the shack is constructed, and includes the demolition and removal from the land of any building materials used to construct the shack, and "evict" has a corresponding meaning;

"head of the household" means –

- (a) the father in a household, where the father and mother of the household are legally married;
- (b) the single parent, where the household has only one parent with dependants living permanently with him or her in the household; and

(c) any person in the household who has legal capacity to act and is recognised by the majority of the other persons in the household as the person responsible for the maintenance of the welfare and discipline within the household;

"informal settlement" means one shack or more constructed on land, with or without the consent of the owner of the land or the person in charge of the land;

"land" means any land within the area of jurisdiction of the Municipality, irrespective of whether such land belongs to the National Government, the Provincial Government, the Municipality or a private individual, company or other legal entity;

"land invasion" means the illegal occupation of land or any settlement or occupation of people on land without the express or tacit consent of the owner of the land or the person in charge of the land, or without any other right in law to settle on or occupy such land;

"Land Invasion Reaction Unit" means a group of officers or workers consisting of any combination of one or more of the following components:

(a) Members of the South African Police Service;

(b) members of the staff of the bailiff, sheriff or messenger of the court with jurisdiction in the area;

(c) members of a private security company contractually engaged by the Municipality to perform certain duties on its behalf; and

(d) any combination of employees of the Municipality, which group is designated by the Municipality to assist the Executive Manager Development and Planning in the execution of his or her duties and to execute any eviction order contemplated by section 5 to terminate an unauthorised informal settlement;

"Manager: Human settlement " means the Manager: Human settlement appointed or assigned in terms of section 3;

"Municipality" means the Lekwa Local Municipality established by *Provincial Gazette Extraordinary* 200 of 1 October 2000 in terms of the provisions of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), and includes the Council of the Municipality, the Executive Mayor and/or the Mayoral Committee or any other committee established by the Council and any employee or official of the Municipality duly authorized to perform any duty, power or function in terms of these by-laws;

"owner" means the registered owner of land, irrespective of whether such owner is the National Government, the Provincial Government, the Municipality or a private individual, company or other legal entity;

"person in charge", in relation to land, means a person who has the legal authority to give permission to another person to enter or reside on that land;

"shack" means any temporary shelter, building, hut, tent, dwelling or similar structure which does not comply with the provisions of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977), the regulations promulgated under that Act:

"unauthorised informal settlement" means any informal settlement which is not recognised by the Municipality as an authorised informal settlement and which will not be legalised and upgraded as a formal township in terms of the Municipality's existing Human settlement policies, but will be demolished and removed in terms of these bylaws.

### **Appointment of Manager: Human settlement**

3. The Municipality must appoint an officer or assign one of its officials as its Manager: Human settlement to manage and control all the informal settlements in accordance with the provisions of these bylaws.

### **Duties of the Manager: Human settlement**

4. The Manager: Human settlement must –

- (1) conduct regular surveys to determine the location, origin and extent of and the conditions prevailing in each informal settlement;
- (2) monitor and control all informal settlements and take the necessary steps to prevent land invasion within the area of jurisdiction of the Municipality;
- (3) undertake and promote liaison and communication with local communities with a view to obtaining their understanding and cooperation regarding the prevention of land invasion in the area of jurisdiction of the Municipality;
- (4) keep a register of all the residents who are entitled to reside in each authorised informal settlement, and in such register the following details must be entered in respect of each shack in each authorised informal settlement:
  - (a) The number allocated to the stand or site on which the shack is constructed;
  - (b) the name and identity number of the head of the household who is entitled to occupy the shack;
  - (c) the names, identity numbers and relationships to the head of the household of each and every other person occupying the shack as a member of the household;
  - (d) the reference number of the file of the Manager: Human settlement that contains a copy of the contractual agreement in respect of the shack;
  - (e) the number of the shack's rental account;
  - (f) the number of the shack's municipal services account;
  - (g) the previous address of the household that is entitled to occupy the shack; and

- (h) the names, addresses and telephone numbers, if any, of at least two family members of the head of the household who do not live at the same address as the household that is entitled to occupy the shack;
- (5) ensure that all the residents living in an authorised informal settlement are registered in the Municipality's Human settlement Waiting List;
- (6) submit written reports on the control and management of any informal settlement, or the conditions prevailing in the informal settlement, if and when required to do so by the Municipality;
- (7) for the purpose of informing residents of informal settlements and all other persons visiting informal settlements, ensure that –
  - (a) the contents of these by-laws are communicated to all the residents of every informal settlement; and
  - (b) a copy of these by-laws is posted and maintained in every informal settlement in a prominent place at the venue where the residents' committee contemplated in section 7 usually holds its meetings;
- (8) allocate to each site or stand in an authorised informal settlement a unique number as the temporary address of the site or stand and must ensure that such number is legibly painted or inscribed in a prominent place on the site or stand;
- (9) ensure that no new unauthorised shacks are erected in any informal settlement and that no new unauthorised residents take up residence in such an informal settlement; and
- (10) perform any other duty or function which may be necessary to ensure the proper management and control of an informal settlement.

#### **Incidents of land invasion**

5. (1) The Manager: Human settlement must, within a period of 24 hours after he or she becomes aware of an incident of land invasion or the existence of a newly established informal settlement, irrespective of whether such informal settlement was established as a consequence of an incident of land invasion or not –

- (a) make a determination of the status of the informal settlement as an authorised or an unauthorised informal settlement in terms of the Municipality's existing Human settlement policies; and
- (b) inform the residents of the informal settlement of the status of the informal settlement in accordance with section 6 or section 7, whichever is applicable in the circumstances.

(2) In the event of the status of an informal settlement contemplated in subsection (1) being determined as an authorised informal settlement, the Manager: Human settlement must deal with the matter in accordance with the provisions of section 6.

(3) In the event of the status of an informal settlement contemplated in subsection (1) being determined as an unauthorised informal settlement, the Manager: Human settlement must deal with the matter in accordance with the provisions of section 8.

### **Procedures relating to the management and control of authorized informal settlements**

6. (1) As soon as a determination of the status of an authorized informal settlement has been made and within the period contemplated in section 5(1), the Manager: Human settlement must, personally or through a subordinate official designated by him or her for that purpose, visit the informal settlement and notify the residents of the status of the authorised informal settlement in the manner contemplated in section 7(2) or by means of a letter delivered to each shack in the informal settlement, whichever is appropriate in the circumstances.

(2) The Manager: Human settlement must compile a comprehensive register of all the residents who are entitled to reside in the authorised informal settlement contemplated in subsection (1), and the following details must be entered in respect of each shack in the authorised informal settlement:

- (a) The number allocated to the stand or site on which the shack is constructed;
- (b) the name and identity number of the head of the household who is entitled to occupy the shack;
- (c) the names, identity numbers and relationships to the head of the household of each and every other person occupying the shack as a member of the household;
- (d) the reference number of the file of the Manager: Human settlement that contains a copy of the contractual agreement in respect of the shack;
- (e) the number of the shack's rental account;
- (f) the number of the shack's municipal services account;
- (g) the previous address of the household that is entitled to occupy the shack; and
- (h) the names, addresses and telephone numbers, if any, of at least two family members of the head of the household who do not live at the same address as the household that is entitled to occupy the shack.

(3) The Manager: Human settlement must ensure that the names, addresses and other relevant details of all the residents living in an authorised informal settlement contemplated in subsection (1) are registered in the Municipality's Human settlement Waiting List.

- (4) The Manager: Human settlement must allocate to each site or stand in an authorised informal settlement contemplated in subsection (1) a unique number as the temporary address of the site or stand and must ensure that the number is legibly painted or inscribed in a prominent place on the site or stand.
- (5) The Manager: Human settlement must ensure that no new unauthorised shacks are constructed in the authorised informal settlement contemplated in subsection (1) and that no new unauthorised residents take up residence in the authorised informal settlement by implementing appropriate measures to manage, monitor and control the occupancy of residents in the authorised informal settlement in general.
- (6) Any unauthorised occupancy in an authorised informal settlement contemplated in subsection (1) must be dealt with in accordance with the provisions of section 8.
- (7) In respect of an authorised informal settlement contemplated in subsection (1), the Manager: Human Settlement must ensure that –
- (a) the Municipality's Finance Department institutes, operates and maintains an appropriate account for services rendered by the Municipality to each registered shack in the authorised informal settlement and for any charges levied for the right of occupation of a particular site or stand in the authorised informal settlement; and
- (b) such an account is supplied to the head of the household of each registered shack in the authorised informal settlement.

#### **Residents' committees**

7. (1) A meeting of residents in each authorised informal settlement must be convened annually on a date and at a venue determined by the Manager: Human settlement to elect a residents' committee comprising a chairperson, deputy chairperson, secretary and six ordinary members to represent the views and interests of the residents of the authorised informal settlement in all consultative processes between the Municipality and the residents of the authorised informal settlement.
- (2) A residents' committee contemplated in subsection (1) and the Manager: Human settlement, or his or her designated representative, must meet on a regular monthly basis, and at such meetings the Municipality must consult the residents' committee on all matters relating to the authorised informal settlement and communicate matters of general concern to the residents on a collective basis. After such meetings, it is the sole responsibility of the residents' committee to inform the individual residents of matters discussed at the meetings.
- (3) Special meetings of residents may be convened from time to time by a residents' committee contemplated in subsection (1) to communicate with and inform the individual residents of matters relating to the authorised informal settlement.
- (4) A residents' committee contemplated in subsection (1) must give notice of a meeting of the residents of the authorised informal settlement by placing the notice prominently on the official Notice board at a venue whose location has been

determined by the residents' committee and communicated to the residents at an official meeting of the residents.

### **Procedures relating to the termination of unauthorised informal settlements**

8. (1) As soon as a determination of the status of an unauthorized informal settlement has been made and within the period contemplated in section 5(1), the Manager: Human settlement must, personally or through a subordinate official designated by him or her for that purpose, visit the informal settlement and notify the residents of the status of the unauthorised informal settlement by means of a written notice hand-delivered to each shack in the informal settlement.

(2) The written notice contemplated in subsection (1) must –

(a) notify the residents of a shack in the unauthorized informal settlement that their occupation of the shack and the site or stand on which it is situated is illegal; and

(b) request the residents of the shack to vacate the shack and remove any building materials and other personal property from the unauthorised informal settlement within a period of 24 hours after receipt of the written notice.

(3) If the residents notified in terms of subsection (1) cooperate and vacate their shacks and remove their building materials and other personal property from the site or stand in the unauthorised informal settlement, the Manager: Human settlement must take such steps as he or she may deem appropriate to prevent a recurrence of any incident of land invasion or illegal land occupation on that site, stand or unauthorised informal settlement and must regularly monitor the situation to ensure the non-recurrence of such land invasion or illegal land occupation.

(4) If the residents notified in terms of subsection (1) fail to cooperate and vacate their shacks and remove their building materials and other personal property from the site or stand in the unauthorised informal settlement, the Manager: Human settlement must immediately institute the necessary legal procedures to obtain an eviction order contemplated in subsection (5).

(5) Within a period of 24 hours after the expiry of the period stipulated in the written notice contemplated in subsection (1), the Manager: Human settlement must lodge an application in a competent court to obtain an eviction order contemplated in section 4, 5 or 6 of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998 (Act 19 of 1998), against any person or persons, jointly or severally, occupying or residing in a shack or on a site or stand in the unauthorised informal settlement.

(6) The Manager: Human settlement must, within a period of 24 hours after obtaining the eviction order referred to in subsection (5), deploy the Land Invasion Reaction Unit to execute the eviction order and to terminate the unauthorised informal settlement by –

(a) evicting the residents of the unauthorised informal settlement;

- (b) demolishing and removing all shacks and removing all building materials and other personal property from the unauthorised informal settlement; and
- (c) disposing of the building materials and other personal property in accordance with the provisions of these bylaws.

(7) Any costs incurred by the Manager: Human settlement for the purposes of executing the provisions of these by-laws must be borne by the Municipality in accordance with its approved budget.

#### **Disposal of building materials and personal property**

9. (1) In the execution of the provisions of section 8(6), any building materials and other personal property belonging to a resident or occupier of a shack in an unauthorised informal settlement must be removed and stored in a safe place by the Manager: Human settlement .

(2) If the building materials and other personal property contemplated in subsection (1) are not claimed by their owner within a period of three months after the date of the removal and storage, the building materials and personal property must be sold to the best advantage by the Manager: Human settlement , or a person designated by him or her, who must, after deducting the amount of any charges due or any expenses incurred, deposit the net proceeds into the Municipality's Revenue Account, provided that –

(a) subject to the laws governing the administration and distribution of estates, nothing in this subsection contained may deprive the heir of any deceased person of his or her right to the balance of the proceeds of the property; and

(b) any building materials or other personal property which is, in the opinion of the Manager: Human settlement , valueless and unable to realise any meaningful amount may be destroyed, abandoned, dumped or otherwise disposed of by the Manager: Human settlement .

(3) The Manager: Human settlement must compile and maintain a register in which is recorded and appears –

(a) particulars of all building materials or other personal property removed and stored in terms of these by-laws;

(b) the date of the removal and storage of building materials or other personal property in terms of subsection (1) and the name and site or stand number of the owner of the building materials or personal property; and

(c) (i) the signature or left thumb print of the person who is claiming ownership and to whom delivery of building materials or other personal property has been made; or

(ii) full details of the amount realised on the sale of building materials or other personal property in terms of subsection (2) and the date of the sale; and

(iii) if building materials or other personal property has been destroyed, abandoned, dumped or otherwise disposed of in terms of subsection (2), a certificate by the Manager:



Human settlement to the effect that the building materials or personal property was valueless.

(4) Neither the Municipality nor any of its officials acting within the reasonable scope of their authority are liable for any loss of or damage to property or injury to any resident or occupier of a shack in an unauthorised informal settlement or any other person for any reason whatsoever.

**Prohibition of receipt or solicitation of consideration in respect of unlawful occupation of land**

10. (1) No person may directly or indirectly receive or solicit payment of any money or other consideration as a fee or charge for arranging or organising or permitting a person to occupy land without the consent of the owner or person in charge of that land.

(2) Any person who contravenes the provisions of subsection (1) is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

(3) The court that convicts any person of a contravention of this section must order any money or other consideration which was received by that person and which has been seized to be forfeited, and the money and the proceeds of the consideration may be paid to the person or persons from whom the money or consideration was received, and where such person or persons cannot be positively identified, such money or proceeds of the consideration must be paid into the Municipality's Revenue

(4) If any money or other consideration has been received in contravention of subsection (1), but has not been seized or made available for purposes of confiscation, the court that convicts a person of a contravention of this section may order the amount proved to the satisfaction of the court to have been received by such person to be paid to the person or persons from whom the money or consideration was received, and where such person or persons cannot be positively identified, the money or proceeds of the consideration must be paid into the Municipality's Revenue Account. Such order has the effect of a civil judgment and may be executed against such person who received the money or consideration as if it were a civil judgment in favour of the person or persons from whom the money or other consideration was received or in favour of the Municipality.

(5) Any person who contravenes these By-laws shall be guilty of an offence and liable on a conviction of a fine or imprisonment for a period not exceeding three (3) years or to both such fine or imprisonment.

**Short title**

**23.** This By-law shall be called the Law Enforcement By-law, 2015.

**PROVINCIAL NOTICE 78 OF 2018****MPUMALANGA DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS****PUBLICATION OF MUNICIPAL BY-LAWS FOR LOCAL MUNICIPALITIES IN TERMS OF  
THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT (ACT NO. 32 OF 2000)**

I, Speed Katishi Mashilo, in my capacity as Member of the Executive Council responsible for Co-operative Governance and Traditional Affairs, in the Mpumalanga Province, hereby publish municipal by-laws for Mkhondo, Chief Albert Luthuli, Lekwa and Emalahleni local municipalities, in terms of Section 13 (a) and (b) of the Local Government: Municipal Systems Act (Act No. 32 of 2000)

The municipal by-laws are concerning the following matters per local municipality, namely:

**Lekwa Local Municipality**

1. Electricity Supply
2. Advertising Signs
3. Encroachment on Municipal Properties
4. Public Participation
5. Street Trading
6. Contaminated Waste
7. Cemetery
8. Taxi
9. Informal Settlements
10. Open Space

**Chief Albert Luthuli Local Municipality**

1. Standing Rules and Orders
2. Electricity Supply
3. Fire Brigade Services
4. Sanitation
5. Waste Management
6. Water Supply

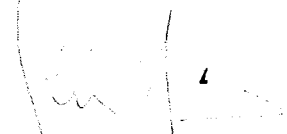
**Emalahleni Local Municipality**

1. Property Rates

**Mkhondo Local Municipality**

1. Credit Control and Debt Collection
2. Control of Outdoor Advertising
3. Encroachment on Municipal Properties

Given under my hand at Mbombela, on 03/04 2018



**MR SK MASHILO (MPL)**

**MEC: DEPARTMENT OF CO-OPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS**

The Council of Lekwa Local Municipality has in terms of section 156 of the Constitution, 1996, read in conjunction with Section 11 and 98 of the Local Government: Municipal Systems Act, 32 of 2000, as amended, made the following By-law:

## **PUBLIC PARTICIPATION BY-LAW**

### **TABLE OF CONTENTS**

1. Purpose of the By-law
2. Definition
3. Development of culture of community participation
4. Mechanism, processes and procedures
5. Communication of information concerning community participation
6. Methods for public participation
7. Public notices of meetings of the council
8. Venue for public meetings and hearings
9. Communications to the local community
10. Community participation in the intergrated development plan and buget
11. Offences and Penalties
12. Application
13. Repeal
14. Short title

## 1. THE PURPOSE OF THIS BY-LAW

- (1) The purpose of the Public Participation By-law is to provide for mechanisms by which the public may participate in the affairs of the municipality; openness, transparency and accountability on the part of the council, its political structures and its administration by providing for citizens to exercise their right to public participation.

## 2. DEFINITIONS

- (1) For the purpose of this By-law, unless the context otherwise indicates.

**"Community"** means the Residents of Lekwa Local Municipality

**"Municipality"** means the Lekwa Local Municipality;

**"Municipal Council"** means the Council of the Municipality as referred to in section 157 of the Constitution No.108 of 1996:

**"Municipal Manager"** means the person appointed by the Municipal Council as the Municipal Manager of the Municipality in terms of section 54A of the Local Government: Municipal Systems Act, 32 of 2000 and includes any person –

- a) acting in such a position;
- B) to whom the Municipal Manager has delegated the power, function or duty in respect of such delegated power, function or duty;

- (2) Words applying to any individual shall include persons, companies and corporations, and the masculine gender shall include females as well as males, and the singular number shall include the plural and *vice versa*.

## 3. DEVELOPMENT OF CULTURE OF COMMUNITY PARTICIPATION

- (1) In giving effect to section 16 of the Systems Act 32 of 2000 and as set out in the Schedule hereto, the Municipal Manager must ensure that for this purpose:-

- (a) all the staff members, including Councilors referred to in this Subsection are trained in the basic knowledge of the areas referred to;
- (b) the Municipal Manager may establish a working group, consisting of Councilors and previously trained staff members, to administer the training of new staff members and Councilors under section 16 of the Systems Act.

**4. MECHANISMS, PROCESSES AND PROCEDURES**

- (1) As provided for in section 17 of the Systems Act 32 of 2000 and elsewhere in this By-law, the Municipal Manager must establish methods for public participation as set out in section 6 of this By-law.
- (2) The Municipal Manager must notify the public of all available methods for participation.
  - (a) Notification may take the form as provided for in section 9 of this By-law.
- (3) The Municipality must, when implementing methods for public participation, provide:-
  - (a) for a qualified person to help members of the community who cannot read or write;
  - (b) appropriate access to public meetings and hearings for people with physical disabilities; and
  - (c) a translator, after having assessed the language preferences and usage and where appropriate.

**5. COMMUNICATION OF INFORMATION CONCERNING COMMUNITY PARTICIPATION**

- (1) The provisions of section 4 (2) (a) and (b) of this By-law shall apply to this subsection.

**6. METHODS FOR PUBLIC PARTICIPATION**

- (1) The Municipal Manager must inform the community of any public comment procedures available through which the members of the community can voice their opinions and views on any other affairs of the Municipality on which the community's input is required, which may include, but are not limited to:-
  - (a) public meetings and hearings by the Municipality and other political structures and office bearers of the Municipality as provided for in subsection (4) hereunder
  - (b) consultative sessions with locally recognised community organisations and traditional authorities and the submissions of written public comment.
- (2) Petitions and Complaints
  - (a) Petitions and complaints lodged by the local community will be received by the Municipality and attended to in terms of the Petitions By-law of the Municipality.
  - (b) The Municipal Manager must notify the community of all important petitions and complaints lodged with it within 7 (seven) working days of having processed and considered the petitions and complaints referred to in this subsection.

## (3) Invitations for public comment and open sessions

- (a) When the Municipality considers and deliberates on any of the issues set out hereunder, it must hold open sessions to which members of the public and interested organisations must be invited to submit their views and comments:-
  - (i) the identification of the needs of the community in the municipal area, including the prioritisation of those needs for the purpose of helping the Municipality;
  - (ii) the views of the public and interested organisations on strategies, programs and services to address priority needs through the integrated development plan for the purpose of helping the Municipality;
  - (iii) the involvement of the community in the development, implementation and review of the Municipalities' performance management system, including the setting of appropriate key performance indicators and performance targets for the Municipality for the purpose of helping the Municipality;
  - (iv) the views and comments of the public and interested organisations on a proposed tariff policy as contemplated in section 74 of the Systems Act 32 of 2000 as well as its Credit Control and Debt Collection Policy;
  - (v) decisions on mechanisms for the provision of services through service delivery agreements.
- (b) In giving effect to subsection 6 (3) (a) of this By-law, the Municipal Manager, together with the Municipal Councilors and officials, must hold an open session on any of the issues referred to in subsection 6 (2) of this By-law when any issue arises, however, the open sessions should fall outside the framework of the sessions held in respect of the development of the Municipality's integrated development programme and its performance management system and as required by the Systems Act.
- (c) The Municipal Manager must, after the Municipality has held an open session on any of the matters contemplated in subsection 6 (3) (a) of this By-law, and after the conclusion of the session concerned:-
  - (i) formulate a full report thereon together with any advice or recommendations the Municipality may deem necessary or desirable;
  - (ii) make copies of the report available to the community in one or more of the following manners:-
    - (aa) by application in the local newspaper;
    - (bb) leaving a copy at all the libraries in their municipal area;
    - (cc) posting a copy on the notice board on the council's offices;
    - (dd) providing every Councilor of each ward, where wards exist, with copies for distribution to the Communities; and
    - (ee) Sending the message in the website.

- (d) the Municipal Manager must ensure that the report is published according to the Municipalities language policy for the municipal area.

(4) Public meetings and hearings by the Municipality:

- (a) Notwithstanding the provisions of section 6 (2) of this By-law, the Municipal Manager must, on appropriate notice and in a manner provided for in this By-law, notify the community of any public meeting and/ or hearing arranged to discuss and consider any of the petitions and complaints lodged by members of the local community under subsection (2).
- (b) Any such public meeting and/ or hearing must take place within 14 (fourteen) days of the Municipal Manager having notified the community of the important issues raised and considered by the Council and after it has called for any comment under subsection 6.3.

(5) Comments via electronic mail

- (a) The Municipal Manager, if it is in the confines of the Municipality's resources and capacity, provide the public with a central e-mail address, whereby members of the local community may submit written comment directly to the Municipality on any matter referred to in this Bylaw and/ or other relevant legislation.
- (b) The Municipal Manager must ensure that the comments are accessed regularly and collated by a staff member specifically allocated to this task.

(6) Referenda and opinion polls

- (a) To gain the local community's input on any issue provided for in this By-law, the Municipal Manager may call for a referendum or opinion poll, if the local community is notified in the manner provided therefor, of the following:-
  - (i) the specific issue that calls for a referendum or opinion poll;
  - (ii) the manner in which the referendum or opinion will take place;
  - (iii) where and when the referendum or opinion poll will take place;
  - (iv) the date on which the result of the referendum or opinion poll will be made public to the community.
- (b) The date referred to in subsection 6.6(iv) of this By-law may not be later than 2 (two) working days after referendum or 7 (seven) working days after the opinion poll itself.

(7) Notification

- (a) Whenever the Municipality:-
  - (i) holds a public meeting as provided under this By-law;
  - (ii) holds a session about any matter contemplated in subsection 6.3 of this By-law;  
or



- (iii) holds a public meeting on any other matter decided by the Council that warrants notification to the community, the aforesaid matters must be advertised once in two of the daily newspapers as well as community newspapers circulating in the municipal area according to the Council's language policy for a reasonable period before the event.

(c) Copies of all notices contemplated in subsection 6.7 (a) of this By-law must be posted at:-

- (i) the notice board at the Council's offices;
- (ii) all libraries in the municipal area;
- (iii) other places as may be available.
- (iii) website of the Municipality

## **7. PUBLIC NOTICE OF MEETINGS OF THE COUNCIL**

- (1) The Municipal Manager must give notice to the public in the manner provided for in section 19 of the Systems Act 32 of 2000 of the time, date and venue whenever there is a scheduled:-
  - (a) ordinary meetings of the Municipal Council; and
  - (b) special urgent meeting of the Municipal Council, except when time constraints make this impossible.

## **8. VENUE FOR PUBLIC MEETINGS AND HEARINGS**

- (1) The Municipal Manager must ensure that the Municipality makes use of an appropriate venue for any public meeting and/ or hearing as provided for in these By-law in terms of :-
  - (a) the size of the venue after gauging and taking into consideration the approximate number of people who might be attending;
  - (b) the location of the venue and access to it for people with physical disabilities via public and private transport;
  - (c) the number of staff members of the Municipality to be made available to ensure the smooth administration of the meeting; and
  - (d) the provision of security for both members of the Municipality as well as members of the local community attending the meeting and the vehicles.

## **9. COMMUNICATIONS TO LOCAL COMMUNITY**

- (1) When notification by the Municipality must be done through the media to the Local community under this By-law of any other applicable legislation, it must be done through one or more of the following:-

- (a) in the local newspaper or newspapers of its area and in the appropriate language for its area;
  - (b) in a newspaper or newspaper circulating in its area and decided by the Council as a newspaper of record;
  - (c) by means of radio broadcasts covering the area of the Municipality;
  - (d) by means of the distribution of flyers and pamphlets; or
  - (e) by means of sending a message in a website, provided the letter is not used as the only form of communication.
  - (f) by means of a loud hailer
- (2) When the Municipality invites the local community to submit written comments or representations on any matter before the Council, it must be stated in the invitation that any person who cannot write may come during office hours to a place where a staff member of the Municipality named in the invitation, will help that person to transcribe that person's comments or representations.

#### **10. COMMUNITY PARTICIPATION IN THE INTEGRATED DEVELOPMENT PLAN AND BUDGET**

- (1) Once the Municipality has formulated a process set out in writing to guide the planning, drafting, adoption and review of its integrated development plan, the Municipal Manager must through appropriate mechanisms, processes and procedures set out in this By-law, consult the local community before adopting the process.
- (2) The notification to the local community may take place in a suitable manner provided for in this By-law.
- (3) The notification carrying the written process as referred to in section 10 (1) (a) and (b) must inform the community about their rights and duties for input required on the integrated development plan as well as how the community may go about commenting on such a process.
- (4) The notice should also include the particulars of the process which the Municipality intends to follow.
- (5) The Municipal Manager must ensure that the publication setting out the process, specifies a date, time and/ or place or where input from the community may be submitted.
- (6) Once the Municipality has finalised its integrated development plan under Chapter 5 of the Systems Act 32 of 2000, it must within 14 (fourteen) days of the adoption of such a plan give notice to the public in a manner provided for in these By-laws as well as make available copies of or extracts of the plan for public inspection at specified places and publicised in the local newspaper a summary plan.

#### **11. OFFENCES AND PENALTIES**

- (1) Any person contravening or failing to comply with any provision of this By-law or a notice issued in terms of this By-law shall be guilty of an offence and shall on conviction thereof be liable to a fine not exceeding R 5 000.00 (five thousand rand) or imprisonment for a period not exceeding 6 (six) months.

**12. APPLICATION**

- (1) The Council may by notice in the *Provincial Gazette*, determine that the provision of this By-law do not apply in certain areas within its area of jurisdiction from a date specified in the notice.

**13. REPEAL**

- (1) The By-laws relating to the regulation of Public Participation within Lekwa Local Municipality, are hereby repealed and replaced by this By-law, which are to become effective on promulgation hereof.

**15. SHORT TITLE**

- (1) This By-law shall be called the Public Participation By-law 2015.

**PROVINCIAL NOTICE 79 OF 2018****MPUMALANGA DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND  
TRADITIONAL AFFAIRS****PUBLICATION OF MUNICIPAL BY-LAWS FOR LOCAL MUNICIPALITIES IN TERMS OF  
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7. Cemetery
8. Taxi
9. Informal Settlements
10. Open Space

**Chief Albert Luthuli Local Municipality**

1. Standing Rules and Orders
2. Electricity Supply
3. Fire Brigade Services
4. Sanitation
5. Waste Management
6. Water Supply

**Emalahleni Local Municipality**

1. Property Rates

**Mkhondo Local Municipality**

1. Credit Control and Debt Collection
2. Control of Outdoor Advertising
3. Encroachment on Municipal Properties

Given under my hand at Mbombela, on 03/04/2018

MR SK MASHILO (MPL)

**MEC: DEPARTMENT OF CO-OPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS**

# LEKWA LOCAL MUNICIPALITY



## DRAFT STREET TRADING BY-LAWS

The Council of Lekwa Local Municipality has in term of section 156 of the constitution, 1996 (Act No. 108 of 1996), read in conjunction with section 11 of the Local Government: Municipal System Act, 2000 (Act No. 32 of 2000), read together with section 6A (1) of the Business Act, 1991 (Act No.71 of 1991), made the following By-laws, which By-laws shall come into operation on the date of publication of this notice.

# LEKWA LOCAL MUNICIPALITY

## DRAFT STREET TRADING BY-LAWS

### 1. DEFINITIONS

- (1) In these By-laws, except as otherwise expressly provided or unless the context otherwise requires-

**“approval”** means approval by the authorised official and “approve” has a corresponding meaning;

**“association”** means persons who are self-employed and have organised themselves into a street association with a constitution and a Code of conduct;

**“authorized official”** means an official of the Council to whom it has delegated a duty, function or power under these By-laws, in relation to the exercise or performance of that duty, function or power and includes any employee acting under the control and direction of such official;

**“Council”** means the Lekwa Local Municipality established by Notice 299 of 2000 as published in Provincial Gazette Extraordinary No.631 dated 1 October 2000, in terms of the provision of section 12 of the Local Government: Municipal Structures Act, Act 117 of 1998, and includes the Council of the Municipality, the Executive Mayor and/or the Mayoral Committee and/or any other committee established by the Council and/or any employee of the municipality duly authorised to perform any duty, power or function in terms of these by-laws;

**“local authority service”** means any system conducted by or on behalf of a local authority for the collection, conveyance, treatment or disposal of refuse, sewage or stormwater or for the generation, impounding, storage, purification or supply of water, gas or electricity;

**“local authority service works”** means all property or works of whatsoever nature necessary or desirable for or incidental to any local authority service;

**“nuisance”** bears meaning given to it by the ordinance, or any amendment thereof;

**“ordinance”** means the local authority ordinance, 25 of 1974, or any amendment thereof;

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

**“property”** in relation to a street trader, means any goods, receptacle, vehicle or movable structure used or intended to be used in connection with the carrying on of his business as such;

**“public place”** means a public place as defined in section 1 of the ordinance, or any

amendment thereof;

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

**“roadway”** means a roadway as defined in section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996);

**“sell”** includes –

- (a) Barter, exchange or hire;
  - (b) Display, expose, offer or prepare for sale;
  - (c) Store with a view to sell; or
  - (d) Provide service for reward
- and “sale” has a corresponding meaning;

**“sidewalk”** means a sidewalk as defined in section 1 of the Road Traffic Act, 1996 (Act No.93 of 1996);

**“street trader”** means a person who carries on the business of street trading;

**“street trading”** means the selling of any goods or the supplying or offering to supply any service for reward, as a street vendor, peddler or hawker in a public road or public place but does not include the sale of newspaper only;

**“the Act”** means the Business Act, 1991 (Act No. 71 of 1991), and includes the regulations made thereunder;

**“vehicle”** includes –

- (a) A self-propelled vehicle;
- (b) A trailer;
- (c) A hand-drawn or propelled vehicle; and

**“verge”** means a verge as defined in section 1 of the Road Traffic Act, 1996 (Act No.93 of 1996).

- (2) In these By-laws, unless the context otherwise indicates, any word or expression defined in the Act shall bear the meaning so given to it.
- (3) For the purpose of these By-laws a single act of offering for sale or of selling goods or services in or from a public road or public place constitutes the carrying on of the business of street trader.
- (4) For the purpose of these By-laws a reference to a person carrying on the business of street trader shall include any employee of any such person.
- (5) Words applying to any individual shall include persons, companies and corporations, and the masculine gender shall include females as well as males, and the singular number shall include the plural and *vice versa*.

## **2. APPLICATION**



No person shall carry on the business of a street trader unless he or she -

- (1) Has obtained the written approval of the Council to do so; and
- (2) Is a member of a street trader association recognised by the Council.

### **3. PROHIBITIONS**

No person shall carry on the business of a street trader -

- (1) At a place or in an area declared under section 6A(2)(a) of the Act as a place or area in which the carrying on of street trading is prohibited;
- (2) On a verge, contiguous to
  - (a) A building belonging to, or occupied solely by the State or the Council;
  - (b) A church or other place of worship; or
  - (c) A building declared to be a National monument under the National Monument Act, 1969 (Act No. 28 of 1969), or any amendment thereof except to the extent that the carrying on of such business is permitted by a notice or sign erected or displayed by the Council and in compliance therewith;
- (3) On a verge contiguous to a building in which business is being carried on by any person who solely or mainly sells goods of the same or similar nature as goods being sold by the street trader concerned, without the consent of that person;
- (4) On that half of a public road contiguous to a building used for residential purposes, if the owner or person in control or any occupier of the building objects thereto;
- (5) At a place where it substantially obstructs pedestrians in the use of a sidewalk or take up a position or deposit his property on a sidewalk so as to do so;
- (6) At a place where it causes an obstruction to vehicular traffic;
- (7) At a place where it causes an obstruction in front of -
  - (a) An entrance to or exit from a building;
  - (b) A fire hydrant;
- (8) On a stand or in any area contemplated in section 6A(3)(b) of the Act 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;
- (9) In contravention of the terms and conditions of the lease or allocation to him of a stand or area contemplated in sections 6A(3)(b) and (c) of the Act.

### **4. RESTRICTIONS**

(1) No person carrying on the business of a street trader shall -

- (a) If such business is carried on any public road or public place
  - (i) Sleep overnight at the place of such business; or
  - (ii) Erect any permanent structure at the business site for the purpose of providing shelter without prior written approval of the Council;
- (b) Carry on such a business in such a manner as to –
  - (i) Create a nuisance;
  - (ii) Damage or deface the surface of any public place or any public or private property; or
  - (iii) Create a traffic hazard;
- (c) Other than in a refuse receptacle approved or provided by the Council, accumulate, dump, store or deposit or cause or permit to be accumulated, dumped, stored or deposited any litter on any land or premises or on any public road or public place;
- (d) Obstruct access to a service or to service works of the Council or of the State or any statutory body;
- (e) Interfere with the ability of persons using a sidewalk to view the goods displayed behind a shop displayed window or obscure such goods from view;
- (f) Obstruct access to a pedestrian arcade or mall;
- (g) Carry on business or take up a position or place his property on a portion of a sidewalk or public place in contravention of a notice or sign erected or displayed by the Council for the purpose of these By-laws;
- (h) Carry on such business in a place or area in contravention of any restriction imposed by Council resolution in terms of section 6A(2)(a) of the Act;
- (i) Obstruct access to pedestrian crossings, parking or loading bays or other facilities for vehicular or pedestrian traffic;
- (j) Obstruct access to or the use of street furniture such as bus passenger benches or shelters and queuing lines, refuse disposal bins, and other facilities designed for the use of the general public; or
- (k) Obscure any road traffic sign displayed in terms of the Roads Traffic Act, 1996 (Act No. 93 of 1996), and regulations made thereunder or any marking, notice or sign displayed or made in terms of these By-laws.

(2) The Council shall reserve the right to restrict the number of street trader and street trader associations.

## **5. CLEANLINESS OF PLACE OF BUSINESS AND PROTECTION OF PUBLIC HEALTH**

Every street trader shall –

- (1) Unless prior written approval exempting him from the provisions of this paragraph has been given by the Council, daily remove from any public road or public place at the end of each trading day or at the conclusion of trading all goods, moveable structures, waste, packaging material, stock and equipment of whatsoever nature which are utilized in connection with such trading;
- (2) Carry on this business in such a manner as not to be a danger or threat to public health or public safety;
- (3) At the request of an officer or an employee of the Council move or remove anything so that the place of business may be cleaned;
- (4) Keep the area or stand occupied by him for the purpose of his business as well as his property in a clean and sanitary condition and free of litter; or
- (5) If his activities involve the cooking or other preparation of food, take steps to ensure that no fat, oil or substance drops or overflows onto the surface of a sidewalk or splashes against a building or other structure.

#### **6. TRADING IN PARKS AND GARDENS**

No street trader shall carry on business in a garden or park to which the public has the right to access except with the prior written approval of the Council's Municipal Manager or other authorized official and in compliance with any conditions imposed by him when granting such consent.

#### **7. OBJECTS USED FOR DISPLAY OF GOODS**

A street trader shall ensure that any structure, container, surface or other object used by him for the preparation, display, storage, or transportation of goods -

- (1) Is maintained in a good state of repair and in a clean and sanitary condition; and
- (2) Is not so placed or stacked so as to constitute a danger to any person or so as to be likely to injure any person.

#### **8. REMOVAL AND IMPOUNDMENT**

- (1) For the purpose of this By-law "goods" includes any receptacle, vehicle or movable structure.
- (2) An officer may remove or impound goods -
  - (a) Which he reasonably suspects are being used or are intended to be used or have been used in or in connection with the carrying on of any business of a street trade, and
  - (b) Which he finds at a place where the carrying on of such business is restricted in terms of section 4(h) or section 5 or prohibited in terms of section 3(1) to (9) and which in his opinion constitutes an infringement of such provision, whether or not such goods are in the possession or under the control of any person at the

time of such removal or impoundment.

(3) Any officer acting in terms of subsection (2) shall

- (a) Except in the case of goods which have been left or abandoned, issue to the person carrying on the business of street trader a receipt of any goods so removed and impounded; and
- (b) Neither the Council nor a councillor, official, officer or employee of the Council shall be liable for any loss of or damage to any goods removed and impounded in terms of this section.

## **9. DISPOSAL OF IMPOUNDED GOODS**

- (1) Any perishable goods removed and impounded in terms of section 8(2) may at any time after the impoundment thereof be sold or destroyed by the Council and in the case of a sale of such goods the proceeds thereof, less any expenses incurred by the Council in connection with the removal, impoundment and sale of such goods, shall upon presentation of the relevant receipt issued in terms of section 8(3)(a), be paid to the person who was the owner of such goods when such goods were impounded. If such owner fails to claim the said proceeds shall be forfeited to the Council.
- (2) The owner of any goods (other than perishable goods), dealt with by the Council in terms of subsection (1), impounded in terms of section 8(2) who wishes to claim the return of such goods shall, within a period of one month of the date of the impoundment of such goods, apply to the Council and shall present the relevant receipt issued in terms of section 8(3)(a), failing which such goods may be sold by the Council and in the event of sale of such goods the provisions of subsection (1) relating to the proceeds of a sale shall apply.
- (3) If the owner of any goods impounded in terms of section 8(2) claims the return of such goods from the Council and such owner is unable or refuses to refund any expenses incurred by the Council in connection with the removal and impoundment of such goods, such goods may be sold by the Council and proceeds of any sale of such goods less any such expenses and the cost of such sale shall be paid to such owner.
- (4) In the event of the proceeds of any sale of goods contemplated by this section not being sufficient to defray any expenses incurred by the Council in connection with the removal, impoundment and sale of such goods, the owner of such goods shall remain liable for so much of such expenses as is not defrayed by the proceeds of the sale of such goods.

## **10. GENERAL OFFENCES AND PENALTIES**

(1) Any person who -

- (a) Contravenes or fails to comply with any provision of these By-laws;

- (b) Ignores, disregards or disobeys any notice, sign or marking displayed or erected for the purpose of these By-laws;
  - (c) Contravenes or fails to comply with any approval or condition granted or imposed in terms of these By-laws;
  - (d) For the purpose of these By-laws make false statement knowing it to be false in a material respect or deliberately furnishes false or misleading information to an authorised official or officer; or
  - (e) Threatens, resist, interferes with or obstructs an authorised official, officer or employee of the Council in the performance of his powers, duties or functions under these By-laws, shall be guilty of an offence and on conviction be liable to a fine of R500.00 (Five Hundred Rand) or imprisonment for a period not exceeding 3 (Three) months.
- (2) When an employee of a street trader performs any act or is guilty of any omission which constitutes an offence under these By-laws the employer shall be deemed to have performed the act or to be guilty of the omission himself and he shall be liable on conviction to the penalties mentioned in subsection (1) unless he can prove that -
- (a) In performing the act or being guilty of the omission the employee was acting without his knowledge or permission;
  - (b) All reasonable steps were taken by him to prevent the act or omission; and
  - (c) It was not within the scope of the authority or the course of the employment of the employee to perform an act of the kind in question.
- (3) The fact that an employer issued instructions forbidding any act or omission referred to in subsection (2) shall not of itself be accepted as sufficient proof that he took all steps referred to in paragraph (b) of that subsection.
- (4) When an employer is by virtue of the provisions of subsection (2) liable for anything done or omitted by his employee, then that employee shall also be liable to prosecution for the offence.

## **11. PRESUMPTIONS**

In any prosecution of a street trader for contravention of these By-laws, the accused shall be deemed to know the provisions of these By-laws and to know that the offence with which he is charged is a contravention thereof.

## **12. APPLICATION**

The Council may by notice in the Provincial Gazette, determine that the provision of these By-laws do not apply in certain areas within its area of jurisdiction from a date specified in the notice.

## **13. REPEAL**

The By-laws relating to Street Trading for the Lekwa Local Municipality, are hereby repealed and replaced by these By-laws, which are to become effective on promulgation hereof.

**PROVINCIAL NOTICE 80 OF 2018****MPUMALANGA GAMING ACT, 1995 (ACT 5 OF 1995) AS AMENDED  
APPLICATION FOR TRANSFER OF SITE OPERATOR LICENCE**

Notice is hereby given that Paul Vorster Identity Number 7207105021087 trading as O'Reilly's Sports Pub & Grill intends submitting an application to the Mpumalanga Economic Regulator on 1 June 2018 for the transfer of the Site Operator licence from Nicolaas Hendrik Naude trading as Rock O'Reilly's Music and Sports Bar. The site premises is located at: Portion 3 of Stand 600, 13 Kerk Street, Ermelo, Msukaligwa, Gert Sibane, Mpumalanga Province. The owner/manager of the business are: Mr. Paul Vorster. No changes to the licence conditions of the site operator licence is proposed in this application. The application will be open for public inspection at the office of the Mpumalanga Economic Regulator at First Avenue, White River, South Africa, 1240, from 1 June 2018 to 30 July 2018. Attention is directed to the provisions of Section 26 of the Mpumalanga Gaming Act, 1995 (Act No.5 of 1995) as amended, which makes provision for the lodging of written objections in respect of the application. Such objections should be lodged with the Chief Executive Officer, Mpumalanga Economic Regulator, First Avenue, Private Bag X9908, White River, South Africa, 1240, within the aforementioned public inspection period.