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PROCLAMATION • PROKLAMASIE

**PROCLAMATION 72 OF 2020
CITY OF MBOMBELA
CEMETERY BYLAWS****PURPOSE OF THE BY-LAW****CEMETERIES, CREMATORIA AND FUNERAL UNDERTAKERS BY-LAW, 2016**

To repeal the Mbombela Local Municipality: By-law for Cemeteries and Crematoria, 2008; to provide for the control, regulation and development of cemeteries; and to provide for the disposal of corpses and the interment of human remains, in a dignified manner; and to provide for matters connected therewith.

PREAMBLE

WHEREAS in terms of Part B of schedule 5 of the Constitution of the Republic of South Africa 1996 cemeteries, crematoria and funeral parlours are local government matters;

AND WHEREAS section 73 of the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000) places a general duty on municipalities to give effect to the provisions of the Constitution;

AND WHEREAS City of Mbombela seeks to ensure the proper management of cemeteries, crematoria and funeral undertakers within the area of jurisdiction of the City;

AND NOW THEREFORE, BE IT ENACTED by the City of Mbombela, as

follows:-

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CHAPTER I

1. Definitions

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

"**Adult**" means a deceased person over the age of 12 years;

"**Ashes**" means the cremated remains of a body;

"**Berm**" means a headstone allowed by the Council at the head or foot of any grave, in a landscape section or lawn section.

"**Body**" means the remains or any portion thereof of any deceased person;

"**Cadaver**" means a dead human body.

"**Cemetery**" means any land or part thereof within the municipality duly set aside by the Council as a cemetery;

"**Child**" means a deceased person who is not an adult;

"**Columbarium**" means the place set-aside in the basement of the crematorium or chapel for the placement in niches of receptacles containing ashes;

"**Container**" means an urn for the keeping of the ashes of a deceased person in a memorial wall;

"**Council**" means the City of Mbombela acting under the powers delegated to it in terms of section 58 of the Local Government (Administration and Election) Ordinance, 1960 (Ordinance No. 40 of 1960,) and any officer of the Municipality to whom that Council has been empowered by the Council in terms of subsection (3) of the said section to delegate and has in fact delegated the powers, functions and duties vesting in the Council in relation to these by-laws;

"**Crematorium**" means a crematorium as defined in section 1 of the Ordinance and includes any place set aside by the Council for the cremation of a body;

"**Crematory**" means the room in the crematorium, which houses the cremation refractory;

"**Demarcated area**" means an area that must be indicated by the family to bury the body;

"**Full services**" means where all services such as water, electricity, sewerage, fencing etc. are rendered;

"**Garden of remembrance**" means a section of a cemetery or crematorium, excluding a columbarium, set aside by the Council for the erection of memorial work to commemorate a deceased person whose body was cremated and for the placing of ashes;

"**Heroe**" means a A person who is admired for their courage, outstanding achievements, or noble qualities;

"**Heroes acre**" means an area of land set aside for the burial of heroes and senior Council officials;

"**Indigent person**" means a destitute person who has died in indigent circumstances, or if no relative or other person, welfare organisation or NGO can be found to bear the burial or cremation costs of such deceased person. The City of Mbombela can bury such a person as a pauper;

"**Landscape section**" means a cemetery or section of a cemetery set aside by the Council where memorial work is restricted in size as contemplated by section 27; where only headstones are allowed;

"**Low services**" means rudimentary services as found in rural cemeteries;

"**Memorial section**" means a cemetery or section of a cemetery, which is not a landscape section or a lawn section; granite slabs is allowed to cover the body;

"**Memorial wall**" means a wall in a crematorium or cemetery provided for the placement of ashes and/or inscribed tablets commemorating deceased persons who have been cremated;

"**Mausoleum**" means an above ground burial vault;

"**Memorial work**" means any headstone, monument, plaque or other similar work or portion thereof erected or intended to be erected in any cemetery or crematorium commemorating a deceased person and includes a kerb demarcating any grave and a slab covering any grave;

"**Municipality**" means the area under control and jurisdiction of the Council as well as any outside area contemplated in section 7(b) of the Local Government Ordinance, 1939 (Ordinance No. 17 of 1939);

"**Niche**" means an opening in a memorial wall for the placing of a container;

"**Non-resident**" means any person who at the time of his death was not a resident of City of Mbombela;

"**Officer in charge**" means any person authorised by the Council to be in control of any cemetery and in the case of a crematorium, the registrar of such crematorium;

"**Office hours**" means Monday to Friday 07h30 to 16h00 excluding Saturday, Sunday and Public holidays;

"**Ordinance**" means the Crematorium Ordinance, 1965 (Ordinance No. 18 of 1965);

"**Pauper**" means a person who has died as an unknown person or if no relative or other person, welfare organisation or NGO can be found to bear the burial or cremation costs of such deceased person. Paupers are buried maximum three in a grave;

"**Plot**" means any area laid out in any cemetery for not less than three and not more than six graves adjoining each other, in respect of which the exclusive right to enter has been acquired in terms of these by-laws; See tariffs for details;

"**Registrar of deaths**" means any person appointed as registrar of deaths in terms of the Births, Marriages and Deaths Registration Act, 1963 (Act No. 81 of 1963);

"Regulation" means a regulation published in terms of the Ordinance;

"Resident" means any person who, at the date of his death ordinarily resided in the City or who for at least six months immediately prior to such date was the owner of fixed property in the City;

"Security forces grave area" means a section in a cemetery set aside for the interment of deceased members of the Defence Forces of the Republic of South Africa;

"Semi services" means where all services are not provided yet;

"Tariff" means a tariff of charges as determined by the Council from time to time, by special resolution, in terms of section 80B of the Local Government Ordinance, No. 17 of 1939;

"Working hours" from Monday to Friday as determined from time to time by the Council to be normal working hours. Weekends to be regarded as extra hours See weekends tariffs

CHAPTER II

INTRODUCTION

2. *Establishment of cemeteries*

Any ground can be set aside by the Council for a cemetery and no person shall inter a body or cause it to be interred in any other place within the municipal area, without contacting City of Mbombela.

3. *Disposal of a body*

No person shall, save with the prior written consent of the Council, dispose of or attempt to dispose of a body, other than by internment in a cemetery or cremation in a crematorium.

CHAPTER III

INTERNMENTS

4. *Permission to inter and placement of container with ashes*

4.1 No person shall inter a body in any cemetery, cause it to be so interred, cause a body to be cremated or place a container with ashes without the permission of the officer in charge or without arranging a date and time for the internment or placing with such officer.

4.2 Such permission shall not be granted unless -

- (a) a burial order in terms of the Births, Marriages and Deaths Registration Act 1963, has been issued and produced to the officer in charge;
- (b) an application in terms of section 5 has been submitted;
- (c) The applicable charge is paid to Council.

4.3 in considering the granting or refusal of the permission referred to in subsection (1), the officer in charge shall have regard to the rights and safety of the people making use of the cemetery, and the officer in charge, should he grant such permission, set the conditions that he regards necessary in order to protect the aforesaid rights and safety.

5. *Application for internment / burial in demarcated areas.*

5.1 Any person desiring to have a body interred shall, subject to the provisions of subsection (2) and (3), submit to the officer in charge an application completed in the form set out in Schedule A to these by-laws, 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, the signature of any other person who satisfies the officer in charge as to his identity and interest in the internment concerned.

5.2 Every application for internment shall be submitted at least sixteen working hours before such internment. The family must indicate a section where they want their body buried.

5.3 Notice of any postponement or cancellation of any internment shall be given to the officer in charge not later than eight hours before the internment was to have taken place.

6. *Internment only in allotted grave*

Subject to the provisions of these by-laws, no interment shall take place in any grave not allotted by the officer in charge.

7. *Reservation of graves*

7.1 The City of Mbombela reserves the right to allow reservation of graves or not to reserve graves.

- (a) Application in this regard must be sent to Parks and Cemetery Division.
- (b) If application is approved, the applicant shall pay the current amount to Council as a deposit. This arrangement is renewable after 10 years to find out if family is still interested.
- (c) The applicant must adjust to and pay the difference in tariff if an application to use the grave is received at later stage.
- (d) Reservation will be allowed when space is still available, if not, on top burial will be allowed.

7.2 Transfer or disposal of rights

Any holder of a grave may in writing, after obtaining written permission from the officer in charge, transfer his rights in respect of a private grave to any person: Provided that no such transfer shall be valid unless -

- (a) a copy of the document effecting the transfer has been furnished to the officer in charge with a sworn affidavit from owner of grave that is selling or transferring grave; and
- (b) the appropriate charge as determined from time to time by the Council has been paid.

7.3 If by reason of the death or permanent absence from the Republic of South Africa of an applicant contemplated in section 5(1) or the holder of a grave, or for other good cause, the Council is satisfied that such person will not be exercise his rights to have a public grave converted into a private grave or that he will not exercise his rights in respect of any private grave, the Council may dispose of such grave to any other person upon payment by such person of the appropriate charge.

8. *Subsequent interment*

8.1 Not more than two interment's may be made in any grave – except paupers. 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 as contemplated in section 10 (1) (b).

8.2 Any holder of a grave desiring to have a body interred in a grave a second or third interment in such grave shall: -

- (a) reasonable requirement of the officer in charge in respect of such removal.
- (b) After compliance with paragraph (a), give at least 24 hours written notice to the officer in charge in the form prescribed in Schedule A to these by-laws of such interment, which period shall be calculated exclusive of any Saturday, Sunday and Public Holiday.

8.3 The notice referred to in subsection (2) shall be accompanied by written proof of the title of the holder's rights to the grave concerned and by the appropriate charges prescribed.

9. *Dimensions of graves, funerary urn, niche and space against a memorial wall*

9.1 Subject to the provisions of section 10 -

- (a) in any cemetery existing at, and the planning and layout of which have been completed prior to, the commencement of these by-laws: --
- (i) An adult's grave shall measure 2200 mm in length and 762 mm in width, at ground level; and have an excavation of 1900mm deep.
 - (ii) A child's grave shall measure 1370 mm in length and 452 mm in width, at ground level; and have an excavation of 1500mm deep.
 - (iii) a funerary urn shall measure 240 mm x 240 mm x 150 mm.
 - (iv) a niche in a memorial wall shall measure 280 x 280 mm x 280 mm;
 - (v) a grave in a garden of remembrance shall measure 500 mm in length, 300 mm in width and 500 mm in depth.
 - (vi) The space for the fixing of a memorial work against a memorial wall shall be 270mm x 12mm x 25mm.

10. *Enlargement of excavation*

10.1 Notwithstanding the provisions of section 9: -

- (a) If a coffin is too large to be accommodated within the excavation of a grave, such excavation may be enlarged to a size which will accommodate such coffin and must be indicated clearly on the form of Schedule A;
- (b) A private grave may be deepened at the request of an applicant contemplated in section 5 so as to permit the interment in such grave of a third body;

10.2 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 16 hours before the interment; which period exclude any Saturday, Sunday and Public Holiday, and such notice shall be accompanied by payment of the appropriate charge determined by the Council from time to time.

11. *Covering of a coffin*

- 11.1 There shall be at least 1200 mm of soil between any adult's coffin and the surface of the ground, and a least 900-mm of soil in the case of a child's coffin;
- 11.2 At least 300 mm of soil shall be placed over any coffin immediately after interment;
- 11.3 The undertaker must see to it that the grave is fully closed before he leaves the cemetery.

12. *Construction of coffin*

No coffin intended to be placed in a grave shall be constructed of any material other than natural timber or other decomposable material. Any other material must be within SABS standards and pre-approved by Council

13. *Register*

Council must keep a record of all interments and such record must contain-

- (a) the particulars of the person who requested the interment;

- (b) the particulars of the deceased person whose corpse is to be interred or has been interred, such as the name, address, and identification number;
- (c) the date of the interment and the number of the grave in which the corpse or ashes is interred or the location of the receptacle where the ashes have been placed.

14. *Right of Burial*

- 14.1 No person shall acquire any right including a right of burial in any ground or grave in a cemetery owned by Council, other than such rights or interests as may be obtainable under this By Law.
- 14.2 The determination of the identity of the holder of existing rights to further burials in existing graves shall be determined with reference to the register of Council.
- 14.3 On application in terms of section 4 and on payment of the prescribed fee, a person may acquire the right of burial in a public grave.
- 14.4 On application in terms of section 4 and on payment of the prescribed fee, a person may acquire the exclusive right to subsequent burials in the same grave provided that this right will lapse on the exhumation of the corpse buried in such grave.
- 14.5 The right to subsequent burials shall not be transferable to a third party other than on the death of the holder of the right, in which event the right shall be transferred to his or her next of kin.
- 14.6 Where the next of kin of the deceased person buried in the grave to which the right to subsequent burial relates is not a holder of the right, in the event that the next of kin objects to a subsequent burial in that grave, the consent of the next of kin shall be required prior to any subsequent burial being permitted.
- 14.7 The right to subsequent burials referred to in section 4 is conditional on the suitability of the grave for additional burials as determined by Council.
- 14.8 The next of kin or other closest surviving relative of a deceased person who is buried in a public or private grave may, in writing, forfeit such public or private grave to Council, and thereby grant consent for the exhumation of the remains of the deceased person buried in that grave, and the burial therein of an unrelated person or persons.
- 14.9 In the case of a private grave, where the holder of the right acquired in terms of subsection 14.4 is not the next of kin or other closest surviving relative of the deceased, the joint consent of both the holder of the right and the next of kin or other closest surviving relative of the deceased, must be obtained before a grave is forfeited in accordance with subsection 8.

CHAPTER IV

FUNERALS

15. *Religious ceremonies or memorial services*

Subject to the directions of the officer in charge, a religious ceremony or memorial service may be

conducted in any cemetery. Provided the allocated time limit is kept no memorial service can take place while burial continues.

16. *Music Inside Cemeteries*

No unduly loud or disturbing music with singing shall be permitted in a cemetery, and instrumental music and amplified sound shall only be permitted with the consent of City of Mbombela.

17. *Control of hearses*

No person shall within a cemetery, drive a hearse or cause any hearse to be driven elsewhere than on a demarcated driveway, or leave or detain any hearse in such roadway after removal of the coffin from such hearse.

18. *Conveyance of bodies*

No person shall in any street, cemetery or other public place convey a body in an unseemly manner or convey it in such a manner that the body or any part thereof is visible from outside the vehicle in which it is conveyed.

19. *Compliance with instructions at funerals*

Any person taking part in a funeral, funeral procession or ceremony within any cemetery shall comply with any reasonable instruction of the officer in charge.

20. *Funeral hours*

20.1 Funerals may take place on Saturdays or Sundays and Public Holidays at extra cost; and burial is between 07h00 and 16h00. See tariffs.

20.2 On condition that the booking is made during normal office hours and on the conditions as stipulated in 5.2 Provided that no such charge shall be payable in respect of a burial of Muslims, if the applicant assumes full and exclusive responsibility for filling the graves, and the grave is filled to the satisfaction of the officer in charge.

20.3 During the week burials can take place at normal burial rates between 07h00 and 16h00.

CHAPTER V

RE-OPENING OF GRAVES AND EXHUMATIONS

21. *Applications for Exhumations*

21.1 An application for exhumation must be submitted to Council, and must include the following:

- (a) the completed application form;
- (b) a copy of the death certificate;
- (c) a letter or an affidavit from the next of kin of the deceased consenting to the exhumation;
- (d) payment of the prescribed fee.

22. *Conditions of exhumation*

- 22.1 No person shall: -
- (a) exhume or cause to be exhumed any body without the prior written consent of the Council and the approval of the Provincial Health Department in terms of the Removal of Graves and Dead Bodies Ordinance, 1925 (Ordinance No. 7 of 1925);
 - (b) exhume or cause to be exhumed any body during any period when the cemetery is open to the public.
- 22.2 The written consent referred to in subsection (a) must be submitted to the environmental health practitioner of Ehlanzeni District Municipality at least five working days prior to the approved exhumation date.
- 22.3 The environmental health practitioner may impose conditions with respect to exhumation as referred to in subsection (a) and an exhumation may only proceed when such conditions have been complied with.
- 22.4 No exhumation or re-interment may proceed without the presence of a competent and experienced environmental health practitioner employed by the Council and a registered funeral undertaker.
- 22.5 The remains of a deceased person must be reburied or cremated within 48 hours, unless the environmental health practitioner determines that circumstances or conditions prevent reburial or cremation within the 48 hour period.
- 22.6 The remains of the deceased person must, pending reburial or cremation be kept at a registered funeral undertakers premises.
- 22.7 Exhumations shall be carried out in accordance with the Council's policy on exhumation and re-interment of human remains.
- 22.8 A Commonwealth war grave may only be exhumed in accordance with the provisions of section 3 of the Commonwealth War Graves Act, 1992 (Act No. 8 of 1992).
- 22.9 The person carrying out the exhumation must provide a suitable receptacle for each body or remains.
- 22.10 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 19, remove any body from the grave.
- 22.11 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 as determined by the Council from time to time, as well as the consent and approval contemplated in subsection (1).
- 22.12 The grave from which any body is to be exhumed shall be effectively screened from view during the exhumation, and the person carrying out such exhumation shall provide a suitable receptacle for the body.
- 22.13 The person carrying out such exhumation shall ensure that the body and grave are properly disinfected and deodorised.
- 22.14 No body may be exhumed less than eighteen months after burial, other than in compliance with a Court Order.
- 22.15 An emergency exhumation shall comply with the provisions of sections 45 and 46.

22.16 A member of the South African Police Services must be present during normal and emergency exhumations.

23. *Re-internment by the Council*

23.1 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 these by-laws, the Council may, subject to the provisions of the Removal of Graves and Dead Bodies Ordinance, 1925, 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 at his last known address of the intended re-internment, and such relative shall be entitled to attend such re-internment.

24. *Wrongful Burial*

Council may if a body has been buried in contravention of this By-law, subject to the provisions of section 4, cause the body to be exhumed and reburied in another grave, in which event the relatives of the deceased must be notified of the intended exhumation and reburial and allowed to attend.

25. *Reduction burial*

The City may, after the lapse of a minimum time period of ten (10) years after the most recent burial in a grave, exhume the remains of a corpse for the purposes of the reduction of the corpse and rebury the remains of that corpse in the same grave, in a smaller coffin, at a greater depth, subject to the conditions that-

(a) any holders of private rights in that grave, acquired in terms of subsection (5) and the next of kin or other closest surviving relative of the deceased (where the holder of the right is not the next of kin or closest relative of the deceased) have given their consent;

(b) in respect of any grave where no private rights have been acquired, where the next of kin, or other closest surviving relative of the corpse has given consent.

CHAPTER VI

CARE OF GRAVES

26. *Gardening of graves and objects on graves*

26.1 No person other than the Council shall garden any grave.

(a) No person shall erect, place or leave upon a grave any object or decoration, except during the first twenty-eight (28) days following the internment therein.

(b) Moveable objects can be allowed:

(c) Notwithstanding the provisions of paragraph (a), natural or artificial flowers and receptacles in which they are contained may be placed on a grave at anytime: Provided that on a grave with a berm natural or artificial flowers may only be placed as contemplated in section 25 (e).

(d) The officer in charge or any member of his staff may remove natural or placed on withered, faded or damaged, or after the period contemplated in section 20.1 (a) has expired. Plants will be moved to the nursery

- (e) After six months of burial, all affected graves shall be levelled to allow smooth maintenance operation on landscape section.
- (f) Minimum height for tombstone must be at least 500mm from base.

Permission must be obtained from Council if any member of the public wishes to take care of an individual grave or graves, such a grave or graves must always be kept clean, the same as Council maintained cemetery.

CHAPTER VII

MEMORIAL WORK

27. *Erection or re-erection of memorial work*

- 27.1 No person shall, without the prior written consent of the officer in charge, erect any memorial work in any cemetery or crematorium, or bring any material into any cemetery or crematorium for the purpose of erecting, altering or repairing any memorial work.
- 27.2 Application for consent in terms of subsection (1) shall be made at least ten working days before the proposed date of the erection to the officer in charge. Said application shall be accompanied by a plan in detail of the memorial work as well as the proper charge as determined by the Council from time to time.
- 27.3 If memorial work is removed for additional inscription or other amendments thereto, the provisions of subsection (2) shall mutatis mutandis apply.
- 27.4 Save with the permission of the officer in charge, no work on any memorial work shall be performed in a cemetery on a Saturday, Sunday or a Public Holiday, or at any time after normal working hours. (07:30 – 16:00).
- 27.5 No person shall erect or re-erect any memorial work within six months after the interment, or when the ground in the opinion of the officer in charge, is in an unsuitable condition.
- 27.6 The person in charge of the erection or re-erection of any memorial work shall produce the written consent referred in subsection (2), at the request of the officer in charge.
- 27.7 No memorial work or material for use in connection therewith shall be conveyed in any cemetery or crematorium in such manner as may damage the paths or grounds or any other property of the Council in the cemetery.
- 27.8 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.
- 27.9 No memorial work shall be erected unless all the appropriate charges as determined by the Council from time to time have been paid.
- 27.10 Council is not liable for damage to memorial work resulting from any subsiding soil.
- 27.11 Council is not responsible for any damage which may at any time occur to a memorial work and which is not due to the negligence of the authorised officials of Council.

28. *Inferior memorial work*

The Council may prohibit the erection or re-erection of any proposed memorial work, which in its opinion is of inferior workmanship or quality of which is in any way likely to disfigure any cemetery or crematorium.

29. *Inscriptions on memorial work*

- 29.1 Memorial work on a grave shall on the base in the middle and a commemorative plaque on a grave in a garden of remembrance shall on the upper surface in the lower right hand corner, display a clear and permanent number assigned to the grave concerned by the officer in charge.
- 29.2 The only particulars of the manufacturer of memorial work, which may appear thereon, shall be his name, which shall be placed at the base of the memorial work, maximum size 25 x 50 mm.

30. *Dismantling of memorial work*

- 30.1 Subject to the provisions of this section, no person, other than the holder of a grave 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.
- 30.2 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 the 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.
- 30.3 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 with subsection (2), the Council may give 30 days' written notice to such holder or person requiring him at his own expense to remove such memorial work from the cemetery together with all rubble connected therewith.
- 30.4 If in the opinion of the Council, any memorial work has become a danger to the public or has been erected in contravention with these by-laws, or has become damaged, the Council may give written notice to the holder or person referred to in subsection (1), requiring him at his own expense, to render such memorial work safe or to alter such memorial work so that it complies with the provisions of these by-laws, or to dismantle and remove such memorial work from the cemetery together with all rubble connected therewith.
- 30.5 If such holder or person fails to comply with a notice in terms of subsection 24 (3) or (4), the Council may, without incurring any liability to pay compensation for damages -
- (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;
 - (d) and such holder or person shall be liable for any costs incurred by the Council in doing any act in terms of this subsection.
- 30.6 If, in the opinion of the Council any memorial work has become so dangerous 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 for damages -
- (a) dismantle the memorial work concerned and remove it together with any rubble connected therewith; or
 - (b) render the memorial work concerned safe.

- 30.7 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 without thereby incurring any liability to pay compensation for damages.
- 30.8 Such holder or person shall be liable for any costs incurred by the Council in doing any act in terms of subsection (6).
- 30.9 If the holder or person referred to in subsection (1) fails to pay the cost referred to in subsection (8) or 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.

31. *General requirements for memorial work*

- 31.1 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 at least 8 mm thickness and a length sufficient to fit holes which shall not be less than 50 mm deep;
 - (b) a Foundation 100 mm deep, must cover the whole grave plot (2 600 x 1 620 mm) on which the memorial wall is erected and thereafter finished off all round with a 100 mm x 100 mm layer of cement;
 - (c) All kerbstones are squared and laid in accordance with the instructions of the officer in charge so as to ensure that when the ground surrounding such kerbstones has been levelled, such kerbstones do not exceed a height of 230 mm above ground level;
 - (d) If loose stone chips are placed on a grave, the level of such stone chip shall not be higher than 10 mm below the level of the surrounding kerbstone;
 - (e) Sufficient space is left on a memorial work for the placing of flowers, and
 - (f) All memorial work shall be of granite or natural rock. The officer in charge on written application may approve the use of any other material.
 - (g) Council may remove memorial work that in its opinion is indecent, inferior, offensive or objectionable, without paying compensation to the owner or any other person

32. *Requirements of memorial work in memorial section*

- 32.1 in a cemetery existing at the coming into operation of these by-laws, the maximum horizontal measurements of any memorial work erected on a grave in memorial section shall be -
- (a) in the case of an adult's grave, 2 200 mm in length and 1 100 mm in width, with a kerb width of 150 mm;
 - (b) in the case of a child's grave, 1 500 mm in length and 600 mm in width, with a kerb width of 150 mm.

33. Requirements for memorial work in landscape section

- 33.1 (a) Any memorial work to be erected in a landscape section shall consist of a base no longer than 380 mm X 910 mm X 458 mm and thickness not less than 80mm for a single grave and not larger than 380 mm X 2120 mm X 450 mm and thickness not less than 104mm for a double grave.
- (b) The size of a memorial tombstone may not exceed the following measurements: Height 1800 mm, width 910mm and a thickness not less than 80mm for a single grave and height 1800 mm, the width 2120mm and a thickness not less than 104 mm for a double grave.
- (c) Books and scrolls are allowed on condition that base must at least be 380 mm X 910 mm X 458 mm for a single grave and 380 mm X 2120 mm X 458 mm for a double grave.

34. Requirements for memorial work in garden of remembrance

- 34.1 Any memorial work erected on a grave in a garden of remembrance, must have a foundation with the following measurements:
- (a) 600 mm in length x 400 mm in width x 50-mm deep concrete, and the memorial work for such a grave must have the following measurements:
- (b) 600 mm in length x 400 mm in width x 50 mm in thickness
- (c) The memorial work shall be affixed with at least 5 copper or galvanised spikes, 50 mm in length. All memorial work shall be level to ground level.

35. Requirements for memorial work against memorial wall

- 35.1 (a) Any memorial work affixed to a memorial wall, shall have the following measurements: 270 mm x 125 mm x 25 mm, and shall be fixed to the wall by means of at least four copper or galvanised dowels (6mm x 50 mm).
- (b) The maximum size of niches allowed is 215 mm (length) x 76 mm (height) x 152mm (width).

36. Position, movement and removal of Memorial Work

- 36.1 No person may erect a memorial work on a grave before the position in which such memorial work is to be placed has been indicated in terms of the approved plan.
- 36.2 Should the condition referred to in subsection 35.1 not be complied with, Council may, on written notice to such person, alter the position of the memorial work and recover the costs of the alteration from the person who erected the memorial work.
- 36.3 In the instance where a memorial work has originally been placed in a certain position with the express consent of Council, any alteration of the position in terms of the provisions of this section is executed at the expense of Council.

37. Times for bringing in material and doing work

- 37.1 No person may bring memorial work or material in connection therewith, or do any work other than the dismantling of memorial work for interment purposes within a cemetery except during the times determined by Council.

37.2 No person may engage in work which may disturb or intrude upon a funeral for the duration of the funeral.

38. *Supervision of work*

Any person engaged in memorial work in a cemetery or crematorium shall affect such work under the supervision and to the satisfaction of the officer in charge. No erection of memorial work without a City Mbombela official present.

39. *Producing of Written Permission*

A person charged with a work or on his or her way to or from work within the cemetery must, upon demand from Council or its authorised official, produce the written consent issued to him or her in terms of section 27.1

40. *Internment and exhumation of ashes*

40.1 No person shall inter any ashes in grave or exhume ashes from a grave without prior written permission of the officer in charge.

40.2 Application for internment or for exhumation of cremated remains shall be made to the officer in charge and be accompanied by the appropriate charge as determined by the Council from time to time.

40.3 The officer in charge shall prepare such grave for the internment or the exhumation of ashes.

40.4 The exclusive right to inter ashes in a grave referred to in subsection (1), may be acquired with the consent of the officer in charge, which consent shall only be given after application for the cremation of the body, the ashes of which are to be interred in such grave, has been made and upon payment of the appropriate charge as determined by the Council from time to time.

41. *Use of niches and spaces, affixing of memorial work*

No niche or space in a garden of remembrance or space on a memorial wall shall be used for the storage of ashes or for affixing memorial work without the prior consent of the officer in charge and without payment of the appropriate charges as determined by the Council from time to time.

CHAPTER VIII

THE ADMINISTRATION AND CONTROL OF CEMETERIES

42. *Appointment of Officer in Charge*

42.1 Council must appoint an officer in charge for each cemetery to control and administer the cemetery.

42.2 The officer in charge must take into account the customs of the deceased person and the persons responsible for the interment and must accommodate these within the framework of this By Law.

43. *Prohibited acts*

43.1 No person-

(a) under 16 years of age shall enter any cemetery or crematorium 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.
- 43.2 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 or advertisement;
- (c) sit, stand, climb upon, or deface or damage any memorial work or Council property;
- (d) commit any offensive, indecent or objectionable act or any act, which constitutes as 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 or meeting;
- (g) Remove, transplant, pick, cut, saw, chop or prune any plant, grass, shrub or tree or part thereof, or act in a similar manner, without the consent of the officer in charge; Plants that are found to be planted on the graves shall be removed to nursery.
- (h) drive or park any vehicle or bicycle without the prior consent of the officer in charge on any road where driving or parking is prohibited by means of a notice displayed 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 staff in the exercising of his powers or the performance of his duties under these by-laws, or refuse to comply with any lawful order or request of the officer in charge or any member of his 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 in a manner not in keeping with the atmosphere of a cemetery or crematorium;
- (m) erect any partitioner or other object on a grave;
- (m) hinder members of any religious fellowship to conduct religious practised in connection with an interment of memorial service subject to the control and regulations of the Council;
- (o) transport an uncovered body or cause it to be transported or uncover such a body or part thereof or cause it to be uncovered in any street, cemetery or public area;
- (p) Occupy a cemetery or part thereof longer than 60 minutes for the purpose of an interment.
- (q) Plant on and around grave.

44. *Liability of Council in respect of injury or damage*

The Council shall not be liable for any injury to a person or damage to any property if such injury or damage has been sustained in a cemetery.

45. *Free grave or graves*

- 44.1 (a) If a person has died in indigent circumstances, and if no relative or NGO can be found to bear the burial or cremation costs of such deceased person, the Council may donate a grave or graves free of charge to a relative or community concerned: Provided that application be done through the office of the Mayor prior to interment of such a body.
- (b) The Mayor can also donate a grave or graves in a case of disaster or any unbecoming circumstances, which arose public concern.
- (c) The Council takes responsibility for pauper funerals as stipulated in (Act 1977) published in Government Gazette of 26 May 1977.

44.2 *Qualification of an Indigent*

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

- (a) The applicant must be eighteen (18) years of age and above
- (b) Total household income of all occupants of a household must be less than the equitable share, which has been allocated to council (subject to annual adjustments by council or other spheres of government) R 1 100.00 per month.
- or (c) The applicants must have an active account with the municipality; Silulumanzi ESKOM as they are water and electricity providers on behalf of the municipality in other areas of Mbombela.
- (d) The applicant must own a single property (stand). He/ she cannot have two properties registered in his/her name.
- (e) All households that are child headed, even if they are below eighteen (18) years of age can apply for the Indigent support.

The registered indigent must be both the owner/ or occupant of the property

46. *Cemetery hours*

Every cemetery and crematorium 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 crematorium or part thereof to the public for such period and for such authorised and official purposes as he may deem fit.

47. *Complaints*

Any person, who wishes to submit a complaint in terms of these By Laws, must do so in writing to the officer in charge. And such complain or Council can look at amendment.

48. *Notice of compliance and representations*

- 48.1 A notice of compliance must state –

- (a) the name, residential and postal address of the person;
 - (b) the nature of the state of disrepair;
 - (c) sufficient detail to enable compliance with the notice, the measures required to remedy the memorial work;
 - (d) that the person must, within a specified time period, take the measures to comply with the notice, to diligently continue with the measures, and to complete the measures before a specific date;
 - (e) that failure to comply with the requirements of the notice within the period contemplated in paragraph (d) is an offence;
 - (f) that written representations, as contemplated in subsection 47.3 may, within the time period stipulated under paragraph (d), be made to Council at a specified place.
- 48.2 Council, when considering any measure or time period envisaged in subsections 47.1 (d) and (e), must have regard to –
- (a) the principles and objectives of this By Law;
 - (b) the cause and state of disrepair;
 - (c) any measures proposed by the person on whom measures are to be imposed;
and
 - (d) any other relevant factors.
- 48.3 A person may within the time period contemplated in subsection 47.1 (f) make representations, in the form of a sworn statement or affirmation to Council at the place specified in the notice.
- 48.4 Representations not lodged within the time period will not be considered, except where the person has shown good cause and Council condones the late lodging of the representations.
- 48.5 Council must consider the representations and any response thereto by an authorised official or any other person.
- 48.6 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 person, who must be given an opportunity of making a further response if he or she so wishes, and Council must also consider the further response.
- 48.7 Council must, after consideration of the representations and responses, make an order in writing and serve a copy of it on the person.
- 48.8 The order must –
- (a) set out the findings of Council;
 - (b) confirm, alter or set aside in whole or in part, the notice of compliance; and
 - (c) specify a period within which the person must comply with the order made by Council.

- 48.9 If the notice of compliance is confirmed, in whole or in part, or is altered but not set aside, Council will inform the person that he or she must discharge the obligations set out in the notice within the time specified therein.
- 48.10 Where there has been no compliance with the requirements of the notice within the time specified therein, Council may take such steps as it deems necessary to repair the monumental work and the cost thereof must be paid to Council by such person.

CHAPTER IX

SECTIONS IN A CEMETERY

49. *Muslim Cemetery Section*

Council respects the culture of the Muslim community. This community is allowed to conduct burial after hours and allow their burial to face Qiblah (Mecca) but the following must be fulfilled: Municipality must keep records of the dead.

- (a) A grave or graves must be kept open for late burials;
- (b) Maintenance of this cemetery site must be the responsibility of City of Mbombela;
- (c) Plotting of and grave dimensions must be to the Mbombela standards;
- (d) Grave mounds must be levelled to ease maintenance, and
- (e) an Application must be send to Council and approval obtain if the Muslim community wants to take responsibility for the grave maintenance.
- (f) The necessary application forms, as set out under 5 must be completed and submitted to the relevant Council Office and the required tariffs paid on the opening of Council Offices.

50. *Berm Section*

In this section, every second grave is used for burial. The reserved graves that are left in between are used later on. This type of graves allows more space between them for easy maintenance. Tombstones are erected in "Berms". Tombstones lines are measured and marked by the officer in charge. (Height 1800 mm, width 910mm and a thickness not less than 80mm for a single grave and height 1800 mm, the width 2120mm and a thickness not less than 104 mm for a double grave).

51. *Children Section*

This area of ground is for children who are 12 years or younger. (Height 1 500 mm and 600 mm in width and a thickness not less than 80mm).

52. *Memorial Section*

This section is similar to "Berm" section; the only difference is that the public is allowed to erect slabs to cover the body of the grave when erecting a tombstone. (In the case of an adult's grave, 2 200 mm in length and 1 100 mm in width, with a kerb width of 150 mm; in the case of a child's grave, 1 500 mm in length and 600 mm in width, with a kerb width of 150 mm).

53. *Pauper Section*

In this section, unclaimed bodies are buried; records are kept by the relevant department. Please note that the bodies are marked and buried three in a grave.

54. *Memorial Wall*

In this section, means a wall in a crematorium or cemetery provided for the placement of ashes and/or inscribed tablets commemorating deceased persons who have been cremated. (270 mm x 125 mm x 25 mm).

55. *Garden of Remembrance*

In this section cremated ashes are emptied and flowers are planted around to allow beauty and to bring nature close to the dead. (600 mm in length x 400 mm in width x 50-mm deep concrete, and the memorial work for such a grave must have the following measurements: 600 mm in length x 400 mm in width x 50 mm in thickness).

56. *Family graves*

Here, a plot for graves is sold to families. The stands will vary from between 3 and 6 graves per plot. See tariffs for details.

57. *Mausoleums*

Here, stands will be sold, again to allow members of the public to erect permanent structures for on surface burial. The family concerned will erect the structure at their own cost on family grave sites. See tariffs for details.

58. *Plot Section*

Means any area laid out in any cemetery for not less than three and not more than six graves adjoining each other, in respect of which the exclusive right to either has been acquired in terms of these By-laws. See tariffs for details

59. *Heroes acre*

Subject to the provisions of these by-laws, a space in a cemetery is set aside with the special consent of the Council for the interment of members of the Defence forces. Interments and the erection of memorial walls to be done in conjunction with the security forces.

Subject to the provisions of these by-laws, a space in a cemetery is set aside with the special consent of the Council for the interment of heroes and senior Council officials.

A person who is admired for their courage, outstanding achievements, or noble qualities in the community can be declared a hero by the Mayor.

CHAPTER X**PAUPER BURIALS****60. *Paupers and indigent burials***

60.I A pauper is defined as a person who has died as an unknown person within the geographic boundaries of Council subject to Section 48(2) of the Health Act No. 63, 1977), as amended shall be buried or cremated at the discretion of Council.

- (a) A pauper who is buried in a cemetery as determined by Council is interred three in a grave and without a headstone.
- (b) An indigent person is defined as a destitute person who has died in indigent circumstances within the geographic boundaries of Council where no relative, other person, NGO or Welfare organisation can pay for the burial or cremation costs of the deceased person.
- (c) The onus of proof of being indigent rests with the applicant's declaration of indigence confirmed by the next of kin or representatives.

61. Application for pauper / indigent burial from outside institutions

Subject to the provision of the Inquests Act, 1959 and the said Births, Marriages and Deaths Act No. 51. Of 1992 a person who has died in a hospital or other institution shall be the responsibility of that hospital or institution save in the case who has been admitted to or kept in such a hospital or institution on order or on behalf of the local authority or in the case of a person who, not being a convicted person or a person under arrest, has died in any prison.

CHAPTER XI**FUNERAL UNDERTAKERS****62. Funeral Undertakers**

62.1 Subject to section 33 and 39 of the Health Act, 1977 (Act 63 of 1977) no undertaker shall contract to bury or cremate any body in any cemetery or crematorium under the control of the Council unless: -

- (a) The undertaker is in a possession of a certificate of competence.
- (b) The premise from which the undertaker operates is zoned in accordance with planning for such a business.
- (c) The requirements relating to a funeral undertaker, premises are accordance with Act. 63 of 1977.
- (d) The premises are subject to inspection. Council reserves the right to refuse permission to any undertaker to undertake business in any cemetery or crematorium under its jurisdiction if such undertaker is not in compliance with these by-laws and if the undertaker is in default of any payment of tariffs.
- (e) At funeral, the undertaker must supply, erect, operate and remove all lowering equipment using own labour.
- (f) At certain circumstances, Council employees must help to close the grave if asked by the family of the deceased

63. Penalties

Any person contravening any provision of these By Laws or failing to comply herewith or failing to comply with the conditions of any notice served on him by the Council in terms of the By Laws, shall be guilty of an offence and liable on conviction to a fine not exceeding R500 or three months imprisonment and, in the case of a continuous offence, to a fine not exceeding R100 per day for every day such offence is continued. In addition to such fine any cost incurred by the Council as a result of any contravention of any of the provisions of these by-laws or in the carrying out of any work prescribed by these By Laws to be carried out by any person and not carried out shall be paid by such person guilty of such contravention or failing to carry out such work.

CHAPTER XII**COSTS****64. Fees**

- (a) The prescribed fees to be paid to Council in terms of this By Law must be determined In terms of the City of Mbombela: Tariff By Law.

CHAPTER XIII

PRIVATE CEMETERIES, TRIBAL CEMETERIES AND CREMATORIUMS

65. *Duties of Proprietors*

65.1 The proprietor of a private cemetery or crematoria for which the consent of Council has been obtained must —

- (a) comply with –
 - (i) any special conditions which may be determined by Council in respect of private cemeteries and crematoria from time to time; and
 - (ii) the relevant provisions of this By Law and any other applicable law;
- (b) maintain the grounds, fences, gates, roads, paths and drains in good order and condition and clear of weeds and overgrowth;
- (c) allow an authorised official of Council to enter or inspect the cemetery or crematoria and all records kept in connection therewith;
- (d) appoint a suitably qualified person to manage the cemetery and to keep the records.

65.2 The owner of a private cemetery, a private crematorium, or private property may on reasonable grounds, refuse permission to have a corpse interred or cremated in the cemetery or crematorium.

CHAPTER XIV

GENERAL

- (a) Council has the right to flatten any area on, or surrounding any grave including the grave mound three months after the burial has taken place.
- (b) No person shall erect, place or leave upon a grave any except during the first twenty-eight (28) days following the intern therein object or decoration,
- (c) Council is not responsible for any damage which may at any time occur to a memorial work and which is not due to the negligence of the authorised officials of Council.

66. *Guidelines and Policies*

Council may at any time develop guidelines and policies in respect of cemeteries, crematoria, funeral undertakers, any matter connected therewith, and any other matter regulated in terms of this By-law.

CHAPTER XV**USE AND CLOSURE OF DISUSED CEMETERIES****67. Use and Closure of Disused Cemeteries**

- 67.1 Despite any provision of this By Law, and subject to the provisions of subsection (6), Council may use any cemetery or portion thereof, of which it is the cemetery authority, which has been disused for a period of not less than 20 years for such purpose as will not desecrate the ground and any human remains or any memorials in such cemetery.
- 67.2 Despite any provision of this By Law, and subject to the provisions of subsection (6), Council may close any cemetery or portion thereof, of which it is the cemetery authority, which has been disused for a period of not less than 20 years, or if good cause for such closure exists.
- 67.3 Despite any provision of this By-law, and subject to the provisions of subsection (6), Council may use as a cemetery any cemetery or any portion thereof, which has been used for another purpose in terms of subsection (1), or reopen any cemetery or portion thereof, which has been closed in terms of subsection (2).
- 67.4 Council may, subject to the provisions of subsection (6), remove to another cemetery the human remains, memorials and other structures from a cemetery of which it is the cemetery authority, which has been closed or disused for a period of not less than 20 years and which has been approved for other usage by the competent authority or authorities as the case may be.
- 67.5 All rights possessed or enjoyed by any person in respect of a cemetery contemplated in subsections (1) and (2) shall thereupon cease.
- 67.6 Before acting in terms of subsections (1), (2), (3) and (4) Council must give notice of its intention to do so.

68. *Repeal of by-laws*

The Cemetery By Laws published under Local Authority Notice No. A (28), dated 22 November 2008 as amended, are hereby repealed.

CITY OF MBOMBELA

STREET TREE MANAGEMENT BY LAW

PURPOSE OF THE BY-LAW

STREET TREE MANAGEMENT BY-LAW

To draft the City of Mbombela: By Law for Street Trees; to provide for the control, regulation and management of street trees; and to provide for the development of a sustainable environment.

PREAMBLE

WHEREAS in terms of the powers conferred by section 156(2) of the Constitution of the Republic of South Africa, 1996, City of Mbombela adopts the following By Law:
Street Tree Management;

AND WHEREAS section 73 of the Local Government Council Systems Act, 2000 (Act No. 32 of 2000) places a general duty on council's to give effect to the provisions of the Constitution;

AND WHEREAS City of Mbombela seeks to ensure the proper management of street trees within the area of jurisdiction of the City;

AND NOW THEREFORE, BE IT ENACTED by the City, as

follows: -

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14. Guidelines and Policies

14.1 Tree Removal Policy

CHAPTER 1

1. Definitions

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

“authorised council official” means any person or official authorised as such, in writing, by the Council;

“Council” means the City of Mbombela acting under the powers delegated to it in terms of section 58 of the Local Government (Administration and Election) Ordinance, 1960 (Ordinance No. 40 of 1960,) and any officer of the City of Mbombela to whom that Council has been empowered by the Council in terms of subsection (3) of the said section to delegate and has in fact delegated the powers, functions and duties vesting in the Council in relation to these By Law;

“City of Mbombela” means the area under control and jurisdiction of the Council as well as any outside area contemplated in section 7(b) of the Local Government Ordinance, 1939 (Ordinance No. 17 of 1939);

“Council Systems Act” means the Local Government: Council Systems Act, 2000 (Act No. 32 of 2000);

“prescribed” means determined by resolution of the Council from time to time;

“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;

“public road” means a road including a street, footpath, pavement, sidewalk, square, road island, subway, bridge, public passageway or other thoroughfare, which the public has the right to use, in the council area, for which the Council is responsible, and does not include a provincial road or national road within the council area;

“regulation” means a regulation published in terms of the Ordinance;

“road reserve” means the full width of a public road, and includes the verge and roadway;

“service” means a utility or other service provided to the public or a section of the public over a network including, but not limited to, electricity, water, gas and electronic communications network services and any other system for supplying a public need;

“service provider” means the provider of a service;

“tariff” means a tariff of charges as determined by the Council from time to time, by special resolution, in terms of section 80B of the Local Government Ordinance, No. 17 of 1939;

“works in the road reserve” means any work that may affect motorists, cyclists, pedestrians, the public road, footways, kerbing, traffic signs, traffic signals, street lighting, underground or overground services or any other structure or service that is contained in the road reserve and includes the digging of trenches, tunneling, erection of signboards, hoardings and other structures, shaping and landscaping in the road reserve;

CHAPTER II

INTRODUCTION

2. *Street Tree Management By Law*

City of Mbombela's Street Tree Management By Law is designed to protect trees, regulate cutting and ensure replacement of trees removed. The By Law applies to all properties of City of Mbombela.

3. *Management of trees in the City of Mbombela*

Parks & Cemeteries Section is actively working with other departments in identified areas of concern.

CHAPTER III

TREE CARE

4. *Tree Planting*

- 4.1 The City of Mbombela will plant up sidewalks with street trees in accordance with its tree planting program.
- 4.2 Individual and replacement tree planting may be carried out upon written application from residents to the City of Mbombela.
- 4.3 Trees planted on sidewalks are to allow unobstructed pedestrian and cyclist movement on the sidewalks and should not interfere and/or obstruct the sight to road signs, traffic signals, streetlights, etc. for motorists, pedestrians, cyclists, etc. In considering these trees to be planted the ultimate fully grown potential of the tree needs to be considered. This would apply for the tree planting program of council as well as to trees to be planted by residents in terms of clause 6.2 above.
- 4.4 New trees will not be planted if they interfere with existing services, i.e. City of Mbombela, street lights, water, sewerage, etc;
- 4.5 No tree planting will be undertaken by the City of Mbombela within 10 meters of an intersection or 5 meters of an existing driveway or City of Mbombela lamp pole. Trees will not normally be planted on sidewalks less than 3 meters wide. Notwithstanding the mentioned distances, no tree planting will be undertaken if sight distances for motorists on public roads, motorists entering or exiting private properties, pedestrians, cyclists, etc. are adversely affected.
- 4.6 Residents requesting individual tree planting must undertake to water the tree until it becomes established (normally two seasons).
- 4.7 Planting distances between trees will depend on the species selected and existing services.
- 4.8 No person is allowed to plant any tree that is an invader or alien vegetation or by the nature of its root system, form, fruit, etc., is deemed to be undesirable. Such undesirable trees will be removed by council at the cost of the person who planted it. a Notice will be served after which the plants will be removed at the cost of the transgressor.
- 4.9 Choice of tree species is at the discretion of the department and will be restricted to varieties known to be suited to the local conditions and that will enhance the aesthetics of the City of Mbombela. Trees with large root systems will not be planted close to the roadway where they may later cause damage to the road construction.

- 4.10 No private tree planting is permitted without prior consent of council.
- 4.11 No tree stumps (root system in ground) will be removed.
- 4.12 No planting to be undertaken within 10 meters from a traffic intersection.
- 4.13 No planting to be undertaken within 5 meters of an existing vehicle entrance.
- 4.14 Planting may not be undertaken within 5 meters of an existing electrical or street light pole.
- 4.15 All applications to plant tree must be done through the way leave system.
- 4.16 Damage to underground services will be for the contractors account.
- 4.17 Trees must be planted 10 m to 20 m apart and directly opposite each other.
- 4.18 Position of trees to be marked by and authorised official from Council.
- 4.19 Trees must have a sunken soil basin measuring 6cm.
- 4.20 Selection of species per street to be done by the Parks department.
- 4.21 Planting hole must be square.
- 4.22 Holes must be square to the sidewalk
- 4.23 Trees must be planted in line and should be lined up during the planting process
- 4.24 Additives like can be added for water retention and as a wetter
- 4.25 Tree planting tablets to be used preferably instead of granular fertiliser. 10-15cm from ground level.
- 4.26 When placing the tree in the hole the ground at the bottom of the hole should be made into a heap and the roots placed on top of the heap.
- 4.27 Bone meal may be added.
- 4.28 No open holes may be left unattended or overnight.
- 4.29 Planted trees to be mulched with a suitable medium.

5. *Pest Control*

- 5.1 Pest control shall be implemented at the discretion of the City of Mbombela.

6. *Tree pruning*

Trees on Council property will be pruned by the City of Mbombela in the event that -

- 6.1 Dead trees, tree roots, tree stumps or trees of the City of Mbombela that in the opinion of the City present a danger to the public, shall be pruned or removed.

- 6.2 If the tree/trees mentioned in 4.1 are situated on the sidewalks or outside the boundary of a private property, the cost shall be borne by the City of Mbombela.
- 6.3 Trees planted on a sidewalk by a member of the public shall become the property of the City of Mbombela and will therefore be maintained by council.
- 6.4 At the discretion of the City of Mbombela, trees on sidewalks damaged by a member of the public shall be removed or pruned and the transgressor may be prosecuted.
- 6.5 Branches from trees on private properties overhanging the sidewalk or into overhead power lines may be pruned back to the boundary at the cost of the City of Mbombela.
- 6.6 At the discretion of the City of Mbombela, trees growing on sidewalk may be pruned or treated at any time.
- 6.7 No tree may be pruned or removed from any council property except by the City of Mbombela or a competent service provider appointed by the City of Mbombela.

7. Watering of trees

- 7.1 A watering and fertilisation program shall be applied to all newly planted trees at the discretion of the City of Mbombela.
- 7.2 Notwithstanding the provisions of section 7.1
 - (a) At any time a water shortage is experienced within the boundaries of the City of Mbombela water restrictions will be imposed;
 - (b) Every home owner will be responsible to water trees planted on the sidewalks bordering his/her property;

CHAPTER IV

TREE REMOVAL

8. Removal of trees

Any request for the removal of a tree on a sidewalk shall only be considered if the request is submitted in writing and addressed to the City of Mbombela. The council shall determine the cost of removing the trees from time to time and this shall be recovered from the owner if it is not in the interest of the City of Mbombela to remove the said tree.

Trees shall only be removed as stipulated in item 8.3 and 8.4.

- 8.1 Trees on council property that cause damage to private property, or to council property such as kerbs, sewers, etc., shall be removed or treated/pruned at the discretion of the City of Mbombela;
- 8.2 Council may not remove or prune any tree growing on private property except for reasons outlined in Clause 8.4 (d);
- 8.3 Trees on council property will only be removed by the City of Mbombela under the following conditions:

- (a) Dead or dying;
- (b) diseased beyond recovery;
- (c) if a tree is causing a traffic hazard that pruning would not alleviate the problem;
- (d) if a tree causes an electrical hazard, or causes non compliance with the relevant sections of the Occupational Health and Safety Act;
- (e) if a tree causes damage to water or sewer pipes;
- (f) if necessary to accommodate Council Services provided no alternative route is available;
- (g) a proclaimed noxious weed or invader plant. (Regulation 15 of Conservation of the Agricultural Resources Act 43 of 1983.);
- (h) trees may only be removed from a side walk to provide vehicle access to a property if the application is supported by the City of Mbombela for the cost of the applicant;
- (i) a dangerous tree where the danger cannot be alleviated by pruning or other horticultural work;

8.4 Trees on council property will be removed by the City of Mbombela in the event that

- (a) The existing tree/trees causes a traffic hazard that pruning would not alleviate;
- (b) The existing tree/trees obstruct or interfere with sight distance to road signs, traffic signals, street lights for motorist, pedestrians, cyclists, etc. that pruning would not alleviate;
- (c) The existing trees obstruct or interfere with the safe movement of pedestrians and cyclist within the road reserve, sidewalk, etc;
- (d) If in the opinion of council a tree on private property is considered to be dangerous because the type of tree is unsuitable in the urban environment or it is very old or diseased, or the nature of the soil in which it is rooted is unsatisfactory for the height and weight or the tree is causing damage to council services, the General Manager: Community Services may recommend to the Council Manager that the owner or occupants of the property on which the tree is located be issued a notice in terms of the Local Government Ordinance, 17 of 1939, as amended to have the tree removed.
- (e) Trees shall not be removed simply because they drop leaves, flowers, fruit, seedpods, seeds, ooze gum or because of any other similar complaint but council may prune such trees to alleviate the problem.
- (f) In cases where a tree from a private property falls onto council

property and creates an obstruction or an emergency situation, the obstruction will be cleared by the City of Mbombela and the further removal of the debris will remain the responsibility of the resident.

- (g) Private trees damaged or blown over during storms will only be cut to clear roads and pavements and the removal of the debris will remain the responsibility of the resident.
- (h) The cost of the removal of invader trees or declared noxious weeds on council property, shall be borne by council in terms of Act 43 of 1983.
- (i) No tree will be cut / pruned that is obscuring a private or business sign if the general shape and form of the tree will be destroyed. This must also be in accordance with the bill board By Laws.
- (j) No tree stumps (root system left in the ground) will be removed after the tree has been cut and removed if it is not required. They will be treated with chemicals to prevent any further growth if necessary.

9. Obstructions caused by Plants

9.1 If a tree, shrub or other plants growing on any premises which abut a street or public place or any portion of such plant:

- (a) obstructs the view of the driver of any vehicle in such street or public place;
- (b) obstructs or causes a nuisance to persons using such street or public place; or
- (c) obscures a road traffic sign, or

if any part of such plant causes or is likely to cause a nuisance or a source of danger to such persons, an authorised officer may serve a notice on the owner of the premises or, if the premises are occupied by a person other than the owner, on the occupier thereof, requiring him to cut down, remove or trim the plant from which the nuisance or source of danger originates to an extent and within the period stated in the notice and any person who fails to comply with such notice within the period stated shall be guilty of an offence.

10. Tree Cutting Permit

10.1 Proper pruning of a street tree does not require a permit. However, topping a tree is considered damage and a ticketable offence under City of Mbombela's By Law for Street Tree Management.

10.2 The land owner of protected tree species is ultimately responsible for anything he/ she does or allows to be done on his/ her land, and Must apply for a licence from the Department of Agriculture, Forestry and Fisheries (DAFF) if he/she wants to do any of the following:

- (a) Cut, damage, disturb, destroy, prune, de-limb, top, fell, harvest any part of tree including bark, roots, seed, fruit, leaves, etc. ;
- (b) Use, process into products, e.g. charcoal, firewood, crafts, etc. ;
- (c) Possess, sell, donate wood, or other produce or product;

- (d) Uproot and transplant trees or seedlings to be replanted on same land, or uproot to be transplanted elsewhere;
- (e) Clear land from trees for development;
- (f) Carry out control of bush encroachment;

10.2 See attached diagram for assistance with obtaining permission to have a tree removed.

CHAPTER V

GENERAL

11. *Prohibited acts*

No person other than a duly authorised Council official shall—

- (a) plant a tree or shrub in a public road or Council property; or
- (b) in any way cut down a tree or a shrub in a public road or Council property or remove it, except with the written permission of the council;
- (c) climb, break or damage a tree growing in a public road or Council property; or
- (d) in any way mark or paint any tree growing in a public road or Council property;
or
- (e) attach any advertisement thereto.

12. *Liability of Council in respect of injury or damage*

The Council shall not be liable for any injury to a person or damage to any property if such injury or damage has been sustained from any of its trees.

CHAPTER VI

COSTS

13. *Fees*

- (a) The prescribed fees to be paid to Council in terms of this By Law must be determined In terms of the City of Mbombela: Tariff By-law.

CHAPTER VII

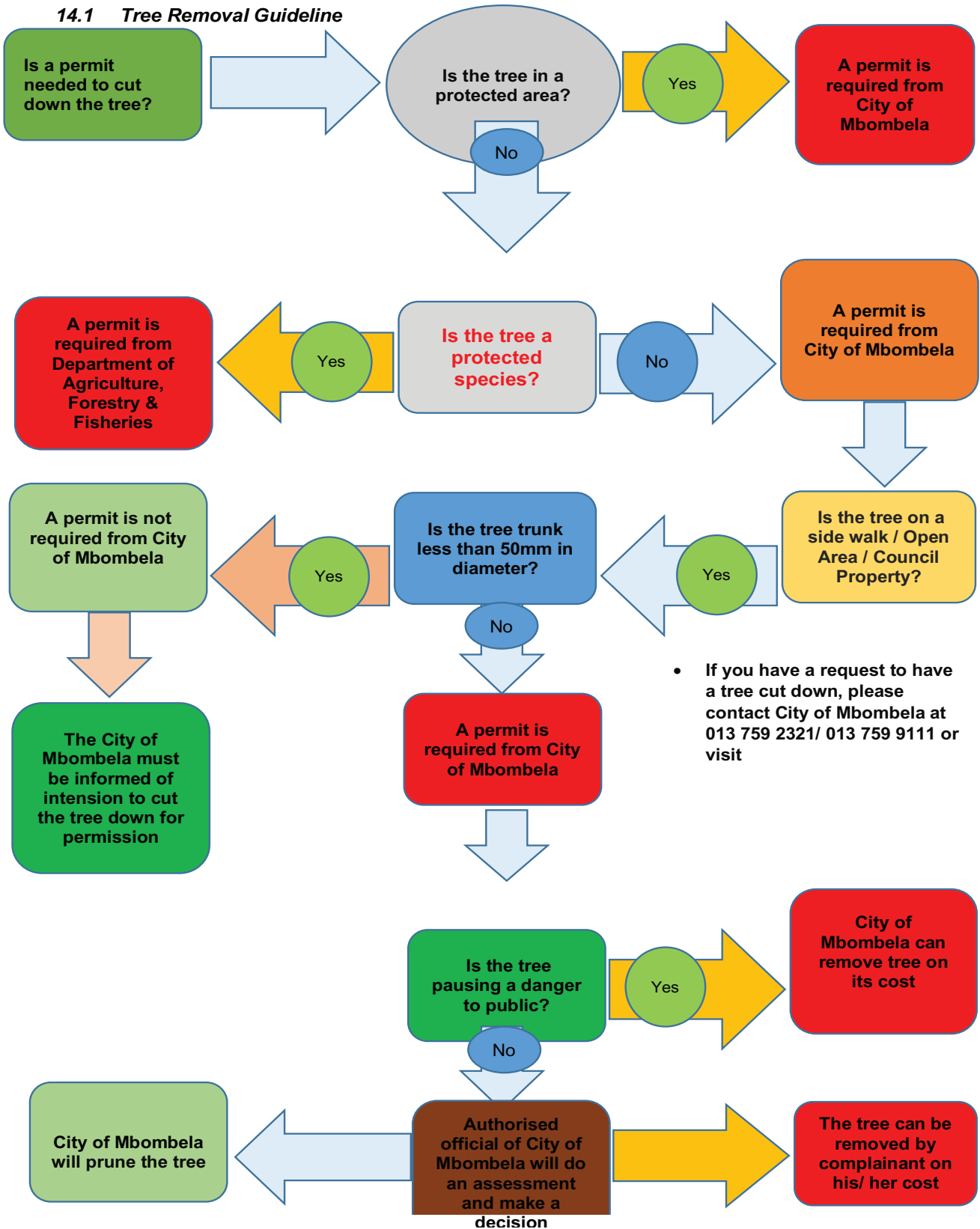
GUIDELINES FOR TREE REMOVAL

14. *Guidelines*

Council may at any time develop guidelines and policies in respect of tree management, any matter connected therewith, and any other matter regulated in terms of this By Law.

Included is a guideline to determine the conditions for the permit to remove a tree.

14.1 Tree Removal Guideline



• If you have a request to have a tree cut down, please contact City of Mbombela at 013 759 2321/ 013 759 9111 or visit

CITY OF MBOMBELA

PARKS AND PUBLIC OPEN SPACES BY LAWS

Application of By-laws

- (1) These By-laws apply to every park and 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.

Purpose of By-laws

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 parks and public open spaces is environmentally sustainable, and is in the long-term interests of the whole community of The City of Mbombela, including future generations ; and
- (b) Which clearly defines the rights and obligations of the public in relation to parks and public open spaces.

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1. DEFINITIONS

“Animal” means any equine, bovine, sheep, goat, poultry, camel, dog, cat, or other Domestic animal or bird, or any wild animal or reptile which is in captivity or under The control of a person, or insects such as, but not limited to, bees which is kept or Under control of a person, but excluding any pet;

“authorised Official” means an Official of the Council who is authorised to do, or to cause to be done any act or function in terms of these By-laws, and includes a member Of the Municipal Traffic Department;

“Bird” means a pigeon, peafowl, pheasant, partridge, canary, budgerigar, parrot, Ostrich and any other domesticated bird or wild bird which is in captivity or under Control of a person;

“council” means the City of Mbombela Municipality or any other Committee or official acting in terms of delegated authority approved in terms of sections 59 - 65 of the Local Government: Municipal Systems Act, Act 32 of 2000, and exercising any functions or duties vested in the Council in relation to these By-laws;

“herbicide” means a chemical remedy which inhibits plant growth or destroys plants or vegetation.

“hunt” means to hunt for, shoot at, kill, snare, capture, pursue or search for or lie in wait with intent to kill, shoot or capture, or disturb, destroy, wound or maim any wild animal or bird;

“Invader plant” means exotic plants that are spreading and have a negative impact on the biodiversity.

“manager” means the person appointed by the Municipality as the head of the Section: Parks and Horticultural Services of the Municipality, or his or her duly authorised representative.

“mini-bus” means a motor vehicle designed or adapted, solely or principally, for the conveyance of more than nine (9) persons, but not more than sixteen (16)(including the driver);

“motor cycle” means a motor vehicle which has two wheels and includes any such vehicle having a side-car attached;

“motor quadracycle” means a motor vehicle other than a tractor, which has four wheels and which is designed to be driven by the type of controls usually fitted to a motor cycle;

“motor tricycle” means a motor vehicle, other than a motor cycle or tractor which has three wheels and which is designed to be driven by the type of controls usually fitted to a motor cycle;

“motor vehicle” means any self-propelled vehicle and includes:

- (a) a trailer; and
- (b) a vehicle having pedals and an engine or an electric motor and an internal part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor, but does not include:
 - (i) any vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or
 - (ii) any vehicle with a mass not exceeding 230 kilograms and specially designed and constructed and not merely adapted for the use of any person suffering from some physical defect or disability and used solely by such person.

“notice” means an official notice drawn up by the Council and displayed by order of the Council at entrances to or at conspicuous places in or on a park and to which the Council shall make known provisions and directives adopted by it in terms of a by-law;

“park” means parks, open spaces, pleasure resorts, recreation areas, gardens, squares, reserves and bird sanctuaries within the Council and being held by the Council, and includes all buildings, grounds and spaces situated in such areas;

“passenger bus” means a motor vehicle designed or adapted for the conveyance of more than sixteen (16) persons (including the driver) ;

“pest” means a troublesome, injurious, destructive or otherwise undesirable form of plant or animal life (including microbiota such as nematodes, bacteria, fungi and viruses) which would be responsible for a measurable deterioration

“pest control” means the prevention, abatement or eradication of pests or pest activities.

“pest control operator” means a person who as, or in the course of, his trade or occupation administers agricultural remedies for the purpose for which they are intended.

“problem animal” means any animal, reptiles, birds, and mammals of which have or are endangering the life and health of humans or domestic animals; damaging the property of a person, obstructing the reasonable and comfortable use of property by the owner or tenant thereof or otherwise producing such material annoyance, inconvenience, and discomfort that can reasonably be presumed to result in damage or harm to persons or their property.

“public holidays” means all holidays, declared as public holidays in terms of the Public Holidays Act, 1994 (Act 36 of 1994), as amended, or declared by the State President to be a public holiday by virtue of the powers conferred upon him in terms of the said Act;

“refundable deposit” means the deposit mentioned in the tariff, determined by the Council from time to time and which shall be refunded, on demand, provided, that no damage has been caused to any facility of the Council, its environment or the recreation grounds during the period within which the facilities, environment, or recreation grounds are used;

“swim” means the entering into the water for the purpose of swimming, or to windsurf or participate in other similar water activity or the accidental contact with the water while participating in such water sport;

“Wild animal” means any animal other than a domestic or domesticated animal, rat and mouse.

2. INTRODUCTION

2.1 Integration

It should be noted that many of these By-laws are based on practices operated in one or more of the former Administrations. A discussion process has taken place to investigate the different operations. Wherever possible, agreement has been reached on the best possible practices for the City of Mbombela.

2.2 Principles of Parks and Public Open Spaces

- (1) Parks and 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 The City of Mbombela, and of South Africa, must be prioritised over the interests of any specific interest group or sector of society;
 - (b) a 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) Parks and 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 parks and public open spaces by historically disadvantaged persons and by disabled persons.
- (5) Access to a park or 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 council By-laws or by any other law; or
 - (b) in order to achieve the purposes of council By-laws.
- (6) The recreational, educational, social and other opportunities which parks and 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 parks and 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.

The following list of principles, factors and legislation will guide By-laws relating to development of municipal owned land:

- Environmental principles including accountability and sustainability,
- Legislation
- The Constitution of the Republic of South Africa, 1996 Chapter 2: Bill of Rights
- Water Services Act, (Act No. 108 of 1997)
- Environmental Conservation Act (Act No. 73 of 1989)
- Forest Act (Act No. 84 of 1998)
- Conservation of Agricultural Resources Act (Act No. 43 of 1983)
- National Environmental Management Act (Act No. 107 of 1998)
- Animals Protection Act (Act No. 71 of 1962)
- Firearms Control Act (Act No. 60 of 2000)
- Land Use Planning Ordinance (No. 15) of 1985
- National Environmental Management Biodiversity Act (Act No. 10 of 2004)
- Council By-laws
- Outdoor Advertising and Signage By-law,
- Parks or Public Open Spaces By-law,
- By-law for Cemeteries,
- Budgets (short and long term, sponsorship and other private funding sources.)
- Long term maintenance and management implications

In general principles which add value and enhance quality of life have been included such as equity, public participation, accessibility/universal access, transparency, fairness, accountability, capacitating and flexibility.

2.3 Application of principles

The public open space management principles 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 Council's 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, parks or public open spaces.
- (1) A person who is admitted to gain access or visit a park or public open space must, subject to the provisions of this by-law, observe and comply with all notices displayed in a park or public open spaces or in the entrance thereto and obey any instructions given to him or her by the authorised official.
 - (2) Should a person fail to observe and comply with a notice or any instructions referred to in subsection (1), the Municipality shall not be liable for damage or injury suffered while such person is visiting the park or public open space.
 - (3) A park or public open space is, subject to the provisions of Council's By-law, open to the public on the times determined by the Municipal Manager, provided that different times may be determined in respect of different parks or public open spaces.
 - (4) No person shall enter or leave an enclosed park or public open space at a place other than that indicated for that purpose.
 - (5) The conditions times and places contemplated in subsections (1), (2) and (3) shall be made known by the Municipal Manager by means of a notice.

2.4 Categorisation of Parks and Public Open Space

The following categories are based on the function of the space, type of land use and the allocation of management responsibility to a particular authority.

TABLE SHOWING CATEGORIES OF PUBLIC OPEN SPACE (POS) AND OTHER RELATED AMENITIES MANAGED BY COMMUNITY SERVICES DESCRIPTION OF LAND & ACTIVITY		OPEN SPACES APPLICABLE TO MLM
1.	Developable land set aside for burials and associated activities	Cemetery
2.	Developable land set aside as proclaimed nature reserves, protected natural environments, core flora sites, other sites with primary bio-diversity value and bird sanctuaries	Conservation area
3.	Developable land with recreational facilities which is visited regularly by people who do not live locally & who use public transport or private motor vehicles for access. Includes generally large scale informal recreational facilities such as play grounds, graveled kick-about areas, practice multi-purpose hard courts, etc.	Regional parks
4.	Developable land with recreation facilities which serve the needs of the local community or neighborhood and are usually accessed on foot. Includes informal recreational facilities of a small scale for children such as tot-lots and playgrounds, seating areas, open grass lawns and gardens.	Local parks
5.	Undeveloped land zoned for public open space which is usually vacant but may be developed some time in the future. Also included is undevelopable public open space e.g. land under electricity pylons and any utilities servitudes or rights of way.	Undeveloped Public Open Space
6	Land occupied by natural water courses, rivers, streams, man-made canals, storm water retention ponds and associated 'green belts' e.g. Crocodile River greenbelt.	Greenbelts
7	Horticultural activities taking place within road reserves & Municipality streets. Includes tree/shrub planting programs which adhere to Council approved Tree By-laws.	Road Reserves

3. Use of Parks and Public Open Spaces

- (1) No person shall in a park or public open spaces without the written permission of the General Manager: Community Services or contrary to any conditions which the General Manager: Community Services may impose when granting such permission
- (a) arrange or present any public entertainment;
 - (b) display or distribute any pamphlet, placard, painting, book, handbill, sign, advertisement board or any other printed, written or painted work;
 - (c) arrange or hold a public gathering or procession, or any exhibition or performance;
 - (d) conduct any trade, occupation or business;
 - (e) display, sell or rent or present for sale or rent any wares or articles;
 - (f) hold an auction;
 - (g) off-load or store building or other material.
- (2) Subject to any other law, the written permission contemplated in subsection (1) shall be refused only if anything referred to in subsection (1)(a) to (g)
- (a) is likely to give rise to
 - (i) public rioting;
 - (ii) the disturbance of public peace;
 - (iii) the committing of an offence;
 - (iv) the committing of an indecent act;

- (v) risks that compromise safety and security; or
- (vi) a situation where a planned activity in any area of jurisdiction of the Municipality is taking place at the same time as a planned activity in the park or public open space, and the activity planned to take place in the park or public open space is deemed to have a detrimental impact on the ability of the Municipality to ensure safety and security;

(b) is detrimental to the public or the users of, or visitors to, the park or public open space; or

(c) is likely to damage or destroy the amenities, wildlife or plant material in the park or public open space.

4. **General powers of Council**

The Council may in relation to any park or public open space-

- (a) designate any area within a park or 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;
- (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 parks and public open spaces.

5. **Fees**

- (1) Subject to the provisions of this bylaw, every person shall have free access to a park or public open space.
- (2) Despite subsection (1), Council may, in terms of the Tariff By-law prescribe fees for entering a park or public open space in such special circumstances as determined by it, and such fees shall be made known by means of a notice.
- (3) Any member of the public must pay –
 - (a) a prescribed fee to use recreational or other facilities which the Council provides within any park or public open space;
 - (b) a prescribed fee for the right to undertake a special event;
 - (c) a prescribed fee for the right to exclusively use municipal property for a specific period;
 - (d) a refundable deposit prior to undertaking a prohibited activity permitted by the Council;
 - (e) an annual or monthly fee for the right to use public open space to the exclusion of any other person if such a fee or deposit has been determined by the Council.
- (4) No person shall on any day on which an entrance fee is charged enter the park unless he has paid the entrance fees determined by the Council,
- (5) Any person being present in the park shall on request of an authorised official produce proof of payment of the entrance fee if such entrance fee applies,

(6) The Council may suspend the payment of entrance fees on any specific day whereon a public function is being held,

(7) The Council may suspend the payment of an entrance fee on any specific day or days as it may deem fit.

6. **Restricting access**

The Council may restrict access to any park or public open space or to any part of a park or 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 to proceed; or
- (f) to undertake any activity which the Council reasonable considers necessary or appropriate to achieve the purposes of Council's By-laws.

7. **Powers of authorised officials**

In relation to any park or public open space, an authorised official may-

- (a) to the extent authorised by the Municipal Manager, implement and enforce the provisions of Council's By-laws;
- (b) instruct any person to leave a public open space if the authorised official reasonably believes that the person is contravening any provision of these By-laws, and fails to immediately terminate such contravention upon the instruction of that official; and
- (c) 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).

8. **Safety, Order and Prohibited Activities**

(1) No person shall, in a park or public open space

- (1.1) damage, deface, remove, tamper with or destroy any equipment, amenity, fountain, statue, monument, bust, post, chain, railing, fence, light or structure;
- (1.2) plant, pull out, pick, damage or remove any plant, grass, shrub, bulbs, vegetation or flower;
- (1.3) kill, hurt, follow, disturb, ill-treat, catch, remove, translocate or release any animal or displace, disturb, destroy or remove their habitat;
- (1.4) use or try to use anything in such park or public open space for any purpose other than that for which it is designated;
- (1.5) discard any burning or smoldering object;
- (1.6) throw or dislodge any rock, stone or object from any mountains, slope or cliff;
- (1.7) behave in an improper, indecent, unruly, violent or anti-social manner, annoy any person or cause a disturbance;
- (1.8) run, walk, stand, sit or lie in a flower bed;
- (1.9) run, walk, stand, sit or lie on grass contrary to a notice;
- (1.10) lie on a bench or seating-place or use it in such a manner that prevents others from using it;
- (1.11) play or sit on playpark equipment, except if the person concerned is 12 years old or younger, or as permitted by a notice;
- (1.12) swim, walk or wash him- or herself, an animal or any object, including clothing, in any water body;
- (1.13) skate on roller skates or a skateboard or similar device except where permitted by notice;
- (1.14) operating a gas or charcoal fired barbeque, stove or make light or otherwise start a fire except in a facility provided by the Council for that purpose;
- (1.15) excavate, disturb or remove any mineral substance including soil, sand, gravel or rock;

- (1.16) damage, dig, disturb, deface, destroy or remove any fossils, bones or historical artifacts;
 - (1.17) operate any remote control device including boats, planes, helicopters or cars;
 - (1.18) build, erect, place, create, remove or modify any structure, amenity, pathway, trail, jump or ramp including a hut, tent or screen;
 - (1.19) engage in any activity which may pose a risk or in combination with other activities in the area of jurisdiction of the Municipality.
 - (1.20) hold any public meeting or gathering without the prior authorisation of the Municipal Manager or delegated person.
 - (1.21) No person shall bring into, consume, brew, store or sell in a park or public open space any liquor or any other alcoholic or intoxicating substance.
 - (1.22) No person shall in a park or public open space, contrary to a notice, cook or prepare food of any kind whatsoever, except at places set aside for such purposes by notice.
 - (1.23) The preparation and cooking of food at places set aside by notice for such purpose in or at a park or public open space shall be done in a clean and sanitary manner in accordance with the health By-laws.
 - (1.24) No animal may be killed, skinned or slaughtered in a park or public open space without the written consent of Council having first been obtained.
 - (1.25) use any sound equipment, including a radio, portable hi-fi or car stereo;
 - (1.26) play an active game, except in an area designated for that purpose on a sport playing field or on a golf course; or
 - (1.27) No farming or any agricultural practices may take place within a park or public open space.
 - (1.28) Wash, polish or repair a vehicle, except emergency repairs;
 - (1.29) Use or try to use anything provided by the Municipality in an amenity for a purpose other than that for which it is designed or determined by notice;
 - (1.30) Stay, camp, reside or sleep overnight other than in terms of section (13).
 - (1.31) Plug, tamper with, or in any way damage any plumbing, electrical, heating or other fixtures or installations;
 - (1.32) Throw any stone, stick or any other missile, catapult or sling, use any squirt, syringe or other instrument;
 - (1.33) Commit any encroachment to a park or public open space;
 - (1.34) brawl, fight, use profane, indecent or improper language, be intoxicated, bet, gamble, beg or behave in an indecent or offensive manner, or commit any nuisance;
 - (1.35) refuse to leave any park or any other enclosed space at, or after the time of closing the gates, when requested to do so by any authorised officer of the Council, or unlawfully remain therein after the gates or fences or railings have been closed, or enter or leave other than through one of the authorised means of ingress or egress;
 - (1.36) refuse to give his or her name and address when asked to do so by a duly authorised officer of the Council during his or her presence in a park;
 - (1.37) present or participate in an orchestral performance in a park without written permission of the Council and on such conditions as it may determine;
 - (1.38) present or participate in a sermon, lecture, public discussion or a meeting without the written permission of the Council;
 - (1.39) The Council shall be entitled to limit the number of visitors to a park or any portion thereof.
- (2) 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 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; or
 - (c) is deemed to be authorised by the Municipal Manger under Council's by-laws.
- (3) Subject to the provisions of this by-laws, a person is not in contravention of the by-laws 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 Council's 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 fulfil his or her duties as a peace officer.

9. **Animals**

- (1) No person shall bring any live animal, reptile, bird, fish or poultry in a park or public open space except in accordance with the directions of the General Manager: Community Services provided that different directions may be determined in respect of different parks or public open spaces and different types of animals, birds, fish and poultry.
- (2) The directions contemplated in subsection (1) shall be made known by means of a notice.
- (3) Carcasses may not be buried in a park or public open space but must be disposed of at the owner's expense and in a manner approved by the Council.
- (4) No person shall:
 - i. take any dog into or have any dog or other animal in any park or other enclosed public place in contravention of a notice exhibited in such park, or other enclosed public place;
 - ii. bathe or wash any dog or other animal, or allow any dog or other animal to be in any pond, fountain, stream or river or ornamental water feature;
 - iii. bring into a park or ride in a park on a horse, mule, donkey or any other farm animal except with prior written permission of the Council which written permission shall be produced on request by any authorised official.
- b. In any park where dogs are allowed, such dogs should be kept on leashes. Any person in charge of a dog in a park shall remove any faeces left by such dog.
- c. Except in the event of a blind person being led by a guide dog, in which instance the faeces will be removed by the maintenance team of the department.
- d. The owner of a dog or other animal or the person who has a dog or other animal in his custody or under his supervision shall take care that such a dog or other animal does not attack or terrify any person, animal or bird in a park without reasonable cause.
- e. The Council may impound any dog or other animal found wandering at large and uncontrolled in a park.

10. **Water**

No person may misuse, pollute, contaminate or interfere with water flow, obstruct water, divert a stream or drain a wetland of any water source, water supply or waste water in any park or public open space.

11. **Laundry and crockery**

No person may in a park or public open space wash any laundry or crockery except at places

indicated by notice for that purpose.

12. **Improper or indecent behaviour**

No person may in a park or public open space-

- (a) Perform an act which is indecent or conduct himself or herself improperly by exposure of his or her person or otherwise, or make improper gestures or incite or urge someone to perform a disorderly or indecent act;
- (b) Use foul, lewd or indecent language;
- (c) Write, paint, draw or in any way make a lewd, explicit or immoral figure, writing, drawing or representation; or
- (d) Enter or use toilet facility intended or indicated as such by notice for members of the opposite sex, provided that this shall not apply to children below the age of seven.
- (e) Defecate, urinate or undress, except in such building or on premises intended for that purpose.
- (f) Perform any act that may detrimentally affect the health of another person.
- (g) Contrary to a propitiatory notice, prohibiting smoking exhibited on a conspicuous place at or near the entrance of any place or building on a square or other open space, park or other enclosed space, smoke in such place or building;

13. **Trading**

- (1) No refreshment or drinks shall be hawked or offered for sale in a park or public open space except in the rooms, buildings and places assigned by the Council and by persons or bodies properly authorised thereto by the Council.
- (2) No peddler or street vendor shall be allowed to trade in a park or public open space without prior permission from the Council.
- (3) No person shall beg in a park or public open space.
- (4) No person shall gamble, participate or present gambling or games of chance in a park or public open space.

14. **Notice boards**

- (1) The municipality may erect a notice board at the entrance to or in the immediate vicinity of a park or public open space, on which any of the following are displayed-
 - (a) The times, dates and conditions of entry and activities that may or may not be undertaken'
 - (b) The fees payable.

however, where no notice board has been erected, no activities may be undertaken upon the park or public open space.

- (2) No person other than an official or other person authorised to do so in this By-law may move or alter the contents of, and no person may deface or otherwise tamper with a notice board erected by the municipality.
- (3) A notice posted by Municipality may contain a graphic representation to convey meaning.
- (4) A person who contravenes any of the provisions of this section commits an offence.

15. Application for a special event permit

- (1) An application for permission to hold a special event in a park or 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) Completion of appropriate application form.
- (4) Subject to any permit conditions imposed by the Council, the holder of a special events permit has the right to use the area of park or public open space specified in the permit to the exclusion of any other person during the period specified in the permit.

16. Entering into agreements

- (1) The Council may enter into written agreement with any organ of State, local community or organization to provide for-
 - (a) The co-operative development of any park or public open space; or
 - (b) The co-operative management of any park or public open space; and
 - (c) The regulation of human activities within a park or public open space.
- (2) The Council may not enter into an agreement in terms of subsection (1) (b) unless it reasonable 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.

- (4) This agreement is known as "Adopt a Sport" and must be applied for on the appropriate application form and pay prescribed fee. This is controlled and monitored by the Environmental Section.

17. Vehicles

No person may bring into a park or public open space any truck, passenger bus, mini bus, motorcar vehicle, motor cycle, bicycle, motor quadracycle, motor tricycle, or any other vehicle, craft, etc. whether driven by mechanical, animal, natural or human power, supermarket or other trolleys, except in accordance with the written permission of the General Manager: Community Services provided that different requirements or conditions may be determined for different parks or public open spaces and for different vehicles and other than a wheeled chair, or a perambulator drawn or propelled by hand and used solely for the conveyance of a child, children or invalid.

No person may within a park or 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 park or public open space, except in designated area or other area where parking is otherwise permitted by the Council.

18. Dumping and Littering

No person shall in a park or public open space-

- (a) dump, drop, bury or place any refuse, rubble, material or any object or thing; or
- (b) permit any dumping, dropping, burying, placing of any refuse, rubble, material or any object or thing, except in a container identified for that purpose in the park or public open space.

19. Trees in Parks or Public Open Spaces

No person other than an authorised official shall-

- (a) plant or prune a tree or shrub, or in any way cut down a tree or a shrub, in a park or public open space or remove it therefrom, except with the written permission of the General Manager: Community Services;
- (b) unless permitted by a notice climb a tree growing in parks and public open spaces or, break or damage such tree or collect seed; or
- (c) in any way mark or paint any tree growing in a park and public open space or attach any advertisement thereto, except with the written permission of the General Manager: Community Service

20. Tree preservation orders

General

- (1) If the Council believes that any tree or group of trees in a park or 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.

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 18 (1-3)-
 - (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.

21. Obstruction on public roads

No person may deposit or cause to be deposited or leave or cause to be left any sand, stone, earth, bricks, timber, lime, cement or other building or excavated material of whatever nature on any portion of any public road, sidewalk, road reserve or footway unless it is deposited within an enclosure in respect of which the prior written permission of the Council has been obtained.

22. Planting on Sidewalks

No person may plant or cause to be planted, any tree, shrub or other plant on any public road or any sidewalk, footway or road reserve forming part thereof, which obstructs or interferes with pedestrian traffic on such sidewalk, footway or road reserve or allow any such tree, shrub or plant to remain on that sidewalk, footway or road reserve.

23. Prohibition against hunting wild animals and birds in all Parks and Public Open Areas

No person may, without lawful cause or without the permission in writing of the Council and subject to such conditions as the Council may impose and any relevant legislation-

- (a) hunt any wild animal or bird by any means whatsoever;
- (b) remove, disturb or destroy any nests of birds, their eggs or their young.

24. Firing of a firearm, air-gun or air-pistol

City of Mbombela Municipality strictly opposes the shooting of birds (unless it is alien invaders like the common mynah) with pellet guns. There is no reason for shooting garden birds, birds on farms or plots with an air rifle of any nature unless it is an alien invader. Furthermore we fully endorse the spirit of the Firearms Control Act, 2000 (Act No. 60 of 2000) (FCA) that states in Chapter 16, section 120, subsection 7:

No person may, without lawful cause, the onus of proving which is on the person asserting it, fire or discharge a firearm, air-gun, pellet gun or air-pistol or shoot any projectile of any nature including the discharging any fireworks: Provided that this prohibition does not apply to

- (a) a firearm, air-gun or air-pistol lawfully fired or discharged in the course of his or her duties by a person who is a member of the South African National Defence Force

- and/or the South African Police Services and/or the Mbombela Traffic & Law Enforcement Department or by a person who is a member or employee of any organisation permitted by any law or by the State to be in possession of firearms;
- (b) a firearm used during a bisley or target practice on a recognised shooting range;
 - (c) a firearm fired for the purpose of a sports meeting or practice.

25. GENERAL PROVISIONS RELATING TO KEEPING OF ANIMALS

25.1 Permission to keep animals

(1) No person may keep or permit to be kept on any premises any animals, excluding pets, without the written permission of the municipality.

(2) Any person who applies for a permit to keep a wild animal must, when submitting an application contemplated in subsection (1), furnish the municipality with a captivity permit issued by the Mpumalanga Tourism and Parks agency.

(3) The municipality may determine the number of bee hives, as well as the kind, number and gender of animals that may be kept and the areas within which the keeping of such animals will be prohibited.

(4) In order to consider an application in terms of subsection (1), the municipality may obtain the input or comments of the owners or occupants of surrounding premises.

(5) A person who contravenes subsection (1) or who fails to comply with a determination in subsection (3) commits an offence.

25.2. Plans for structures and management

The municipality may require from applicants who apply to keep animals that they must submit an application form and a detailed site plan according to specifications set by the municipality.

25.3. Consideration of application and imposition of conditions

(1) The municipality may, after consideration of –

- (a) The input or comments obtained in terms of section 4(3);
- (b) The location, geographical features or size of the premises in respect of which the application is submitted;
- (c) The documents and site plans submitted in terms of section 5; or
- (d) Any other information relating to the application including, but not limited to, grazing, fencing, availability of water, etc. refuse to grant consent or grant consent.

(2) Where consent is refused, the municipality must furnish the applicant with the reasons for such refusal and at the same time advise him or her of the right of appeal in terms of section 27.

(3) Where consent is granted, the municipality may impose conditions.

25.4. Visibility of structures on premises

(1) All structures in which animals are kept must be suitably screened from any street.

(2) A person who fails to comply with subsection (1) commits an offence.

25.5. Wavering of requirements and withdrawal of authorisations

The municipality may after considering conditions particular to the property and provided that no objection is received from the owners or occupants of surrounding premises, waive any or all of the requirements of this part and impose other conditions and may withdraw any consent granted in terms of section 6(3) if any of the conditions imposed are not adhered to.

25.6. Validity of authorisations

All authorisations to keep animals granted in terms of any by-law or regulation repealed are deemed to have been granted in terms of this by-law.

25.7. Duties of owner or keeper of animal

(1) The owner or keeper of an animal –

- (a) May not cause or allow an animal to interfere with the comfort, convenience, peace or quiet of other people;
- (b) Must provide such animal with shelter, water and proper food;
- (c) Must maintain the premises on which an animal is kept in good repair and in a neat condition in order to prevent the occurrence of a public nuisance; and
- (d) Must exercise control over his or her animals in order to prevent damage to property or gardens;
- (e) May not leave or allow any animal to be on any section of a public road or leave such animal in a place from where it may stray onto such section of a public road.

(2) A person who contravenes a provision of subsection (1) commits an offence.

25.8. Animals kept in unsatisfactory manner

(1) Whenever animals kept on any premises are a public nuisance, the municipality may by written notice require the owner or occupier of such premises to remove the cause of and to abate such nuisance.

(2) The municipality may prescribe the steps that need to be taken or the work that must be done to remove the cause of and to abate any nuisance.

(3) Any activities undertaken by the owner in terms of a notice contemplated in subsection (1) will be for such owner's own account.

(4) If an owner fails to comply with a notice issued in terms of subsection (1) the municipality may take the steps required and recover the cost thereof from such owner.

(5) A person who fails to comply with a notice contemplated in subsection (1) commits an offence.

25.9. Destruction of animals

(1) The municipality may order the euthanasia or destruction of an animal which is –

- (a) Dangerous or ferocious; or
- (b) Injured or diseased to such an extent that it would be humane to do so.

(2) An animal to be destroyed in terms of subsection (1) must be euthanized by a registered veterinary surgeon or destroyed with such instruments or appliances and in such a manner as to inflict as little suffering as possible.

(3) A person who fails to comply with an order contemplated in subsection (1) or who contravenes subsection (2) commits an offence.

25.10. Hawking of animals

(1) No person may hawk an animal in a street or public place or from a movable structure or vehicle.

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

25.11. Prohibition against feeding of wild animals

No person may, without lawful cause or without the permission in writing of the Council and subject to such conditions as the Council may impose –

- (a) Feed any wild animal, only bird feeders allowed.

25.12. Control of problem animals

a.) Problem animals must be reported to the Parks and Cemeteries section

- b.) The means of control of the animals will be decided by the Nature Conservation officer.
- c.) Reptiles (snakes) must be removed immediately, or call transferred to someone who can attend to the request
- d.) A Capture and release register must be kept with contactable references of when and where animals were caught and released.
- e.) Captured animals will not be kept for any period of time from the date of capture and must be released in an approved release area.

26. GENERAL PROVISIONS

26.1 Right of entry and inspection

(1) Any duly authorised employee of the municipality is authorised to inspect any premises within the municipal area in order to determine whether there is compliance with the provisions of this by-law; provided that a private dwelling may not be entered for routine inspection purposes.

(2) When entering premises in terms of subsection (1), the employee must on request by any person, identify him- or herself by producing written proof of authorisation.

(3) The authorised employee may be accompanied by a person reasonably required to assist in conducting the inspection.

(4) Any person who fails to give or refuses access to any authorised official, or obstructs or hinders him or her in the execution of his or her duties under this by-law, or who fails or refuses to give information that he or she may lawfully be required to give to such official, or who gives false or misleading information knowing it to be false or misleading, commits an offence.

26.2. Service of documents and process

(1) Whenever a 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 person –

- (a) When it has been delivered to him personally;
- (b) When it has been left at his place of residence or business in the Republic with a person apparently over the age of sixteen years;
- (c) When it has been posted by registered or certified mail to his last known residential or businesses address in the Republic and an acknowledgment of the posting thereof is produced;
- (d) if his address in the Republic is unknown, when it has been served on his agent or representative in the Republic in the manner provided by paragraph (a), (b) or (c); or
- (e) If his address and agent in the Republic are unknown, when it has been posted in a conspicuous place on the immovable property (if any) to which it relates.

(2) When any notice, order, demand or other document is authorised or required to be served on a person, it is not necessary to name him or her but it will be sufficient if he or she is described as the owner, occupier or holder of a right.

(3). Any person who –

- (a) Contravenes or fails to comply with any provision of these By-laws;
- (b) Fails to comply with any notice issued for the purposes of these By-laws;
- (c) Fails to comply with any lawful instruction given for the purposes of these By-laws; or
- (d) obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties for the purposes of these Bylaws, is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding six months, and in the case of a continuing offence, to a further fine not exceeding R1000, 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.

Municipal officials assigned for problem animal control may harass, take, and destroy, or may release or liberate on site as non-domesticated reptiles, birds, and mammals the actions of which have or are endangering the life and health of humans or domestic animals; damaging the property of a person,

obstructing the reasonable and comfortable use of property by the owner or tenant thereof or otherwise producing such material annoyance, inconvenience, and discomfort that can reasonably be presumed to result in damage or harm to persons or their property.

A notice contemplated in section 26.2(1), (2) and (3) is regarded to have been duly served if it has been handed over by the authorised official to the permit holder or the owner or occupant concerned or to a member of his or her household, or to a person at his or her residence or place of employment, who is ostensibly over the age of 16 years.

27. Control of Invasive alien species

a.) To control all invasive plants according to the Alien and Invasive Species Regulations, the National Environmental Management Act (Act no 10 of 2004) for the City of Mbombela Municipal area.
b.) Use the City of Mbombela Invading plants program

28. Control of Termites

Weed-killers, herbicides, poisons or pesticides

- a.) No person other than an authorised official or an authorised person who administers legally (pest control operator) approved weed-killers, herbicides, poisons or pesticides may set or cast such substances in any public place.
b.) Handling of complaints as received (Document all information on data sheet); Complaint should be completed within 7 days received.
c.) Control as per list (Complaints shall be dealt in order of receipt or as determined by the Pest control operator)
d.) Only termites that are occurring on the property of the Municipality would be the responsibility of the Municipality to eradicate/control
f.) On private property it is the responsibility of the owner.
g.) Each complaint/nest being treated must be documented as per attached form.

29. Control of bees

- a.) Handling of complaints as received (Document all information on data sheet), Complaint should be completed within 3 days received or immediately, depending on the situation.
b.) Only bees that are occurring on the property of the Municipality that are causing problems would be the responsibility of the Municipality to control/eradicate.
c.) On private property it is the responsibility of the owner.
d.) Each complaint/swarm being treated must be documented as per attached form.

30. Permits to keep bees

(1) A person may not keep bees on premises within the area of jurisdiction of the Municipality, except in terms of a permit, on application issued by the Manager on behalf of the Municipality.

(2) Application for a permit must be made in writing on a form similar to Schedule 1, which must be signed by the applicant or his or her agent who has been duly authorised in writing to do so, and must be submitted to the Manager.

(3) The Manager must on receipt of an application for a permit establish all the relevant facts, and may after reasonable notice to the applicant inspect the premises where the bees will be kept.

(4)(a) The Manager must within 14 days of receipt of an application for a permit –

- i) refuse it if there is evidence, which on request has not been rebutted by the applicant, that the keeping of bees on the premises will constitute a public nuisance or a danger to human or animal life or that a condition contemplated in section 4(1) will not be complied with ;
(ii) grant it if there is no such evidence.

(b) if the application is refused, the Manager must inform the applicant accordingly, and must on request provide the applicant with written reasons for doing so.

(c) (i) if the application is granted, the Manager must, on payment, subject to subparagraph (ii), by the applicant to the Municipality of the prescribed fee, issue the permit to the applicant on a form similar to Schedule 1 and include it in a record of permits issued.

(ii) No fee is payable if the bees are kept in observation bee-hives for experimental or educational purposes only.

30.1 Duration of permit to keep bees

(1) A permit issued under section 30(4) (c) is valid up to the first ensuing 30th of June following the date of its issue.

(2) A permit holder may, at least one month before the expiry of the permit, apply in writing to the Manager for the renewal of the permit.

(3) The Manager must renew the permit on a form similar to Schedule 3 if he or she is satisfied that the permit holder complies with section 4(1) and has paid to the Municipality the prescribed renewal fee, unless the bees are kept in observation bee-hives for experimental or educational purposes only.

(4)(a) The Manager may at any time by notice served on a permit holder rescind the permit if there is convincing evidence, which on request has not been rebutted by the permit holder, that the permit holder does not comply with a provision of section 4(1) or that the keeping of the bees constitute a public nuisance or a danger to human or animal life.

(b) A permit holder is not on account of the rescission of the permit under paragraph (a) entitled to a refund of any part of the fee paid in terms of section 2(4) (c) or subsection (3).

30.2 Conditions of permit to keep bees

(1) A permit to keep bees is subject to the conditions –

(a) that the bees must be kept in a bee-hive made of solid and weatherproof material and built in such a manner that honeycombs may be formed in frames that can be separated and removed from the bee-hive;

(b) that the bee-hive must be kept at least 100 meters from any residence, business premises or place where animals or birds are kept; and

(c) that the bee-hive must be surrounded by a wire fence, hedge or wall of at least 1,5 meters high and which is at least 5 meters from any part of the bee-hive.

(2) The Manager may at any time, after reasonable notice to a permit holder, inspect the premises concerned to ascertain whether the conditions of the permit are complied with.

30.3 Removal or destruction of bees

(1) If a person keeps bees on premises without a permit or contrary to a condition contemplated in section 4(1), the Manager may serve a notice on the owner or occupant of the premises, to the effect that the bees must within the period stated in the notice be destroyed or removed to premises where they may be kept legally, otherwise they will be destroyed or removed by the Manager and the costs related thereto will be recovered from such owner or occupant.

(2) If the owner or occupant fails to comply with a notice contemplated in subsection (1), the Manager may destroy or remove the bees and recover the costs related thereto from the owner or occupant concerned.

(3) If the keeping of bees on premises constitutes a danger to human life, the Manager may, on the authority of a warrant, destroy or remove the bees, without prior notice to the owner or occupant concerned, and recover the costs related thereto from such owner or occupant.

(4) For the purposes of this section the owner or occupant of premises is also deemed to keep bees that have naturally settled on the premises concerned.

31. Control of Weeds

a.) Handling of complaints

- b.) Weed spraying according to list
- c.) Keep record of areas sprayed
- d.) Correct identification of weed
- e.) Use the correct control strategy
- f.) Spray in the right weather conditions

32. Pest control operator duties:

- a.) Must have a valid Pest control operator certificate.
- b.) Responsible for handling the complaints received from the public
- c.) Must decide on the control method of the pest
- d.) Responsible for purchases of the chemicals (Herbicide and insecticide)
- e.) Responsible for calibration of equipment
- f.) Responsible for mixing the chemicals
- g.) Responsible for record keeping
- h.) Responsible for health and safety
- i.) Must spray in good weather conditions
- j.) Correct identification of weed
- k.) Use the correct control strategy
- l.) Responsible to be compliant with pesticide legislation (Fertilizers, farm feeds, agricultural remedies and stock remedies act no 36 of 1947)

33. Poison operator duties:

Must have supervisors that have a pest control operator license, recording to law, Fertilizers, farm feeds, Agricultural Remedies and Stock Remedies Act no 36 of 1947.

a.) Control of Invading alien plants:

- Identification of alien plants (knowledge)
- Use herbicide to spray plants (know products, certain percentage chemicals mixed with water, correct herbicide formulation)
- Use knapsacks (need to know how to operate knapsacks)
- Cutting/felling, before stem treatment, uprooting also an option
- Methods should be used that are appropriate of the species concerned

b.) Control of Termites/Insects:

- Use of insecticide to eradicate termites (know products, certain percentage chemicals mixed with water, correct insecticide formulation)
- Use correct methods

c.) Spraying of Sidewalks:

- Use chemicals to spray weeds on sidewalks (know products, certain percentage chemicals mixed with water, correct herbicide formulation)

d.) General:

- Use of Safety equipment
- Only people authorised to use poison store
- Check that weather is fine for spraying
- Calibration of equipment
- Responsible for maintenance, cleansing and storage of equipment

34. Offences and penalties in keeping bees

(1) A person commits an offence if he or she –

(a) keeps bees without a permit contemplated in section 2(4)(c) or 3(3);

(b) fails to comply with a condition of a permit contemplated in section 4(1); or

(c) prevents the authorised official from executing his or her functions contemplated in section 2(3), 4(2), 5(2), 5(3) or 6.

(2) A person convicted of an offence contemplated in subsection (1) is liable to a fine not exceeding R300,00.

35. Penalties

Any person contravening any of the foregoing by-laws shall be guilty of an offence and liable on conviction, except where otherwise expressly stated, to:-

- (i) 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;
- (ii) In case of successive or continuous breaches of any by-law it is provided that any expense incurred by the Council in consequence of a breach of any by-law or in the execution of any work directed by any by-law to be executed by any person and not executed by him, shall be paid by the person committing such breach or failing to execute such work.

36. Powers

- (i) In terms of Section 156(2) read with section 229 of the Constitution of the Republic of South Africa, Act 108 of 1996 the Council may make and administer by-laws for the effective administration of matters, which it has the right to administer.
- (ii) The authority to administer this by-law vests in Council in terms of inter-alia;
 - (a) Part B of Schedule 5 read with section 156(1)(a) and 156(2) of the Constitution of the Republic of South Africa, Act 108 of 1996.
 - (b) Section 11 of the Local Government Municipal Systems Act, Act 32 of 2000
 - (c) Chapter VI of the National Road Traffic Act, Act 93 of 1996, as amended.
 - (d) Section 165 *bis* of the Local Government Ordinance, Ordinance 17 of 1939.

- (e) Application of the provisions of the Road Transportation Act, Act 74 of 1977
- (f) Section 64 of the South African Police Services Act, Act 68 of 1995 as amended by the amendment Act, Act 83 of 1998.

37. Short Title and Commencement

- (i) This by-law shall be called the Mbombela Parks and Public Open Spaces By-Law, and shall come into operation on a date fixed by the Executive Mayor of the City of Mbombela Municipality by proclamation in a *Government Gazette*
- (ii) Different dates may be so fixed in respect of different provisions of this By-law.

NOTE: The Executive Mayor has determined _____ as the date on which the Parks and Public Open Spaces By-laws shall come into operation which proclamation was published in the Government Gazette as well as in the Provincial Gazette of Mpumalanga.

38. Tariffs

- (i) The Council shall determine tariffs or fees from time to time in accordance with section 4(c) Local Government Municipal System Act, Act 32 of 2000.
- (ii) All refundable deposits will be forfeited to the Council in the event of non compliance of any of the foregoing by-laws.



(REQUEST FOR INSECT REMOVAL)

1.0 CONDITIONS

1.1 Submit to City of Mbombela Municipality (Parks and Cemeteries).

2.0 FULL NAME OF APPLICANT

3.0 PHYSICAL ADDRESS WHERE SERVICE IS NEEDED

4.0 INFORMATION OF APPLICATION

4.1 Surname and Initials : _____

4.2 Stand number : _____

4.3 Town : _____

4.4 Contact number(s) : _____

4.5 Type of insect : _____

4.6 Reason for request : _____

5.0 REQUEST RECEIVED BY

Signature

Date

5.1 Actions taken by Poison Operator : _____

5.2 Comments from Senior Horticulturist : _____

6.0 ACTIONS MANAGER PARKS & CEMETERIES

6.1 Recommendations : _____

Signature

Date

7.0 FILING – PARKS ADMIN OFFICE

Date of filing : _____

For service received,

(Undersigned) jointly and severally agree to indemnify and save harmless City of Mbombela Municipality and its successors and assign from any claim, action, liability, loss, damage or suit arising while treating insects at above street address.



REQUEST FOR ANIMAL REMOVAL

1.0 CONDITIONS

1.1 Submit to City of Mbombela Municipality (Parks and Cemeteries).

2.0 FULL NAME OF APPLICANT

3.0 PHYSICAL ADDRESS WHERE SERVICE IS NEEDED

4.0 INFORMATION OF APPLICATION

4.1 Surname and Initials : _____
 4.2 Stand number : _____
 4.3 Town : _____
 4.4 Contact number(s) : _____
 4.7 Type of animal : _____
 4.8 Reason for request : _____

5.0 REQUEST RECEIVED BY

 Signature Date

5.1 Actions taken by Nature Conservation Officer:

5.2 Comments from Senior Horticulturist : _____

6.0 ACTIONS MANAGER PARKS & CEMETERIES:

6.1 Recommendations : _____

 Signature Date

7.0 FILING – PARKS ADMIN OFFICE

Date of filing : _____

For service received, I _____ (Undersigned) jointly and severally agree to indemnify and save harmless City of Mbombela Municipality and its successors and assign from any claim, action, liability, loss, damage or suit arising from above actions at said street address.

Civic Centre
1 Nel Street
Mbombela 1201
Republic of South Africa



P O Box 45
Mbombela 1200
Republic of South Africa
Tel: +27 (0) 13 759-9111
Fax: +27 (0) 13 759-2070

DEPARTMENT: COMMUNITY SERVICES

YOUR REF:

OUR REF: J.T. LOUW (013 7592119)

ENQUIRIES:

ATTENTION: PROPERTY OWNER

Sir

Illegal Feeding of Monkeys

It has been brought under the municipality's attention that monkeys are being fed in this area. Unfortunately this results in the animals becoming a nuisance, entering houses and displaying usual and aggressive behavior towards people, especially when they are being scared off. City of Mbombela Municipality appeals to residents not to feed the monkeys or any other wild animals in residential areas.

Any resident can report incidents of illegal animal feeding to: (013) 759 2119.

Regards

GENERAL MANAGER: COMMUNITY SERVICES

DATE



SCHEDULE 1

CITY OF MBOMBELA MUNICIPALITY

APPLICATION FOR A PERMIT AUTHORISING THE KEEPING OF BEES WITHIN THE AREA OF JURISDICTION OF THE CITY OF MBOMBELA MUNICIPALITY

Name of applicant:
.....

Address of applicant:
.....
.....

Address at which the hives will be kept:
.....

Trade name (if any):
.....

Address:
.....

No
Yes

State whether the hives will be kept solely for bona fide experimental or educational purposes

.....
Signature of Applicant Date

Report of Inspector

I inspected the above premises on and found that the applicant has met/has not met the requirements of the City of Mbombela Municipality By-laws relating to the possession of Bees.

The application is therefore recommended/ not recommended.

.....
Signature Date

The application is approved/ not approved.

.....
Signature Date

Fees and Charges for Cemetery Services 2020/2021 (Residents of City of Mbombela)			
Internment Adult	Rocky Drift / Barberton	Sonheuwel / White River / Kabokweni	Tekwane/ Matsulu / Emjindini / Hillsview
Single Internment			
Normal Size	R1 530	Cemetery Full	R1 101
Aperture of larger dimension (Cascade)	R1 651	Cemetery Full	R1 223
Indigent	Free/ R584 (only Barberton)	Cemetery Full	Free
Second Internment Adult	Rocky Drift / Barberton	Sonheuwel / White River / Kabokweni	Tekwane/ Matsulu / Emjindini / Hillsview
Normal Size	R309	R309	R309
Aperture of larger dimension (Cascade)	R431	R431	R431
Internment Child	Rocky Drift / Barberton	Sonheuwel / White River / Kabokweni	Tekwane/ Matsulu / Emjindini / Hillsview
Single Internment			
Normal	R649	Cemetery Full	R649
Aperture of larger dimension (Cascade)	R771	Cemetery Full	R771
Second Internment Child	Rocky Drift / Barberton	Sonheuwel / White River / Kabokweni	Tekwane/ Matsulu / Emjindini / Hillsview
Normal Size	R219	R219	R219
Aperture of larger dimension (Cascade)	R341	R341	R341
Other Charges	Rocky Drift / Barberton	Sonheuwel / White River / Kabokweni	Tekwane/ Matsulu /

			Emjindini / Hillsview
Transfer of a reserved Grave	R122	R122	R122
Curbstone decoration or application	R155	R155	R155
Reservation of a grave	R250	R250	R250
Reservation of a niche	R86	R86	R86
Internment of Ashes	Rocky Drift / Barberton	Sonheuwel / White River / Kabokweni	Tekwane/ Matsulu / Emjindini / Hillsview
In a used grave	R122	R122	R122
In a niche	R474	R474	N/A
Scattering per occasion	R285	R285	R285
Exhumation	R949	R949	R949
(For each exhumation)			
Reservation of Graves	Rocky Drift / Barberton	Sonheuwel / White River / Kabokweni	Tekwane/ Matsulu / Emjindini / Hillsview
Plot of 3 graves	R4 611	Cemetery Full	R3 298
Plot of 6 graves	R9 212	Cemetery Full	R6 586
Fees and Charges for Cemetery Services 2020/2021 (Persons residing outside of City of Mbombela)			
Internment Adult	Rocky Drift / Barberton	Sonheuwel / White River / Kabokweni	Tekwane/ Matsulu / Emjindini / Hillsview
Normal Size	R2 020	Cemetery Full	R2 020
Normal Size – Funeral on	R2 394	Cemetery Full	R2 394
Saturday, Sunday & Holiday			
Aperture of larger dimension	R2 228	Cemetery Full	R2 228
(Cascade)			
Aperture of larger dimension	R2 601	Cemetery Full	R2 601

(Cascade) – Funeral on Saturday, Sunday & Holiday			
Second Internment Adult	Rocky Drift / Barberton	Sonheuwel / White River / Kabokweni	Tekwane/ Matsulu / Emjindini / Hillsview
Normal Size	R571	R571	R571
Normal Size – Funeral on Saturday, Sunday & Holiday	R944	R944	R944
Aperture of larger dimension (Cascade)	R778	R778	R778
Aperture of larger dimension (Cascade) – Funeral on Saturday, Sunday & Holiday	R1 151	R1 151	R1 151
Internment Child	Rocky Drift / Barberton	Sonheuwel / White River / Kabokweni	Tekwane/ Matsulu / Emjindini / Hillsview
Normal Size	R1 312	R1 312	R1 312
Normal Size – Funeral on Saturday, Sunday & Holiday	R1 685	Cemetery Full	R1 685
Aperture of larger dimension (Cascade)	R1 519	Cemetery Full	R1 519
Aperture of larger dimension (Cascade) – Funeral on Saturday, Sunday & Holiday	R1 892	Cemetery Full	R1 892
Second Internment Child	Rocky Drift / Barberton	Sonheuwel / White River / Kabokweni	Tekwane/ Matsulu / Emjindini / Hillsview
Normal Size	R441	R441	R441
Normal Size – Funeral on Saturday, Sunday & Holiday	R814	R814	R814
Aperture of larger dimension (Cascade)	R648	R648	R648
Aperture of larger dimension (Cascade) – Funeral on	R1 021	R1 021	R1 021

Saturday, Sunday & Holiday			
Internment of Ashes	Rocky Drift / Barberton	Sonheuwel / White River / Kabokweni	Tekwane/ Matsulu / Emjindini / Hillsvie
In a used grave	R219	R219	R219
In a used grave – Service on	R592	R592	R592
Saturday, Sunday & Holiday			
In a niche	R1 178	R1 178	R1 178
In a niche – Service on	R1 552	R1 552	N/A
Saturday, Sunday & Holiday			
Scattering per occasion	R1 720	R1 720	R1 720
Scattering per occasion – Service on	R2 093	R2 093	R2 093
Saturday, Sunday & Holiday			
Exhumation	Rocky Drift / Barberton	Sonheuwel / White River / Kabokweni	Tekwane/ Matsulu / Emjindini / Hillsvie
For each exhumation	R2 626	R2 626	R2 626
For each exhumation Service on	R2 999	R2 999	R2 999
Saturday, Sunday & Holiday			
Other Charges	Rocky Drift / Barberton	Sonheuwel / White River / Kabokweni	Tekwane/ Matsulu / Emjindini / Hillsvie
Transfer of a reserved Grave	R207	R207	R207
Curbstone decoration or application	R177	R177	R177
Reservation of a grave	R507	N/A	R507
Reservation of a niche	R164	N/A	N/A

DEPARTMENT: Community Services
SECTION: Parks & Cemeteries
TARIFFS: Parks & Open Spaces

Item No	Details	Tariff Excluding Vat 2020 /2021	Tariff Including Vat 2020/2021
1	Mbombela/ White River/ Barberton Civic Centre Open Area/unspecified lawns 06:00 to 18:00		
	a) commercial activities per sq m/day	R 2,28	R 2,62
	b) non-commercial activities per sq m/day	R 1,32	R 1,52
	c) commercial photo and film shoots per day	R 557,89	R 641,57
	d) for non-commercial film shoots per day	R 124,12	R 142,74
	e) commercial promotions e.g. give aways, sampling (1 area p/d, 3 hours p/d, 5 people per booked area) per hour	R 185,97	R 213,87
2	Developed Park Areas 06:00 to 18:00		
	a) commercial activities per sq m/day	R 2,63	R 3,02
	b) non-commercial activities per sq m/day	R 1,31	R 1,51
	c) commercial photo and film shoots per day	R 557,89	R 641,57
	d) non-commercial film shoots per day	R 124,12	R 142,74
	e) commercial promotions e.g. give aways, sampling (1 area p/d, 3 hours p/d, 5 people per booked per hour area)	R 186,40	R 214,36
3	Public Open Areas 06:00 to 18:00		
	a) commercial activities below per sq m/day	R 2,19	R 2,52
	b) non-commercial activities if applicable per day	R 162,28	R 186,62
	c) Special groups e.g. schools, pensioners below per sq m/day	R 1,32	R 1,52
	d) electricity per day or part thereof	R 33,33	R 38,33
4	Mbombela Civic Centre Amphitheatre 06:00 to 22:00		
	a) per day (> 8 hours)	R 1 799,12	R 2 068,99
	b) per hour or part thereof (< 8 hours)	R 228,95	R 263,29
	c) Special groups e.g. schools, pensioner groups, reg. Non-profit org. per hour	R 118,47	R 136,24
5	Preparation/Setting up & Breakdown 50 % of the applicable tariff		
6	No charge for use of parks and open spaces for general public		
7	The council reserves the right to reject applications which are deemed to be inappropriate or which are not in keeping with the vision for the city, in		
	contravention of existing laws, by-laws and regulations or not in keeping with policies and criteria.		
8	Any application for use of facilities by the City of Mbombela Departments, will be at no cost.		

PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 128 OF 2020**MPUMALANGA GAMBLING ACT, 5 OF 1995, AS AMENDED****APPLICATION FOR THE ACQUISITION OF A FINANCIAL AND CONTROLLING INTEREST AND
TRANSFER OF LICENCES**

Notice is hereby given that 4 Racing (Pty) Ltd intends submitting an application to the Mpumalanga Economic Regulator for the acquisition of a financial and controlling interest in the business conducted by Phumelela Gaming and Leisure Limited in terms of the totalisator operator and branch licences issued to Phumelela Gaming and Leisure Limited, and the consequential transfer of the aforesaid licences, on 18 December 2020. The application will be open for public inspection from 18 December 2020 to 17 January 2021 at the office of the Mpumalanga Economic Regulator at First Avenue, White River, South Africa, 1240, alternatively a copy of the public inspection version of the application will be made available on request to ceo@mer.org.za. Attention is directed to the provisions of Section 26 of the Mpumalanga Gambling Act, 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, 2140, or by e-mail to ceo@mer.org.za, within the aforementioned public inspection period.