



KwAZULU-NATAL PROVINCE  
KwAZULU-NATAL PROVINSIE  
ISIFUNDAZWE SA KwAZULU-NATALI

**Provincial Gazette • Provinsiale Koerant • Igazethi Yesifundazwe**

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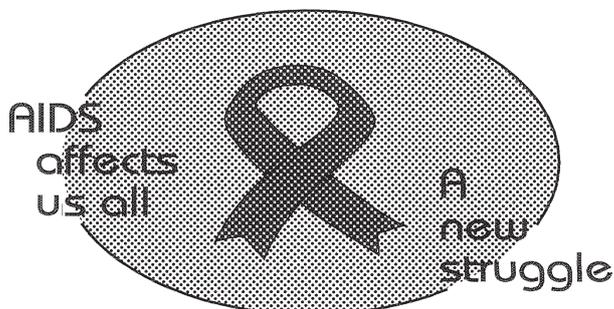
**Vol. 9**

31 JULY 2015  
31 JULIE 2015  
31 KUNTULIKAZI 2015

**No. 1461**

**PART 1 OF 2**

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DEPARTMENT OF HEALTH

**Prevention is the cure**

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# IMPORTANT

## Information

### from Government Printing Works

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Government Printing Works has implemented rules for completing and submitting the electronic Adobe Forms when you, the customer, submits your notice request.

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#### GPW Business Rules

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5. All notice submissions that do not comply with point 2 will be charged full price for the notice submission.
6. The current cut-off of all Gazette's remains unchanged for all channels. (Refer to the GPW website for submission deadlines – [www.gpwonline.co.za](http://www.gpwonline.co.za))
7. Incorrectly completed forms and notices submitted in the wrong format will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za))
8. All re-submissions by customers will be subject to the above cut-off times.
9. All submissions and re-submissions that miss the cut-off will be rejected to the customer to be submitted with a new publication date.
10. Information on forms will be taken as the primary source of the notice to be published. Any instructions that are on the email body or covering letter that contradicts the notice form content will be ignored.

You are therefore advised that effective from **Monday, 18 May 2015** should you not comply with our new rules of engagement, all notice requests will be rejected by our new system.

Furthermore, the fax number **012- 748 6030** will also be **discontinued** from this date and customers will only be able to submit notice requests through the email address [submit.egazette@gpw.gov.za](mailto:submit.egazette@gpw.gov.za).

**DISCLAIMER:**

Government Printing Works reserves the right to apply the 25% discount to all Legal and Liquor notices that comply with the business rules for notice submissions for publication in gazettes.

National, Provincial, Road Carrier Permits and Tender notices will pay the price as published in the Government Gazettes.

For any information, please contact the eGazette Contact Centre on 012-748 6200 or email [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za)

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## GENERAL NOTICES • ALGEMENE KENNISGEWINGS

NOTICE 29 OF 2015



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I, by the powers vested in me by section 14(2) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), after open for a public comment and public consultation, thereafter a resolution and approval by Council I do hereby publish a set of by-laws as per schedule attached hereto.

Signed at Emadlangeni Municipality on this 28 day of July 2015.

GPN Ntshangase

MUNICIPAL MANAGER

*The town  
within a  
game park*

ALL CORRESPONDENCE TO BE ADDRESSED TO THE MUNICIPAL MANAGER  
KZ 253 3538 km<sup>2</sup>

# **EMADLANGENI MUNICIPALITY DRAFT**

## **BY-LAWS**

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# **1. OUTDOOR ADVERTISING MUNICIPAL BY- LAWS**

The Emadlangeni Municipality acting in terms of section 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000) hereby publishes the bylaws as set forth hereafter as bylaws made by the Municipality which bylaws will come into effect on the first day of the month following the date of publication hereof.

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**CHAPTER 1****Definitions**

1. In this Bylaw, unless the context otherwise indicates -

"**advertisement**" means any visible representation of a word, name, object or of an abbreviation of a word or name, or of any sign or symbol which is not intended solely for illumination or as a warning against any danger;

"**authorised official**" means any official of the Council who has been authorised by the Council to administer, implement or enforce the provisions of these bylaws;

"**building control officer**" means any person appointed or deemed to be appointed as a building control officer by the Council in terms of section 5 of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);

"**Council**" means the council of the Emadlangeni Municipality and its committees or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any powers and duties with regard to these bylaws;

"**display**" means, in relation to an advertisement, to display the advertisement within public view;

"**flat sign-board**" means any sign-board affixed to a wall and which at no point projects more than 230 mm from the surface of the wall;

"**ground sign-board**" means any sign which is affixed to the ground and is not attached to a building;

"**projecting sign-board**" means any sign-board affixed to a wall and which at any point projects more than 230 mm from the surface of the wall;

"**roof**" means any roof of a building but does not include that portion of a roof which is the roof of a verandah or balcony;

"**sign-board**" means any structure or device used or intended or adapted for the display thereon of an advertisement;

"**sky sign-board**" means any sign-board affixed to a roof or the top of a parapet of a roof; and

"**wall**" means any external wall of a building, but does not include a parapet balustrade or railing of a verandah or balcony.

**CHAPTER 2****APPLICATION****Application of regulations**

2. (1) Subject to the provisions of sub-section (2), this Bylaw shall apply to all advertisements displayed or to be displayed within the area of jurisdiction of the Council.

(2) The following categories of advertisements shall be exempted from the provisions of this Bylaw -

(a) an advertisement, commonly referred to as builders' or contractors' boards, displayed within the boundaries of any erf during the course of building operations including plumbing, electrical wiring, painting and renovations;

(b) an advertisement relating to the immediate sale of newspaper within the public road; provided the advertisement does not obstruct vehicular or pedestrian traffic or the lines of sight of drivers or pedestrians;

(c) an advertisement required to be displayed by law;

(d) an advertisement displayed on any vehicle which is being used on a public road; provided that the main purpose for which that vehicle is being used is not to display such advertisement;

(e) an advertisement affixed to or painted on any part of any building other than a dwelling-house which indicates only the following:

(i) the name or address of such building;

(ii) the name of the occupier or owner thereof;

(iii) a general description of the type of business lawfully carried on in such building;

(iv) the hours of attendance or business; and

(v) the telephone number of such business;

provided that such advertisement, including any sign-board on which it is displayed, does not exceed 0,8 m<sup>2</sup> in area and does not project more than 100 mm from the surface to which it is affixed;

(f) an advertisement affixed to or painted on any part of any building used as a dwelling-house which merely indicates -

(i) the name or address of the dwelling-house; and

(ii) the name of the owner or occupier the dwelling house;

provided that such advertisement, including any sign-board on which it is displayed, does not exceed 0,8 m<sup>2</sup> in area and does not project more than 100 mm from the surface to which it is attached;

(g) an advertisement designed solely for the issuing of any direction, request or warning to any person entering upon an erf or premises on the erf; provided that such advertisement is displayed

within the boundaries of the erf and provided that the advertisement, including any sign-board on which it is displayed, does not exceed 0,8 m<sup>2</sup> in area;

(h) an advertisement advertising the sale or lease of any erf, or the fact that such erf has been sold; provided that such advertisement is displayed within the boundaries of the erf and provided that the advertisement, including any sign-board on which it is displayed, does not exceed 0,8 m<sup>2</sup> in area; and

(i) an advertisement displayed from the interior of any building enclosed by walls, windows and doors;

(j) an advertisement of an informal business that is conducted with the full authority of the Municipality and from an area or premises that are either approved or clearly demarcated by the Municipality for that purpose.

### **CHAPTER 3**

#### **TYPES OF ADVERTISEMENTS**

##### **Temporary and portable advertisements**

3. (1) Any advertisement -

(a) intended to be displayed solely for or in connection with a particular event, including but not limited to an election, a referendum or an entertainment event; or

(b) displayed on any sign-board intended or adapted to be carried or conveyed,

shall only be displayed with the prior written consent of the authorised official and subject to the requirements of sub-section (2) and any other conditions which the authorised official may impose.

(2) Any advertisement displayed in terms of subsection (1) shall -

(a) not exceed 0,8 m in area; and

(b) not be displayed for longer than 14 days before or after the event.

(3) Every application for permission in terms of sub-section (1) shall be accompanied by a fee and a deposit prescribed by the Council by resolution from time to time, the deposit being refundable when all advertisements concerned have been removed to the satisfaction of the authorised official.

(4) Any person who, having displayed or caused to be displayed any advertisement in respect of which approval has been given under sub-section (1), fails to remove it or cause it to be removed within the prescribed period, shall be guilty of an offence and the authorised official shall be entitled to remove any such advertisement and deduct from any deposit made in terms of sub-section (6) the sum of R50.00 in respect of each and every advertisement so removed; provided that any excess shall be a civil debt due to the Council; provided further that when any advertisement is so removed in terms of these regulations the Council shall be entitled to destroy any such advertisement without giving notice to anyone, after a period of 14 days from the date of such removal.

(5) Any person who displays or causes, permits or suffers to be displayed any advertisement referred to in sub-section (1) shall be presumed to be the displayer until it is proved to the contrary.

#### **Display of permanent advertisements prohibited**

4. Subject to the provisions of section 2(2), no person shall display or cause to be displayed any permanent advertisement in the area of jurisdiction of the Council unless any such advertisement was approved in writing by the Council and is displayed in accordance with this Bylaw.

#### **Application for display of permanent advertisements**

5. (1) Any person intending to erect, alter or display any permanent advertisement for which the prior written permission of the Council is required, shall apply for such permission to the Council on the prescribed application form attached to this Bylaw as Schedule 2. Such form shall be signed by the applicant and by the owner (if he or she is not also the applicant) of the site upon which such advertisement is or is to be located.

(2) An application referred to in sub-section (1) shall be accompanied by -

(a) a full specification showing the dimensions of such sign, its location or proposed location on a building or other supporting structure, the materials of construction, the name and address of the manufacturer, and where applicable, the number of electric lights and electrical details in regard thereto;

(b) a drawing indicating -

(i) the position of such sign on the site at a scale of not less than 1:50;

(ii) the full text of the advertisement;

(iii) the colour of the material;

(iv) the construction;

(v) the overall dimensions;

(vi) the method of attachment, suspension or support; and

(vii) any other details required by the Council;

(c) in the case of ground signs, information in regard to all calculations upon which such size is based;

(d) the prescribed application fee of R30.00.

(3) The Council may refuse or grant such application subject to such conditions as it may think proper; provided that in the event of the application being refused by the Council the applicant shall be entitled to be furnished with written reasons for such refusal within fourteen (14) days of submitting a written request to that effect.

**Consideration of application of display of permanent advertisements**

6. The Council may grant, on such conditions as it may determine, or refuse an application referred to in section 5, but the Council shall not grant an application if it is of the opinion that, having regard to -

- (a) the design;
- (b) colour;
- (c) other characteristics of the advertisement in question;
- (d) its proposed position in relation to the building or premises upon or in which it is to be displayed; and
- (e) the neighbouring properties, such advertisement will detract from or disfigure the appearance of the building or premises concerned or neighbouring properties, or otherwise be unsightly or objectionable.

**Sign-boards affixed to buildings**

7. (1) The following sign-boards and no others may, subject to the provisions of this Bylaw, be affixed to buildings:

- (a) flat sign-board-boards;
- (b) projecting sign-boards, and
- (c) sky sign-boards

(2) No flat sign-board-board shall -

- (a) extend above the top or beyond either side of the wall to which it is affixed;
- (b) project in any part more than 100 mm from the wall to which it is affixed;
- (c) exceed 15% of the height of the building to the eaves or 15% of the area of the wall to which it is affixed.

(3) No projecting sign-board shall -

- (a) be affixed otherwise than at right angles to the road line;
- (b) be affixed at a clear height of less than 2,5 m;
- (c) exceed 225 mm in thickness;
- (d) extend beyond the top of the wall to which it is affixed;
- (e) project in any part more than 1,5 m from the wall to which it is affixed;
- (f) extend over or nearer than 1,2 m to any overhead electricity wires or cables; or

(g) be affixed otherwise than in a vertical plane.

#### **Advertisement painted on buildings**

8. (1) Only the following types of advertisements may be painted on buildings:

- (a) advertisements painted on the walls of buildings; and
- (b) advertisements painted on the roofs of buildings used in connection with industry or a manufacturing process.

(2) No advertisement painted on a wall of a building shall exceed 15% of the height of the building from the ground to the eaves or 15% of the area of the wall on which it is painted.

(3) An advertisement painted on the roof of a building shall contain only the name (or an abbreviation thereof) of the person, firm, company, society or association occupying such building.

#### **Ground sign-boards**

9. Every ground sign-board shall -

- (1) be supported by poles or standards or pylons the bases of which are firmly embedded and fixed in the ground and which are entirely self-supporting, rigid and inflexible;
- (2) not exceed 2 m x 0,3 m (300 mm);
- (3) not extend or project beyond the road line; and
- (4) not exceed 6,5m in height.

#### **Flashing advertisements**

10. The Council shall only approve flashing illuminated advertisements if it is of the opinion that, having regard to the proposed position and characteristic of the advertisement, the display of the advertisement will not be likely to distract or disturb persons using any public road or to create the conditions contemplated in section 11(2).

#### **General prohibitions relating to advertisements**

11. (1) No person shall display any advertisement so as to obstruct any fire escape or the means of egress to a fire escape or to obstruct or interfere with any window or opening required for ventilation purposes. (2) No person shall display any advertisement -

- (a) in a position which obscures, obstructs or otherwise interferes with any road traffic sign or is likely to so obscure, obstruct or otherwise interfere;
- (b) which is illuminated and contains the colours, red, green or amber or any one or more of such colours, unless such sign has a clear height of 6 m or unless such sign is more than 15m (measured horizontally) from the vertical line of the road line at the corner of a public road; or

(c) which is of such intense illumination so as to disturb the residents or occupants of adjacent or nearby residential buildings.

**12.** (a) Directional signs may not be erected on road reserves other than on directional signboard frames erected by the Council, and on payment of the prescribed fee. Such directional signs shall be either 2m long and 0,3 (300 mm) high or 1 m long and 0,3m (300 mm) high and be constructed to the satisfaction of the Council.

(b) A directional signboard frame shall not exceed 4m in height from ground level save with the express approval of the Council in writing.

### **Construction of sign-boards**

**13.** (1) Every sign-board shall be neatly and properly constructed and finished in a workmanlike manner to the satisfaction of the building control officer.

(2) (a) Every sign-board attached to a building or wall shall be rigidly and securely attached thereto so that it is safe and that movement in any direction is prevented.

(b) The method of attachment shall be such that it is capable of effectively securing, supporting and maintaining not less than twice the mass of the sign-board in question with the addition of any force to which the sign may be subjected.

(c) The use of nails or staples for the purpose of the anchorage and support of a sign-board is prohibited.

(3) Every projecting sign-board shall, unless the building control officer otherwise approves, have not less than four supports -

(a) which shall be of metal;

(b) any two of which shall be capable of supporting the mass of the sign-board;

(c) the designed strength of which acting together shall be calculated on a mass equal to twice the mass of the sign-board with a superimposed horizontal wind pressure of 1,5 kPa; and

(d) which shall be neatly constructed as an integral part of the design of the sign-board or otherwise concealed from view.

(4) (a) All sign-boards which are attached to brickwork, masonry or concrete shall be securely and effectively attached thereto by means of bolts securely embedded in such brickwork, masonry or concrete or passing through the same and secured on the opposite side.

(b) Such bolts shall be of such a size and strength as will ensure effective compliance with sub-section (2) or (3).

(5) Every illuminated sign-board and every sign-board in which electricity is used shall -

(a) be constructed of a material which is not combustible;

(b) be provided with an external switch in an accessible position approved by the building control officer whereby the electricity supply to such sign-board may be switched off; and

(c) be wired and constructed to the satisfaction of the building control officer.

(6) All exposed metalwork of a sign-board shall be painted or otherwise treated to prevent rust, decay and insect attack and thereafter painted.

#### **Maintenance of permanent advertisements**

**14.** The person having possession or control of any permanent advertisement shall, while such advertisement is displayed, at all times maintain such advertisement, including any sign-board on which it is displayed, in good repair and safe condition.

#### **Alterations of and additions to permanent advertisements**

**15. (1)** Any person wishing to alter or add to any permanent advertisement, including any sign-board on which it is displayed, shall first apply to the Council in writing for its approval.

(2) An application referred to in sub-section (1) shall specify the nature and extent of the proposed alteration or addition.

(3) A person who has applied in terms of sub-section (2) for the Council's approval shall furnish such additional particulars in connection with his application as the Council may require.

#### **Removal of permanent advertisements**

**16. (1)** When there is displayed a permanent advertisement -

(a) for which no approval was granted under section 4; or

(b) which is displayed in contravention of this Bylaw, the Council may, by notice in writing, direct the person having possession or control of the advertisement to remove it or to effect such alterations as may be prescribed in the notice, and to effect such removal or alteration within such period (which shall be not less than fourteen days as from the date on which the notice was given) as may be specified in the notice.

(2) If a person to whom a notice has been given in terms of subsection (1) fails to comply with a direction contained in that notice within the period therein specified, the Council may, at any time after the expiration of that period, make an application to a court with competent jurisdiction for an order authorizing it to remove such advertisement or to effect the alterations prescribed in the relevant notice and directing the persons concerned to pay the Council's costs of such application on an attorney-client scale..

(3) The Council may recover the expenses which it incurred by any action taken pursuant to the court order under subsection (2) from any person to whom the notice in question was given.

#### **Delegation of Council's powers**

**17.** (1) The Council may by resolution delegate to the building control officer any power conferred upon it by this Bylaw on such conditions as the Council may determine.

(2) Any delegation under sub-section (1) shall not prevent the exercise of the relevant power by the Council itself.

#### **CHAPTER 4**

#### **GENERAL PROVISIONS**

##### **Offences**

**18.** Any person who contravenes any provision of these Bylaws shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R20 000 or imprisonment for a period not exceeding 2 years.

##### **Repeal of existing Bylaws**

**19.** The Council's existing Bylaws on advertising are hereby repealed.

##### **Short title and commencement**

**20.** These Bylaws shall be called the Outdoor Advertising Bylaws 2015, and shall come into effect on the first day of the month following the date of publication hereof.

## **2. KEEPING OF ANIMALS AND BIRDS MUNICIPAL**

### **BY-LAWS**

The Emadlangeni Municipality acting in terms of section 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000) hereby publishes the bylaws as set forth hereafter as bylaws made by the Municipality which bylaws will come into effect on the first day of the month following the date of publication hereof.

#### **1. Definitions**

In these bylaws unless inconsistent with the context –

**“Environmental Health Officer”** shall mean the Medical Officer of Health or Chief Environmental Health Officer of the municipality;

**“Municipality”** means the Emadlangeni Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any Official who has delegated powers in terms of Section 59 of the Local Government Municipal Systems Act (Act 32 of 2000);

**“Poultry”** means and includes fowls, ducks, geese, turkeys, guinea fowl, pigeons and parrots;

**“Stable”** means and includes any stable, cowshed, shed, kraal, sty, kennel, fowl-house or enclosure used for the keeping therein of any animal or bird;

2. No person shall keep any animal or bird in any stable so constructed or so situated that the animals or birds kept therein are likely to cause a nuisance or constitute a danger to health, or on premises which the Environmental Health Officer shall certify to be unfit for the purpose.

3. No person shall keep any animal or bird, other than a domestic pet or small bird in a cage, in any sleeping or living apartment in any dwelling.

4. No person shall keep any pigs or goats on any premises of a lesser extent than 10 000m<sup>2</sup> within the municipality or within a distance of 30m of any dwelling or any boundary of such premises or within 15m of any stable in which cows are milked.

5. (1) No person shall keep any draught cattle or any horse, mule, ass or other draught animal or any pig, sheep or goat on any premises of a lesser extent than 5 hectares within the municipality unless he shall have provided a stable therefore which shall comply with the following requirements:

(a) Such stable shall not at any point be less than 15m from any dwelling or from any boundary of the property on which such stable is erected;

(b) The height of such stable from the floor to the lowest part of the roof shall be not less than 2,74m in the case of a stable for draught animals or 1,52m in the case of a stable for pigs, sheep or goats;

- (c) Such stable shall provide not less than 2,8m<sup>2</sup> of floor space and not less than 8,5m<sup>3</sup> of air space for each such draught animal or 2m<sup>2</sup> of floor space and 3m<sup>3</sup> of air space for each pig, sheep or goat to be accommodated therein;
- (d) The walls of such stable shall be constructed of brick or concrete rendered in cement and shall be plastered in cement on the inside, steel floated to a smooth surface, and the floor shall be of cement, stone or other impermeable material prepared and graded in such manner as to prevent absorption of all liquids or other noxious matter and to enable proper cleansing and draining;
- (e) If sewerage is available, such stable shall be connected to the sewerage system in the manner laid down in the Drainage and Sewer Bylaws;
- (f) If sewerage is not available, the drainage from such stable shall be led away therefrom by means of open cement-lined channels to a cement-lined catch pit, a grille or grating being provided for the purpose of preventing access to the catch pit of any solid matter;
- (g) Such stable shall be sufficiently lighted by means of windows and shall be ventilated by means of openings into the external air sufficient to maintain a free circulation of air in the stable and keep it in a wholesome condition;
- (h) Such stable shall comply with the Fire Brigade Bylaws in regard to precautions against fire;
- (i) Such stable shall be provided with an adequate supply of water laid on to the inside of the stable with a tap to which a hose can be attached;
- (2) Stables in existence at the date of promulgation of these bylaws will not be required to conform with this bylaw if they are considered by the Environmental Health Officer to be satisfactory.
6. The Municipality may subject to such conditions as it may deem necessary, reduce the minimum size of premises prescribed in bylaws 4 and 5(1) if it is satisfied that it will not cause a nuisance or a danger to health, or interfere with the amenities of the neighbourhood.
7. Every person who keeps any draught cattle or any horse or other draught animal or any pig, sheep or goat in any stable shall:
- (a) Maintain such stable at all times in a thorough state of cleanliness and shall provide a proper supply of water for that purpose;
- (b) Provide, at a distance of not less than 15m from any dwelling or any boundary of the property on which such stable is erected, a manure midden constructed of, or lined with an impervious material and provided with a close fitting cover, and shall cause the manure to be removed from such stable and placed in such midden at least once in every twenty-four hours;
- (c) Cause the contents of any catch pit or manure midden to be removed from the premises or buried or disposed of in such manner as will prevent any nuisance arising therefrom, in the case of any catch pit daily and in the case of any manure midden twice a week.
8. No person shall in any residential area of the municipality erect any stable or convert any existing building for use as a stable for purposes connected with any trade or business.

9. No person shall erect any stable or convert any building for use as a stable in any part of the municipality until he shall have obtained the Municipality's approval of plans and specifications of such stable.

10. (1) No person shall:

(a) keep more than twenty-five (25) live poultry within the municipality on lots of 2000m<sup>2</sup> or more than ten (10) live poultry on lots of less than 2000m<sup>2</sup>, or, more than three (3) live poultry on lots of less than 900m<sup>2</sup>, except with the written permission of the Municipality, which permission shall be granted only if, in the numbers of poultry will not create a nuisance or be prejudicial, to the health of the neighbourhood and will be in keeping with the residential amenities of the area; or

(b) Keep any poultry within a residential area of the municipality except in a fowl house which complies with the requirements of sub-bylaw (2).

(2) No person shall erect or use as fowl-house any structure which does not comply with the following requirements:

(a) The floor shall be constructed of cement, stone or other impermeable material;

(b) The walls shall on three sides be constructed of material approved by the Municipality with a runway enclosed with wire netting or other suitable material;

(c) The walls and roof shall not provide hollow spaces capable of harbouring rodents;

(d) No part of any fowl-house or runway shall be within 8m of the nearest part of any dwelling or any boundary of the property on which it is erected, provided that, in the case of any fowl-house or runway being constructed on a lot of less than 900m<sup>2</sup> in extent, the Municipality, at its absolute discretion, may relax this distance, in relation to the size of the property concerned.

(3) Every person using any fowl-house or runway for the keeping of poultry shall:

(a) keep same thoroughly clean and free from vermin at all times and shall cause same to be lime washed at least once in every four months;

(b) store any fowl manure kept for use as fertiliser in a galvanised iron receptacle provided with a close fitting cover or other suitable receptacle approved by the Municipality;

(4) Any poultry found outside a fowl-house or runway and for, which no owner can be found shall be seized, and disposed of as the Municipality may direct.

11. Any person who shall keep on his premises any animal or bird which, by reason of continued barking, yelping, howling, crowing, or making other noises, disturbs the public peace or is a source of nuisance to the neighbourhood, after the expiration of a reasonable time to be stipulated in a notice signed by any Environmental Health Officer and served upon him, requiring him to abate such disturbance or nuisance, shall be guilty of an offence and liable, upon conviction, to the penalty prescribed for breach of these bylaws. If any person shall be found guilty of a second contravention of this bylaw in respect of the same animal, it shall be competent for the Court which has found him guilty, in addition to imposing any other sentence, to order the destruction of the animal.

12. No person shall keep on any premises within the municipality any ferocious or dangerous animal unless such animal is securely confined.

13. No person shall permit any horse or ass or any bull or any bitch on heat or any mangy dog, of which he is the owner or in charge, to be at large in any public street or place.

14. Any animal referred to in bylaws 10 and 11 hereof which is not securely tied up or is found at large, or any diseased or apparently ownerless animal found at large and unattended in any public street or place may be impounded and, if found to be dangerous, vicious or diseased, may be destroyed by the Police or any responsible officer of the Court.

15. Any person claiming any animal impounded under the preceding bylaws shall be deemed to be the owner thereof and thus liable to prosecution for a contravention of these bylaws.

16. No person shall keep any hive or swarm of bees on any premises within the municipality in such manner as to be a source of nuisance to neighbours or the neighbourhood.

17. No person shall permit any dog or other animal, of which he is the owner or in charge, to rush at horses, pedestrians, motorcars or cyclists, or permit such dog or other animal to interfere with the comfort or safety of any member of the public.

18. (1) Notwithstanding any other provision to the contrary contained in these bylaws, no person shall use or permit to be used any stable, kraal, shed, sty or other enclosure within the municipality for the keeping therein of any draught animal or any horse, mule, ass, pig, sheep or goat, except with the written consent of the Municipality first being had and obtained.

(2) The Municipality may, subject to such conditions as it may deem fit to impose, grant such consent if in its opinion such stable, kraal, shed, sty or other enclosure is so constructed or so situated that the keeping therein of any draught animal or any horse, mule, ass, pig, sheep or goat is not likely to cause a nuisance or constitute a danger to health or interfere with the amenities of the neighbourhood.

### **19. Application of bylaws**

Notwithstanding anything to the contrary these bylaws will not apply to areas within the Municipality's areas of jurisdiction, used for or zoned in terms of a town planning scheme for agricultural purposes or any other specifically exempted from the provisions of these bylaws by resolution of the majority of members at a duly constituted meeting of the Municipality.

**20. Offences and penalties**

Any person who contravenes any provision of these bylaws or who fails to comply with the requirements thereof shall be guilty of an offence and upon conviction shall be liable to the fines determined by a Chief Magistrate of the Magistrate's Court with jurisdiction in the area in which the offence has been committed or imprisonment as determined by a competent court.

**21. Repeal of bylaws**

The Council's existing Bylaws on Keeping of Animals and birds are hereby repealed.

**22. Short title and commencement**

These Bylaws shall be called the Keeping of Animals and birds Bylaws 2015, and shall come into effect on the first day of the month following the date of publication hereof.

### **3. KEEPING OF DOGS MUNICIPAL BY-LAWS**

The Emadlangeni Municipality in terms of section 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 23 of 2000), publishes the bylaws as set forth hereafter as bylaws made by the Municipality which bylaws will come into effect on the first day of the month following the date of publication hereof.

#### **Definitions**

For the purpose of these bylaws-

**“Animals welfare organisation”** means any association of persons, corporate or unincorporated, or institution whose objects are to promote the welfare of animals;

**“Area”** means the area of jurisdiction of the Emadlangeni Municipality;

**“Authorised Officer”** means a Police Officer and includes a member of any force established under any law for the carrying out of police powers, duties or functions and includes a person appointed in terms of Section 8 of the Animal Protection Act, Act No. 71 of 1962 as amended, as well as any person authorised by the Municipality to specifically enforce these bylaws;

**“Dog”** means the male or female of this specie;

**“Municipality”** means the Emadlangeni Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any Official who has delegated powers in terms of Section 59 of the Local Government Municipal Systems Act (Act 32 of 2000);

**“Nuisance”** unless otherwise provided for in these bylaws, means any condition, thing, act or sound which is offensive or injurious or which tends to prejudice the safety, good order, peace or health or the rights or reasonable comfort, convenience, peace or quiet of the general public within the area;

**“Premises”** shall be any building together with the land on which the same is situated and adjoining land or building used in connection therewith or any land without buildings thereon;

**“Public place”** means any area to which the public has access, and shall include the Seashore as defined in the Sea Shore Act, Act No. 21 of 1935, as amended;

**“Valid rabies certificate”** means valid rabies, inoculation certificate, to mean a certificate of inoculation, issued by a registered veterinarian within the previous two-year period;

**“Veterinarian”** means a person registered as such under the veterinary and Para-Veterinary Professions Act, Act No. 29 of 1982.

(1) No person shall keep on any premises within the area-

(a) Any dog (whether male or female) which is ferocious unless such dog is kept under the direct control of the owner or person in charge thereof or confined so that lawful visitors to the premises are safe from attack. (For the purposes of this paragraph, a dog which has bitten or attempted to bite a person or animal or damages another person or animals property other than in defence of itself or its custodian shall be deemed to be ferocious);

(b) Any dog which has a propensity to rush at any person, animal or vehicle, or which is generally a nuisance to the public on any premises that are not properly surrounded by a fence of such a nature as to ensure that such dog is confined to such unless such dog is kept on a leash;

(c) Any bitch in season unless she is kept under proper control so as to prevent her from being a nuisance to the neighbours or the general public. The Municipality through an Authorised Officer, may be notice in writing direct to the owner or person in control to remove such bitch to a place in which suitable accommodation can be provided for the housing of such bitch and at the owner's expense be kept for such a period until she is out of season;

(d) More than three (3) dogs on any premises without the written consent of the Municipality, which consent may be given subjected to conditions which may be altered or withdrawn at any stage by the Municipal Manager, provided that where such premises are zoned for high density housing written permission from the owner or body corporate must first be obtained;

(e) A dog for which no valid rabies inoculation certificate is held.

(2) No person being the owner or in charge of any dog shall keep on any premises within the area any dog which by reason of its barking, yelping, howling or whining creates a nuisance or disturbs the general public's peace.

(3) Any person who either owns or keeps a dog shall be guilty of contravening these bylaws and guilty of an offence if such dog within the area;

(a) bites or savages any person unless it can be proved that such bite or savaging was in reasonable defence of the owner or person responsible for the keeping of the dog, or their dependents or property, and that the person bitten seriously threatened the owner, property or dependents of the owner or person keeping such dog;

(b) attacks, runs at or jumps at any person, unless it can be proved that such attack, running or jumping was in reasonable defence of the owner or person responsible for the keeping of the dog, or their dependents or property, and that the person attacked, run at or jumped at seriously threatened the owner, property or dependents of the owner or person keeping such dog;

(4) Without in any way detracting from or diminishing in the liability of the owner of or the person keeping any dog for a breach of these bylaws:-

(a) the owner of any premises if he resides on such premises shall be deemed to be keeping any dog on such premises;

(b) if the owner of the premises does not reside on the premises any person over the age of eighteen years who resides on such premises shall be deemed to be keeping any dog on such premises;

(c) in the case of any prosecution in terms of these bylaws it shall be competent for the true owner of the dog in question to be charged or alternatively, the person keeping or deemed to be keeping the dog in question to be charged.

(5) Any dog which is found at large and unattended in any public place, or in a diseased state and apparently ownerless, may be seized and impounded and if found dangerous, vicious or diseased, may be destroyed in terms section 5 of the Animal Protection Act, (Act No. 71 of 1962). For the purpose of bylaw (5), any dog not wearing a badge or other means of identification whereby the owner can be traced and appears to be ownerless, shall be deemed to be ownerless.

(6) No person shall allow a dog being his property or in his charge to be in any public place unless it is on a leash or otherwise controlled, to ensure that it will not in any circumstances endanger the safety or any person or traffic making use of such public place, provided that no dog shall be permitted on any portion of the Sea Shore under the control of the Municipality where a sign expressly prohibiting dogs has been erected;

(7) An authorised officer may seize any dog which is vicious or dangerous or which is creating a disturbance by barking or otherwise.

(8) Any authorised officer who seizes any dog shall as soon as reasonable possible take or convey the same to an approved animal welfare organisation or dog pound approved by the Municipality, where suitable accommodations has been provided for this purpose.

(9) Any person claiming that any dog seized is his property shall be allowed to take away the same on satisfying the officer in charge of such approved animal welfare organisation or dog pound, that he is the owner of such dog and that the dog has been duly licensed, has a valid rabies certificate and upon payment of the prescribed fee, as laid down from time to time by the Municipality's tariff of charges, to such approved animal welfare organisation or dog pound.

(10) Any dog not claimed within 4 (four) days may be sold by the officer in charge of such approved animal welfare organisation or dog pound. The proceeds of such sale shall be applied in defraying the expenses incurred as set out in bylaws (9) above and the balance, if any, paid into the animal welfare organisation's funds or into the guardian's fund in the manner prescribed by section 93 of the Administration of Estates Act, Act 66 of 1965, should the animal welfare organisation not be involved in such seizure.

(11) If any dog is not claimed within 4 (four) days or cannot be sold under the provisions of bylaw

(10) such dog may be handed over to an animal welfare organisation provided that if any dog is found to be suffering from any infectious or incurable disease or injury or to be so vicious as to be dangerous the officer in charge of such place of safety, Animal Welfare Organisation or dog pound approved by the Municipality, may act in terms of section 5 (1) and (2) of the Animals Protection Act, 1962 (Act No. 71 of 1962), as amended from time to time.

(12) Any person claiming any dog impounded under these bylaws shall be deemed, unless he proves the contrary, to be the owner thereof and this liable to prosecution for the contravention of these bylaws.

(13) No person shall use or cause or allow any premises in the municipal area to be used for the accommodation of dogs for reward unless prior written permission is obtained from the Municipality and the prescribed fee, as laid down from time to time by its tariffs of charges, has been paid.

(14) No person, shall by any means wilfully frighten, tease or enrage any dog.

(15) the owner or person in charge of any dog which has died shall be responsible for its proper burial, at such place as may be approved by the Municipality, and should the owner or person in charge of any dead dog fail to or be unable to bury it, the Municipality shall cause it to be buried at the expense of the owner or person in charge, in accordance with the prescribed fee, as laid down from time to time by tariffs of charges.

#### **(16) Offences and Penalties**

(1) In any prosecution under these bylaws for the commission of an offence, it shall not be necessary to prove that the dog in question had previously shown a ferocious nature, nor that it was acting against the nature of domestic pets;

(2) Any person who contravenes any provision of these bylaws or who fails to comply with the requirements thereof shall be guilty of an offence and upon conviction shall be liable to the fines determined by a Chief Magistrate of the Magistrate's Court with jurisdiction in the area in which the offence has been committed or imprisonment as determined by a competent court.

#### **17. Destruction of Animals**

Whenever a police officer is of the opinion that any animal is so diseased or severely injured or in such a physical condition that it ought to be destroyed, he shall, if the owner be absent or refuses to consent to the destruction of the animal, at once summon a veterinarian or, if there is no veterinarian within a reasonable distance, two adult persons whom he considers to be reliable and of sound judgement, and if such veterinarian or adult person after having duly examined such an animal certify that the animal is so diseased or so severely injured or in such physical condition that it would be cruel to keep it alive, such police officer may without the consent of the owner destroy the animal or cause it to be destroyed with such instruments or appliances and with such precautions and in such manner as to inflict as little suffering as practicable.

**18. Powers of officers of society for prevention of cruelty to animals**

(1) If authorised thereto by writing under the hand of the magistrate of a district, any officer of any society for the prevention of cruelty to animals may in that district –

(a) without warrant and at any time with the consent of the owner or occupier, or failing such consent on obtaining an order from a magistrate, enter any premises where any animal is kept, for the purpose of examining the conditions under which it is so kept;

(b) without warrant arrest any person who is suspected on reasonable grounds of having committed an offence under this Act, if there is reason to believe that the ends of justice would be defeated by the delay in obtaining a warrant;

(c) on the arrest any person on a charge of an offence under this Act, seize any animal or thing in the possession or custody of that person at the time of the arrest and take it forthwith to a police officer, who shall deal with it in accordance with the provisions of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

(d) exercise in respect of any animal the powers conferred by subsection (1) of section five upon a police officer and in respect of such exercise of those powers, the provisions of the said section shall mutates mutandis apply.

(2) Any authority granted under subsection (1) may at any time for good cause be revoked by the magistrate of the district.

(3) An officer to whom authority has been granted under subsection (1) shall, when required to do so in the exercise of his powers, produce that authority for inspection.

**19. Repeal of bylaws**

The Council's existing Bylaws in relation to Keeping of Dogs are hereby repealed.

**20. Short title and commencement**

These Bylaws shall be called the Keeping of Dogs Bylaws 2015, and shall come into effect on the first day of the month following the date of publication hereof

## **4. CEMETERIES, CREMATORIA AND UNDERTAKERS**

### **MUNICIPAL BY- LAW**

Be it enacted by the Council of the Emadlangeni Municipality, in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

#### **ARRANGEMENT OF SECTIONS**

##### *Section*

1. Definitions
2. Establishment of cemeteries
3. Official hours
4. Register
5. Numbering of graves
6. Reservation of graves
7. Transfer of reserved rights
8. Number of corpses in a grave
9. Number of Corpses in a coffin
10. Application for a burial
11. Burial of a corpse
12. Indigent persons
13. Burial of ashes
14. Burial of a cadaver
15. Persons dying outside the municipal area
16. Grave measurements
17. Applications for cremation
18. Cremations
19. Coffins for cremation
20. Duties of proprietor
21. Council may establish sections in a cemetery
22. Monumental section
23. Berm section
24. Landscape section
25. Gardens of remembrance
26. Cremation and corpse reduction facility
27. Memorial square
28. Mausoleum
29. Surface grave units
30. Denominational section
31. Consent of the Council
32. Requirements for the erection of memorial work
33. Position, movement and removal of memorial work
34. Work and maintenance in respect of memorial work
35. Damaging of a memorial work
36. Vehicle and tools
37. Complying with directives of the Council
38. Times for bringing in material and doing work
39. Subsiding soil conditions

40. Production of written consent
41. Application for exhumation
42. Conditions of exhumations
43. Exhumation and reburial
44. Screening of exhumation
45. Emergency exhumations
46. Reduction burial
47. Appointment of officer in charge
48. Children
49. Keeping to path
50. Prohibited conduct in a cemetery
51. Use and closure of a disused cemetery
52. Injuries and damages
53. Fire-arms and traditional weapons
54. Complaints
55. Charges
56. Rights on Graves
57. Consents, Notices and Orders
58. Notice of compliance and representations
59. Religious Ceremonies
60. Hearses and vehicles at Cemeteries
61. Exposure of Bodies
62. Instruction of Caretaker
63. Music Inside Cemetery
64. Interments Attended by large Numbers of People
65. Preparation of corpses
66. Application for issue of transfer certificate
67. Issue or transfer of certificate of competence
68. Validity and transfer of certificate of competence
69. Issue of provisional certificate of competence
70. Duties of Holder
71. Suspension or revocation of a certificate of competence or provisional certificate of competence
72. Requirements relating to funeral undertaker premises.
73. Conveyance of mortal remains
74. Hygiene
75. Appeal
76. Exemptions
77. Offences and Penalties
78. Repeal of existing By-laws
79. Short title and commencement

## CHAPTER 1 DEFINITIONS

### 1. Definitions

In this by-law, unless inconsistent with the context –

**"adequately ventilated and illuminated"** means adequately ventilated and illuminated as contemplated in the National Building Regulations and Standards Act, 1977 (Act No. 103 of 1977), as amended or the health bylaws applicable within the area of jurisdiction of the Council;

**"adult"** means a deceased person over the age of 12 years and any deceased person the dimensions of whose coffin cannot be accommodated in an excavation of 1,40m in length and 400 mm in width;

**"above-ground burial"** means when a structure is employed for the interment of a body and such a structure is located above normal ground level;

**"after-hours fee"** means a fee over and above the set norm of fee for burial or cremation outside normal week day cemetery operating hours, save in the case of cremations or burials which, because of religious belief, are undertaken after such hours, or in the case of burial, where the mourners undertake to close the grave;

**"approved"** means approved by the Council;

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

**"ash grave"** means a grave for the burial of cremated remains, with such grave covered by a memorial plaque or slab;

**"authorised official"** means an official of the Council authorised to implement and enforce the provisions of this By-law;

**"berm section"** means a grave section in a cemetery set aside by the Council where memorial work is restricted to a headstone only with ground cover planted over the length of the grave;

**"biodegradation"** means a process whereby the corpse is disposed of by bio-friendly chemical dissolution;

**"Births and Deaths Registration Act"** means the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992);

**"body"** means any dead human body, including the body of a stillborn child;

**"burial order"** means an order issued in terms of the Births and Deaths Registration Act;

**"burial"** means burial or inhumation into earth or any other form of burial and includes a tomb and any other mode of disposal of a body;

**"cemetery"** means any land or part thereof within the municipal area set aside by the Council or approved by the Council as a cemetery;

**"certificate of competence"** means a document contemplated in section 5 of this bylaw;

**“child”** means a deceased person who is not an adult;

**“Commonwealth war grave”** means any grave, tombstone, monument or memorial connected with a Commonwealth war burial in terms of the Commonwealth War Graves Act, 1992 (Act No. 8 of 1992);

**“corpse”** means the remains of a deceased person and includes a still-born child and foetus;

**“corpse reduction”** means any process used to reduce corpses including cremation, freeze reduction and biodegradation;

**“Council”** means —

- (a) the Emadlangeni Municipality, exercising its legislative and executive authority through its municipal council;
- (b) its successor-in-title;
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in this By-law has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act; 2000 (Act No. 32 of 2000); and
- (d) a service provider fulfilling a responsibility under this By-law;

**“cremation”** means the process of disposing of a human body by fire;

**“crematorium”** the buildings in which the ceremony is conducted and the cremation carried out;

**“crematorium section”** means a section of a cemetery or crematorium set aside by the Council for the burial of ashes;

**“cremated remains”** means all recoverable ashes after the cremation process;

**“environmental health practitioner”** means a person who is an employee of Council, or contracted by Council and who is registered with the Health Professions Council of South Africa and is designated in terms the Health Act;

**“established practice”** means a practice in terms of which the owner or person in charge or his or her predecessor in title routinely gave permission to people residing on land to bury deceased members of their family on that land in accordance with their religion or cultural belief;

**“existing funeral undertaker's premise”** means existing funeral undertakers 'premises, which are used as such, on the date of commencement of this By-law;

**“exhumation”** means the removal of a body from its grave;

**“family”** in relation to an occupier, and for the purposes of —

- (a) the definition of an “established practice”;
- (b) section 10(2)(b)(ii); and
- (c) section 10(2)(c)(i)

means spouse or spouses, partner or partners, direct or adopted child or children, or grandchild or grandchildren, parent or parents, grandparent or grandparents, as well as dependent or dependents.

**“freeze reduction”** means the process whereby the corpse is disposed of by freeze drying;

**"funeral undertaker's premises"** means that premises that are or will be used for the preparation and or storage of corpses;

**"garden of remembrance"** means a section of a cemetery or crematorium set aside for the erection of memorial work, placing or scattering of ashes, but does not include a columbarium;

**"grave"** means any piece of land excavated for the burial of a body within a cemetery and includes the contents, headstone or other marker of such place and any other structure on or associated with such place;

**"grave of conflict"** means the grave of a person who died while defending the country;

**"hero"** means a person who performed a heroic act for the country and is given the status of a hero by the Council;

**"holder"** means the person in whose name a certificate of competence has been issued;

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

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

**"in ground burial"** means when land is excavated for the interment of a body;

**"interment"** means to commit a corpse or ashes to its final resting place

**"land"**, for the purposes of this definitions –

- (i) occupier;
- (ii) owner; and
- (iii) person in charge; and

(b) Sections 10(2)(b)(ii) and 10(2)(c)(i), means land predominantly used for agricultural purposes;

**"landscape section"** means a grave section in a cemetery set aside by the Council where memorial work is restricted to a horizontally placed plaque or a memorial slab, with a ground cover planted over the length of a grave

**"Minister"** means that member of the Cabinet of the Province of KwaZulu-Natal whose portfolio includes the responsibility for cemeteries and crematoria;

**"mausoleum"** means an above-ground burial chamber or chambers to accommodate a body and a coffin with such chambers stacked vertically in varying forms and heights

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

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

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

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

**“monumental section”** means a grave section in a cemetery set aside for the erection of memorial work

**“multiple burial”** means subsequent interments in the remaining depth of the grave

**“municipal area”** means the area under the control and jurisdiction of the Council;

**“new funeral undertaker's premises”** means undertaker's premises that start operating as such after the date of commencement of this By-law;

**“next of kin”** means the surviving spouse, unless otherwise determined by customers, or if there is no surviving spouse, the surviving child or children, or where there is no surviving child, the closest surviving descendant or descendants, or if there are no surviving descendants, the surviving parent or parents, or where there is no surviving parent or parents, the surviving sibling or siblings, or where there is no surviving sibling or siblings, the other blood relation or blood relations of the deceased who are related to him or her in the next degree, provided that where this By-law requires the consent of the next of kin, and the next of kin refers to more than one person, in terms of this definition, then the consent of all these persons will be required;

**“niche”** means a compartment in a columbarium or garden of remembrance for the placing of ashes;

**“notifiable disease”** means any disease that is required by law to be reported to government authorities when diagnosed even at death;

**“nuisance”** means any condition, thing, act or omission which is offensive or injurious to health or which tends to prejudice the safety, good order or health of the area or part thereof;

**“occupier”** means a person residing on land which belongs to another person and who has consent or another right in law to do so;

**“officer-in-charge”** means the person in the employ of the Council who, from time to time, is in control of any cemetery;

**“owner”** means the owner of land at the time of death contemplated in section 10(2)(b);

**“ossuary”** means a chest, building, well or site made to serve as the final resting place of human skeletal remains;

**“person in charge”** means a person who at the time of a death contemplated in section 10(2)(b) had or has a legal authority to give consent to a person to reside on the land in question;

**“preparation”** means any action aimed at the preparation of a corpse for a funeral or for cremation, export or other disposal and will include the embalming of such corpse for the said purpose, and

"**prepare**" and any work derived there from will have a corresponding meaning;

"**prescribed**" means prescribed by the Council;

"**prescribed fee**" means a fee determined by the Council by resolution of that Council or its successor.

"**private cemetery**" means land which is used as a cemetery but not owned by the Council

"**private crematorium**" means a building where deceased persons are cremated but is not owned or managed by the Council

"**provisional certificate of competence**" means a document as referred to in section 68;

"**public grave**" means a grave in which a second burial of any member of the public may take place after a period of five years and on which the erection of a headstone is not permitted for either the first or second burial;

"**pure water**" means clean and clear water that contains no Escherichia coli organisms and is free from any substance in concentrations that are detrimental to human health;

"**reduction burial**" refers to the making of a grave available for a subsequent interment after a specific period;

"**rodent-proof**" means rodent-proof as laid down in the regulations regarding the Prevention of Rodent Infestation and the Storage of Grain, Forage, etc. in Urban and Rural areas of the Republic of South Africa promulgated by Government Notice R. 1411 of 23 September 1966

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

"**stone mason**" means a person carrying on business as a stone mason;

"**the Act**" means the Health Act, 2003 (Act No. 61 of 2003), and any expression to which a meaning has been assigned in the Act will have such meaning and, unless the context otherwise indicates; and

"**thermometer**" means an apparatus which can give the temperature readings referred to in the bylaws, the combined accuracy of such a thermometer and its temperature – sensitive sensor being approximately 0,5<sup>0</sup>C.

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

## CHAPTER 2 ESTABLISHMENT AND MANAGEMENT OF CEMETERIES

### Establishment of cemeteries

2. The Council may from time to time set aside and reserve suitable municipal land within the municipality for the establishment and management of a cemetery. The Council may consider and approve an application for the establishment and management of a cemetery. The Council may consider and approve an application for the establishment and maintaining of a private cemetery or a private columbarium on private land on the conditions that the Council may deem necessary.

### Official hours

3. (a) The cemetery and the office of the caretaker will be open during the hours as determined by the Council. The cemetery office of the caretaker will be open from Monday to Friday.
- (b) Burials will take place on the days and during the hours as determined by the Council.
- (c) The Council has the right to close a cemetery or any portion thereof to the public for such periods and for such reasons as the Council may deem fit
- (d) No person must be or remain in a cemetery or part thereof before or after the official hours as determined by the Council or during any period when it is closed for the public, without the permission of the caretaker.
- (e) The Council may, if the case is one of emergency or the custom or conventions of a religious or cultural group, permit internment outside the times contemplated in subsection.

### Register

4. (a) A register of graves and burials must be kept by the caretaker.
- (b) Such register must be completed as far as possible immediately after a burial has taken place, with reference to the prescribed particulars contained in the burial order concerned.

### Numbering of graves

5. (a) All graves in a cemetery that are occupied or for which a burial has been authorised in terms of the provisions of this by-law must be numbered by the Council.
- (b) The number must be affixed to the grave and indicated on a plan to be kept available in the caretaker's office.

**Reservation of graves**

6.(a) No reservation of a grave in a cemetery will be allowed.

(b) Reservation of graves made and recorded in the official records of the Council in terms of any previous by-laws will still be valid and the Council must honour such reserved rights.

**Transfer of reserved rights**

7. (a) A reserved right as contemplated in section 6(b) may not be transferred without the prior approval of the Council.

(b) Application to transfer such right must be made to the caretaker in writing by completing and submitting a prescribed application form.

(c) If the application is granted, a certificate will be issued in favour of the transferee who will become the holder

(d) The reserved right may be cancelled on request of the holder and if the request is approved by the Council, the amount paid by the holder (if any) minus 10% administration fees, will be refunded to the holder.

**Number of corpses in a grave**

8. (a) Only one corpse may be buried in a grave with measurements as contemplated in this by-law.

(b) Only two corpses may be buried in a grave with measurements as set out in sub-section 16(d): Provided that application for the burial of two corpses has been made to the caretaker in writing by completing and submitting the required application form before the first corpse is buried.

(c) After the re-opening of a grave for the purpose of the burial of a second corpse as mentioned in sub-section 9(b) in that grave, a concrete layer of not less than 25 mm thick must be cast above the coffin previously buried.

d) If on re-opening any grave, the soil is found by the Medical Officer of Health to be offensive or dangerous to the general health of people, the situation will be handled in consultation with the Medical Officer of Health.

**Number of Corpses in a coffin**

9. (1)(a) A deceased stillborn child and his or her deceased mother may be buried in the same coffin at the fee for a single interment of an adult.

(b) Still-born twin babies may be buried in the same coffin at the fee for a single interment of a stillborn child.

(c) Subject to subsection (a) and (b), only one corpse may be contained in a coffin, unless this is contrary to the tradition, customs or religious beliefs of the deceased person or the next of kin, or where there is no next of kin any other closest family member.

- (d) If there is more than one body in a coffin, each must be contained in a separate body bag

### CHAPTER 3

#### BURIALS

##### Application for a burial

**10.(1)** Application for permission for a burial in a cemetery must be made to the caretaker in writing by completing and submitting a prescribed application form. An application must be accompanied by—

- (a) a burial order issued in terms of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992);
- (b) the prescribed fees; and
- (c) a reservation certificate, if applicable;
- (d) the death certificate of the corpse
- (e) an affidavit by the next of kin of the deceased, or where not applicable, other close relative, consenting to the disposal of the corpse when such corpse is to be buried in the manner requested;
- (f) in the instance where a person was suffering from a notifiable disease, this must be indicated in the application; and
- (g) details of cultural or religious practices that need to be adhered to.

(2)(a) No person may, subject to section 10(2)(b), without the prior written approval of the Council, execute, cause, or allow a burial or cremation in any other place in the municipality than in a cemetery or crematorium established and managed by the Council.

(b) An occupier may –

- (i) be buried on the land on which he or she resided at the time of his or her death; and
- (ii) bury a member of his or her family on the land on which the occupier resides.

(c) A burial contemplated in section 10(2)(b) may take place –

- (i) after notification to the owner or person in charge by the occupier or his or her family members; and
- (ii) if an established practice exists in respect of the land on which the occupier resides.

(3) An application for permission for a burial must be submitted to the caretaker at least 24 working hours prior to the planned burial, failing which the caretaker may refuse the application.

(4) No person may execute a burial or cause or allow a burial to be executed in a cemetery, unless written permission for the burial has been obtained, a specific grave has been allocated for the purpose of the burial and a date, and time for the burial has been arranged with the caretaker.

(5) In allocating a date and time for a burial, the caretaker must have regard to the customs of the deceased's relatives and their religion or church affiliation.

(6) In allocating a grave the caretaker will as far as possible allow the responsible person access to a plan of the cemetery showing the various sections, and allow him or her to select the section of his or her choice, but not the individual grave of his or her choice. The allocation of a specific grave is the sole responsibility and discretion of the caretaker and a burial will be executed only in a grave allocated by him or her.

(7) The Council may allow in its discretion a burial without payment of the prescribed fees in a part of a cemetery set aside for such purposes and in such manner as it may deem fit.

(8) Notice of cancellation or postponement of a burial must be submitted to the caretaker at least 4 working hours before the time set for the burial.

(9) The granting of permission for a burial and the allocation of a specific grave in a cemetery, does not give the applicant, the responsible person or any other person any right in respect of such grave other than to bury a corpse in the grave.

(10) Except with the permission of the Council, no person may place or cause any coffin constructed of any material other than natural wood or other perishable material to be placed in any grave.

(11) The Council reserves the right to inspect the contents of a coffin before interment, in the event of there being any irregularities in the paperwork.

(12) The Council may refuse a person, including a funeral undertaker, permission to inter a corpse if the relevant documentation required by the Council has not been submitted prior to the interment.

#### **Burial of a corpse**

**11.(a)** All graves must be, subject to section 10(2) provided by the caretaker with the exception of brick-lined or concrete-lined graves, in which cases the brickwork or concrete work must be carried out by the undertaker under the supervision of the caretaker and in conformity with the specifications applicable to ordinary graves.

(b) There must be at least 1200 mm of soil between the top of an adult coffin and the ground surface, and at least 900 mm of soil between the top of a child coffin and the ground surface.

(c) All corpses must be placed in a coffin for the burial thereof, except as provided for the Muslim community.

(d) No person may without the prior permission of the caretaker conduct any religious ceremony or service according to the rites of one denomination in any portion of a cemetery reserved by the Council in terms of the provisions of this by-law, for the use of some other denomination.

(e) No person may permit any hearse in a cemetery to leave the roads provided, and every hearse must leave the cemetery as soon as possible after the funeral for which it was engaged.

(f) Every person taking part in any funeral procession or ceremony must comply with the directions of the caretaker as to the route to be taken within the cemetery.

(g) No person may convey or expose a corpse or any part thereof in an unseemly manner in any street, cemetery or public space.

(h) Every application and every document relating to any burial must be marked with a number corresponding to the number in the register referred to in section 4 and must be filed and preserved by the Council for a period of not less than ten years.

(i) Every coffin or body upon being placed in any grave must, at once, be covered with 500 mm of earth.

(j) No person may disturb any human remains or any soil adjacent thereto in any cemetery, except where such disturbance is expressly permitted by this bylaw or by an order of court.

(k) On completion of interment, the person referred to in subsection (a) or persons who dug the grave must clear the surrounding areas including pathways and graves of all soil, debris and other matter or material exposed by the digging of the grave.

(l) The person who arranged the interment must take all reasonable steps to ensure that no damage occurs to surrounding property during the interment ceremony, including any collapse of grave walls and take steps to prevent such collapse.

(m) The 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.

### **Indigent persons**

**12.** A person making application for the burial of an indigent person must make a declaration to that effect.

### **Burial of ashes**

**13.(1)** Ashes may be buried in a coffin and only two such coffins containing ashes may be buried in an extra deep grave; provided that a coffin does not exceed the average body weight of 70 kg, and further-more that the grave is re-adjusted to the prescribed depth and measurements.

(2) No person may execute a burial or cause a burial of ashes to be executed in a cemetery, unless written permission for the burial has been obtained, a specific grave or niche has been allocated for the purposes of the burial and a date, and time for the burial has been arranged with the caretaker.

(3) Application for the burial of ashes for definite periods or in perpetuity, or for the provision of memorial tablets of approved material to be fixed on the building, columbarium or other facility must be made to the caretaker in writing by completing and submitting a prescribed application form.

(4) Niches will be allocated by the caretaker strictly in the order in which the applications therefore are received and no reservations for future use will be made.

(5) An application for permission for a burial must be submitted at least 24 working hours prior to the planned burial, failing which the caretaker may refuse the application.

(6) An urn or casket containing ashes that has been deposited in a building, columbarium, or other facility must not be removed without the caretaker's prior written consent.

(7) Every niche containing ashes must be sealed by a tablet approved by the Council and may only be opened for the purpose of withdrawing an urn or casket contained therein for disposal elsewhere, or for the purpose of depositing an additional urn or casket therein where after it will once again be sealed.

(8) Application for the opening of a niche must be made to the caretaker in writing by completing and submitting a prescribed application form.

(9) No person may introduce any material into the columbarium for the purpose of constructing or erecting any memorial work therein unless and until:

- (a) approval for the burial has been obtained from Council;
- (b) approval for the erection of the memorial work has been obtained from Council; and
- (c) the prescribed fees have been paid which will be determined by Council from time to time.

(10) Any person engaged upon any work on the columbarium, must execute such work to the satisfaction of the caretaker, and such work must be undertaken during the official office hours of the cemetery.

(11) No permanent wreaths, sprays, flowers, or floral tributes may be placed in or on a columbarium.

(12) The columbarium may be visited daily during the official cemetery hours as determined by Council.

(13) Plaques must be made of material approved by the Council and must be affixed simultaneously with the placing of the ashes and within 30 days of the obtaining of the consent.

#### **Burial of a cadaver**

**14.** The remains of a corpse used at an educational institution for the education of students, generally known as a cadaver, may be buried in one coffin and two such coffins containing cadavers may be buried in an extra deep grave as contemplated in sub-section 16(d): Provided that a coffin does not exceed the average body weight of 70 kg, and furthermore that the grave is re-adjusted to the prescribed depth and measurements.

#### **Persons dying outside the municipal area**

**15.** The provisions of this By-law will apply *mutatis mutandis* to any burial in a cemetery of a person who has died outside the municipality

#### **16. Grave measurements**

(a) The excavation of a grave for an adult must be at least 1820 mm deep, 2300 mm long, and 760 mm wide.

(b) The excavation of a grave for a child must be at least 1400 mm deep, 1520 mm long, and 610 mm wide.

(c) In the event that a grave of a greater depth, length or width than those specified above is required, application in respect thereof, together with extra prescribed fees that are due, must be made to the caretaker together with the application to obtain permission for a burial.

(d) The excavation of an extra deep grave for the burial of two corpses must be at least 2400 mm deep 2300 mm long and 760 mm wide.

(e) Deviations from measurements of graves must be as follows:

Extra wide	: 2300 mm long : 840 mm wide
Extra long	: 2530 mm long : 760 mm wide
Rectangular small	: 2300 mm long : 900 mm wide
Brick-nogging	: 2600 mm long : 1050 mm wide

(f) The area of a rectangular grave for an adult must be 1500 mm wide by 2600 mm long.

(g) The area of a grave for an adult must be 1210 mm wide by 2430 mm long.

(h) The area of a grave for a child must be 1210 mm wide by 1520 mm long. If a coffin is too large, an adult grave must be used.

#### **CHAPTER 4 CREMATIONS**

##### **Applications for Cremation**

17.(1) Applications for cremation must be made upon terms, at times and places and upon payment of fees as determined by the Council.

(2) A person may only cremate or cause to be cremated any body within any crematorium after –

- (a) Complying with applicable legislation;
- (b) Obtaining approval from the Council; and
- (c) Complying with the conditions as determined by the Council.

##### **Cremations**

18.(a) Where a member of the public desires to be present at a cremation, a request for such member to be present must be made to the Council, which will consider the request as it deems fit.

(b) Any corpse which contains a cardiac pacemaker or radio-active implant of any kind or any other material which may result in an explosion or harmful emissions when incinerated may not be cremated unless it is removed.

(c) A crematorium must be fitted with equipment in order to prevent the dispersion of ash into the atmosphere

##### **Coffins for cremation**

19.(a) When cremated a corpse must be contained within a coffin.

(b) A coffin in which a corpse is cremated must be made of wood or other non-toxic material.

(c) Non-toxic varnish, paint or glue must be utilised in the manufacturing of the coffin in which a corpse is cremated.

(d) When cremated, a coffin may only contain combustible material, including clothing, shoes and other adornments of whatsoever nature, and the Council will have the right to remove non-combustible material from the coffin.

(e) Before a cremation is permitted to take place, the applicant or his or her representative will be obliged to produce a certificate certifying that the coffin complies with subsections (b) and (c) above.

(f) No corpse may be removed from any coffin for the purpose of incineration and a coffin may not be opened in the crematorium except with the permission of the Council, which must not be unreasonably withheld.

## **CHAPTER 5**

### **PRIVATE CEMETERIES AND CREMATORIA**

#### **Duties of proprietors**

**20.(1)** The proprietor of a private cemetery or crematoria for which the consent of the Council has been obtained must –

(a) comply with –

(i) any special conditions which may be determined by the 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 the Council to enter or inspect the cemetery or crematoria and all records kept in connection therewith; and

(d) appoint a suitably qualified person to manage the cemetery and to keep the records.

(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 6**

### **SECTIONS IN A CEMETERY**

#### **The Council may establish sections in a cemetery**

**21.(1)** The Council may establish one or more of the following sections in its cemeteries:

(a) Monumental section

(b) Berm section

(c) Landscape section

(d) Memorial square

(e) Garden of remembrance

(f) Crematoria or corpse reduction facility

(g) Mausolea

(h) Surface grave units

(i) Denominational section

**Monumental section**

**22.(a)** A monumental section is a grave section in a cemetery set aside for the erection of memorial work at graves.

(b) The Council may in the course of time level all graves and plant grass thereon.

(c) Flowers, foliage, wreaths or any adornment may be placed upon the berm only of graves, except in the case of graves which have not yet been levelled.

**Berm section**

**23.(a)** A berm section is a grave section in a cemetery set aside by the Council where memorial work is restricted to a headstone only, with ground cover planted over the extent of the grave

(b) Headstones may contain two receptacles for flowers

(c) Headstones must be erected on the concrete plinth supplied by the Council or on a suitable foundation to support the headstone, which must be embedded horizontally at ground level in the position indicated by the Council.

(d) No kerb or frame demarcating the grave or a slab covering is permitted

(e) Flowers, foliage, wreaths or any adornment may be placed upon the berm only of graves, except in the case of graves which have not yet been levelled.

**Landscape section**

**24.(a)** A landscape section is a grave section in a cemetery set aside by the Council where memorial work is restricted to a horizontally placed plaque or memorial slab only, with ground cover planted over the extent of the grave.

(b) No object other than the memorial plaque or slab may be placed on the grave

(c) No kerb or frame demarcating the grave or slab covering is permitted

(d) Flowers, foliage, wreaths or any adornment may be placed upon or beside the plaque or memorial slab, except in the case of graves that have not yet been levelled.

**Gardens of remembrance**

**25.(a)** A garden of remembrance is a section in a cemetery set aside for the erection of memorials to an individual, a group of people or an event, memorial walls, niche walls, the establishment of ash graves and the scattering of ashes;

(b) Flowers and wreaths may be placed only on the places provided therefore.

**Crematorium and corpse reduction facility**

**26.** The Council may set aside sections in a cemetery for the establishment of a crematorium and a corpse reduction facility

**Memorial Square**

27.(a) A memorial square is a grave section in a cemetery set aside for the interment and memorialisation of heroes and celebrated persons

(b) No person may be interred or commemorated in this section unless the status of a hero or celebrated person has been confirmed by the Council in writing.

**Mausoleum**

28. A mausolea section may be established in a cemetery in which corpses are interred in mausolea.

**Surface grave units**

29. A surface grave unit may be established in a cemetery in which corpses are interred in surface grave units.

**Denominational section**

30.(a) The Council may set aside denominational sections in its cemeteries for the exclusive use of a specific faith, religious or cultural group where the burial requirements of such group dictates a physical arrangement of graves with reference to orientation, density and depth other than be the norm.

(b) The allocation of such sections may not be to the detriment of the burial requirements of the general residents.

**CHAPTER 7****ERECTION AND MAINTENANCE OF MEMORIAL WORK AND CARE OF GRAVES****Consent of the Council**

31.(1) No person may bring any memorial into a cemetery or erect, alter, paint, renovate, decorate, remove or otherwise interfere with any memorial work or cut any inscription thereon in a cemetery without the written consent of the Council and payment of the required fee, other than for the purpose of routine maintenance work.

(2) Before erecting memorial work an application must be submitted to the Council for approval at least five working days prior to the proposed erection, such an application must include –

- (a) a plan which gives an indication of its measurements and its position;
- (b) specification of the material which the memorial work is to be constructed; and
- (c) the wording of the epitaph.

(3) The Council may approve the application referred to in subsection (2) with or without conditions as it deems necessary, and may refuse the application if it does not comply with the requirements in respect of memorial work as determined by the Council.

(4) No person may bring into the cemetery any material for the purpose of constructing therewith any memorial work on any grave unless –

- (a) the provisions of subsection (1) to (3) have been complied with; and
- (b) proof of payment in respect of the work to be carried out has been submitted.

(5) The consent for the proposed work is valid only for a period of twelve months from the date on which it is approved, and in the event of the memorial work not being erected within the prescribed time a new application must be submitted.

#### **Requirements for the erection of memorial work**

**32.(1)** A person erecting a memorial work must comply with the following –

- (a) proceedings must be of such a nature that no damage may be caused to any structure or offence given;
- (b) with the applicants permission, the name of the maker or manufacturer can be displayed on a memorial work, but no address or any particulars may be added thereto, and the space utilised for it may not be larger than 40 x 100 mm;
- (c) all unused material after the completion of the work must be removed and the adjoining areas must be left neat and clean; and
- (d) any damage caused must be repaired at the cost of the person responsible for such damage and should the responsible person fail to affect such repair, after due notice, the Council may undertake the remedial work at the cost of the person who erected the memorial work.

#### **Position, movement and removal of memorial work**

**33.(a)** 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 an approved plan.

(b) Should the condition referred to in subsection (a), the 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.

(c) In the instance where a memorial work has originally been placed in a certain position with the express consent of the Council, any alteration of the position in terms of the provisions of this section executed at the expense of the Council.

#### **Work and maintenance in respect of memorial work**

**34.(a)** Any person engaged in any work, must effect such work under the supervision of the Council.

(b) Should the person who erected a memorial work allow such memorial work to fall into such a state of disrepair that it may cause danger or deface the cemetery, the Council may serve a notice of compliance on such a person.

(c) The Council may, after due notice, at any time change or alter the position of a memorial work in a cemetery placed without the express consent of the Council and recover the cost thereof from the owner of the memorial work.

(d) A memorial work placed, built, altered, decorated, painted or otherwise dealt with in a cemetery in such a manner that any of the provisions in this By-law are contravened, may be removed by the Council at the cost of the person responsible, after due notice, without payment of any compensation.

**Damaging of a memorial work**

35. The Council is not responsible for any damage that may occur to a memorial work that is not due to the negligence of the authorised officials of the Council.

**Vehicle and tools**

36.(a) Every person engaged with work upon a grave or plot must ensure that the vehicles, tools or appliances comply with the provisions of this By-law and any other applicable law, and do not block roads or pathways.

(b) No person may convey any materials, stone, brick or memorial work or a portion thereof within a cemetery upon a vehicle or truck which may cause damage to paths or grounds or structures of the cemetery.

**Complying with the directives of the Council**

37. A person carrying out work within a cemetery must in all respects comply with the directives of the Council.

**Times for bringing in material and doing work**

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

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

**Subsiding soil conditions**

39. The Council is not liable for damage to memorial work resulting from any subsiding soil.

**Production of written consent**

40.(1) A person charged with performing work or on his or her way to or from work within a cemetery must upon demand from the Council or its authorised official, produce the written consent issued to him or her.

**CHAPTER 8****RE - OPENING OF GRAVES AND EXHUMATIONS****Application for exhumation**

41.(1) An application for exhumation must be submitted to the Council and must include the following –

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

**Conditions of exhumations**

42.(1) No person may exhume or cause to be exhumed a body without the written consent of the –

- (a) Minister;
- (b) the Council;
- (c) the provincial Department of Health;
- (d) the Administrator of cemeteries;
- (e) the Council's Medical Officer of Health or
- (f) by an order of a court having jurisdiction over such matters.

(2) Whenever an exhumation is to take place, the officer-in-charge must inform the Provincial Commissioner of the South African Police Services.

(3) A member of the South African Police Services must always be present when an exhumation is being conducted.

(4) The written consent referred to in subsection (1) must be submitted to the environmental health practitioner at least five working days prior to the approved exhumation date.

(5) The environmental health practitioner may impose conditions with respect to the exhumation and the exhumation may only proceed when such conditions have complied with.

(4) An exhumation must not take place when the cemetery is open to the public and must take place under the supervision of the officer-in-charge.

(5) If remains are to be exhumed from any grave, only the undertaker under the supervision of the officer-in-charge, may cause the grave to be excavated for such exhumation;

(6)(a) If a grave is to be excavated for exhumation, the officer-in-charge must be given 48 hours written notice before the time of exhumation, and

(b) The authority referred to in paragraph (1)(d) of this Section and the prescribed fee must accompany such notice.

(7) A person who wishes to exhume the remains of an indigent person must pay the costs incurred by the Council at the time of burial, to the Administrator of Cemeteries.

(8) The person carrying out the exhumation must ensure that the body and grave are properly disinfected and deodorized.

(9) The remains of the deceased person must, pending reburial or cremation be kept at a registered funeral undertakers premises.

(11) The person carrying out the exhumation must provide a suitable receptacle for each body or remains.

(12) The South African Police Services must -

- (a) if there is proof of illegal burial immediately exhume the body; and
- (b) take it to a government mortuary for investigation.

(13) A grave of victims of conflict and a grave which is older than 60 years may only be exhumed with the permission of the South African Heritage Resources Agency.

(14) A Commonwealth war grave may only be exhumed in accordance with the provisions of section 3 of the Commonwealth War Graves Act, 1992.

#### **Exhumation and reburial**

**43.**(1) The Council may, if a body has been buried in contravention of this By-law, cause the body to be exhumed and re-buried in another grave.

- (2) The relatives of the deceased must be –
- (a) notified of the intended exhumation and re-burial; and
  - (b) allowed to attend.

#### **Screening of exhumation**

**44.** A grave from which a body is to be exhumed must be screened from the view of the public during the exhumation.

#### **Emergency exhumations**

**45.** No body may be exhumed less than eighteen months after burial, other than in compliance with a court order.

#### **Reduction burial**

**46.**(1) The Council may, after a lapse of a minimum period of 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, or at a greater depth subject to the conditions that –

- (a) any holders of private rights in that grave and the next of kin or closest surviving 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 the closest surviving relative have given their consent

### **CHAPTER 9**

#### **THE ADMINISTRATION AND CONTROL OF CEMETERIES**

##### **Appointment of an officer in charge**

**47.**(a) The Council must appoint an officer in charge for each cemetery to control and administer the cemetery

(b) 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.

##### **Children**

**48.** No child under 12 years of age may enter a cemetery unless he or she is under the supervision and care of a responsible adult person.

**Keeping to path**

49. All persons are required to keep to the paths indicated in a cemetery, where such paths exist.

**Prohibited conduct within a cemetery**

50.(1) No person may –

- (a) commit or cause a nuisance within a cemetery
- (b) ride an animal, cycle, or skateboard for recreational purposes or partake in any other form of recreational or sporting activity within any cemetery, unless otherwise determined by the Council.
- (c) With the exception of a blind person, bring into or allow an animal to wander inside any cemetery, provided that dogs on leashes will be permitted unless otherwise determined by the Council;
- (d) Plant, cut, pick or remove a tree, plant, shrub or flower without the permission of the Council;
- (e) Hold or take part in a protest in any cemetery
- (f) Interrupt or disrupt –
  - (i) the performance of duties of an authorised official or workman employed by the Council
  - (ii) a funeral undertaken in a cemetery
- (g) obstruct, resist or oppose the officer in charge on the course of his or her duty, or refuse to comply with an order or request which the officer in charge is entitled under this By-law to make;
- (h) mark, draw, scribble, paint or place an object on a wall, building, fence, gate, memorial work or other erection within any cemetery other than for official purposes;
- (i) use water for any form of gardening without the permission of the Council;
- (j) leave any rubbish, soil, stone, debris, garbage or litter within any cemetery;
- (k) in any way damage, deface or desecrate any part of a cemetery or anything therein;
- (l) enter or leave a cemetery, except by an entrance or exit provided for these purposes;
- (m) solicit or conduct any business, order, exhibit, distribute or leave a tract, business card or advertisement within a cemetery, other than in the area designated for such purposes by the Council and with the prior permission of the Council;
- (n) treat a grave or memorial work with disrespect, such as climbing or sitting on a grave or memorial work;
- (o) enter an office, building or fenced place in a cemetery except in connection with lawful business;
- (p) expose a corpse or part thereof in a cemetery;
- (q) exceed the prescribed limit of 20 km per hour in a cemetery;
- (r) use any cemetery as thoroughfare
- (s) allow or cause any animal to enter any cemetery with the exception of an officer in charge, living on site and who is keeping pets with the prior approval of the Council
- (t) bring any alcohol into or consume any alcohol in a cemetery or discharge any firearms in a cemetery except in the case of the police, state or military funeral;
- (u) make or ignite a fire in a cemetery without the prior permission of the Council;
- (v) hunt or harm any animals or birds;
- (w) graze domestic animals in unused areas amongst the graves or;
- (x) bring into a cemetery excavation equipment, saws or metal detecting equipment, other than with the permission of the Council; and
- (y) conduct driving lessons in a cemetery.

(2) An authorised official of the Council working in any cemetery may not enter into an agreement with a member of the public for the purpose of undertaking work in a cemetery on behalf of such a person, such as maintaining or digging a grave or any other related work.

(3) The Council may impound an animal found in any cemetery.

(4) Gazebos larger than two metres by three metres may not be erected in a cemetery without the prior permission of the Council.

## **CHAPTER 10 USE AND CLOSURE OF DISUSED CEMETERIES**

### **Use and closure of disused cemeteries**

**51.(a)** Despite any provision of this By-law, and subject to the provisions of subsection (f) the 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 a purpose as will not desecrate the ground and any human remains or any memorials in such a cemetery.

(b) Despite any provision of this By-law, and subject to the provisions of subsection (f), the Council may close any cemetery or any part thereof, of which it is the cemetery authority, which has been disused for a period of not less than 20 years, or if good closure for such closure exists.

(c) Despite any provision in this By-law, and subject to the provisions of subsection (f), the Council may use a cemetery or portion thereof, which has been used for another purpose in terms of subsection (a), or reopen any cemetery or portion thereof, which has been closed in terms of subsection (b).

(d) The Council may, subject to the provisions of subsection (f), 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.

(e) All rights possessed or enjoyed by any person in respect of a cemetery contemplated in subsection (a) and (b) will thereupon cease.

(f) Before acting in terms of subsection (a), (b), (c) and (d) the Council must give notice of its intention to do so.

## **CHAPTER 11 MISCELLANEOUS**

### **Injuries and damages**

**52.(a)** A person using a cemetery do so at his own risk, and the Council accepts no liability whatsoever for any personal injuries sustained by such person or for any loss of or damage to such person's property relating to or resulting from the aforementioned usage of the cemetery.

(b) A person using a cemetery accepts full responsibility for any incident, damages or injuries that may be caused by or that may result from the aforementioned use of the cemetery and he or she accordingly indemnifies the Council, its members, employees or agents, whether in personal or official capacity, against liability for all claims from whichever nature by himself, his or her dependants or third parties in respect of any patrimonial loss, consequential damages, injuries or personal prejudice that may be suffered or sustained in connection with or resulting from such a person's use of a cemetery. The aforementioned indemnity also applies to injuries sustained by employees of the Council while on duty at the cemetery, as well as damages to Council property at the cemetery.

**Fire-arms and traditional weapons**

53. No fire-arms and traditional weapons may be allowed in a cemetery.

**Complaints**

54. Any person wishing to lodge a complaint must lodge such complaint, in writing with the Director.

**Charges**

55. The charges set forth in the tariff in respect of the various items therein contained, must be paid to the Council in advance.

**Rights on Graves**

56. No person may acquire any right to or interest in any ground or grave in any cemetery.

**Consents, Notices and Orders**

57. Any written consent, notice or other order issued by the Council in terms of this By-law, with the exception of consent by the Director or any officer authorised by him and will be prima force evidence of the contents of such a signed consent, notice or other order.

**Notice of compliance and representations**

58.(1) A notice of compliance must state –

- (a) the name, residential and postal of the 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 specific 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 subsection (d) is an offence; and
- (f) that written representations, as contemplated in subsection (3) may within the time period stipulated in subsection (d) , be made to the Council at a specified place.

(2) The Council, when considering any measure or time period envisaged in subsections (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 by the person on whom measures are to be imposed; and
- (d) any other relevant factors.

(3) A person may within the time period contemplated in subsection (1)(f) make representations, in the form of a sworn statement or affirmation to the Council at the place specified in the notice.

(4) Representations not lodged within the time period will not be considered, except where the person has shown good cause and the Council condones the late lodging of the representations.

(5) The Council must consider the representations and any response thereto by an authorised official or any other person.

(6) The Council may, on its own volition, conduct any further investigations to verify the facts necessary, and the results of the investigation must be made available to the person, who must be given an opportunity of making a further response if he or she so wishes, and Council must also consider the further response.

(7) The Council must, after consideration of the representations and responses, make an order in writing and serve a copy of it on the person.

(8) The order must –

- (a) set out the findings of the Council;
- (b) confirm, alter or set aside in whole or in part, the notice of compliance; and
- (c) specify a period within which the person must comply with the order made by the Council.

(9) If the notice of compliance is confirmed, in whole or in part, or is altered but not set aside, the Council will inform the person that he or she must discharge the obligations set out in the notice within the time specified therein.

(10) Where there has been no compliance with the requirements of the notice within the time specified therein, the Council may take steps as it deems necessary to repair the monumental work and the cost thereof must be paid to the Council by such person.

#### **Religious Ceremonies**

**59.**(a) The members of any religious denomination may conduct religious ceremonies in connection with any interment of memorial service subject to the control and by-laws of the Council.

(b) No animal may be slaughtered on the premises of the cemetery regardless of any religious ceremony which may require an animal to be slaughtered.

#### **Hearses and vehicles at Cemeteries**

**60.**(a) No person may cause any hearse or vehicle, as defined by the National Road Traffic Act, 1996 (Act No. 93 of 1996) while within a cemetery to depart from the road.

(b) Every hearse or vehicle must leave the cemetery by the route indicated by the caretaker.

(c) The cemetery is a public place and all laws applicable to the driving of a vehicle and the use of a public road will be applicable inside the premises of the cemetery.

#### **Exposure of Bodies**

**61.** No person may convey a dead body, which is not covered, or whose any such body or any part thereof in any street, cemetery or public place.

#### **Instruction of Caretaker**

**62.** Every person taking part in any funeral procession or ceremony must comply with the directions of the caretaker while such person is within a cemetery.

**Music Inside Cemetery**

63. Only sacred singing will be allowed in any cemetery, except in the case of police and military funerals.

**Interments Attended by large Numbers of People**

64. In any case where it is probable that an unusually large number of persons will be present at any interment, the person giving notice of such interment must notify the caretaker the day before the funeral.

**CHAPTER 12  
UNDERTAKERS****Preparation of corpses**

65.(a) Corpses to be prepared only at funeral undertaker's premises in respect of which a certificate of competence has been issued

(b) Unless otherwise provided for in this bylaw, no person may prepare and/or store any corpse except on a funeral undertaker's premises in respect of which a certificate of competence has been issued and is in effect.

**Application for the issue or transfer of a certificate of competence**

66.(1)(a) Any person wishing to apply for a certificate of competence in respect of new funeral undertaker's premises will, not less than 21 days before submitting his application to the Council cause a notice of his intention to be published in English, and two other official South African languages in a newspaper that circulates in the area in which such premises will be or is situated.

(b) Such notice must contain information to the effect that an application for the issue of a certificate of competence in terms of this By-law is to be submitted to the Council and that any person who wishes to object to such use may lodge his or her objection, together with substantiated representations, with the Council in writing within 21 days of the date of publication of such notice.

(2) An application for the issue of a certificate of competence must be made to the Council in writing on the prescribed form and must be accompanied by –

(a) a description of the premises and the location thereof; including equipment, storage facilities, preparation areas and toilet facilities.

(b) a complete ground plan of the proposed construction or of existing buildings on a scale of 1:100 including the effluent disposal system

(c) a plan of the premises on which north is shown indicating adjacent premises already occupied by the applicant or other persons and the purpose for which such premises are being utilized or are to be utilized;

(d) Particulars of any person other than the applicant or any of his or her employees who prepares or will prepare corpses on the premises;

(e) a contingency plan for the storage of corpses in the event of a refrigeration or cold room breakdown; and

(f) a cleansing and disinfection programme.

(g) details of registered health care waste remover, transporter and disposer

(3) The Council, when considering issuing a certificate of competence, may request from the applicant or any other person any such further information required.

(4) The Council will not issue or transfer a certificate of competence unless a complete inspection of the premises concerned has been carried out by an environmental health practitioner appointed by the Council and the environmental health practitioner's report on such inspection, including recommendation on such issue or transfer, is in possession of the Council.

#### **Issue or transfer of certificate of competence**

**67.** When the Council is satisfied that the premises concerned –

- (a) complies with all requirements laid down in this By-law and any other applicable legislation;
- (b) are in all respects suitable for the preparation of corpses; and
- (c) will not be offensive to any occupants of premises in the immediate vicinity of such premises, it will, on conditions as it may determine in respect of the funeral undertaker's premises concerned, issue a certificate of competence in the name of the applicant in such form as it may determine or will, by endorsement, transfer an existing certificate of competence to a new holder, as the case may be.

#### **Validity and transfer of certificate of competence**

**68.** A certificate of competence, excluding a provisional certificate of competence, is, on endorsement by the Council, be transferable from one holder to a new holder and such certificate is, if so endorsed, be valid from the date of which it was issued until it is revoked or suspended in terms of this bylaw.

#### **Issue of provisional certificate of competence**

**69.(a)** Notwithstanding the fact that the Council is not satisfied as contemplated in section 4 with regard to funeral undertaker's premises in respect of which a certificate of competence has been applied for, the Council may, in the case of existing funeral undertaker's premises and subject to such conditions as Council may determine, issue a provisional certificate of competence in respect of such premises.

(b) A certificate referred to in subsection (a) will only be issued if the Council is satisfied that the use of such funeral undertaker's premises does not and will not create a nuisance, and will be issued for a maximum period of six months to enable the applicant to alter such premises in order to comply with the provisions of this By-law.

(c) If, after the period referred to in subsection (b), the premises does not comply with the provisions of this By-law, the Council may revoke the provisional certificate of competence.

#### **Duties of holder**

**70.(a)** The holder must immediately inform the Council in writing if there are any changes in the particulars or circumstances supplied to the Council in the application for certificate of competence.

(b) A funeral undertaker must not dispose of a body in any place or premises other than a cemetery or crematoria registered in terms of the KwaZulu-Natal Cemeteries and Crematoria Act, 1996 (Act No. of 1996).

(c) The holder must comply with the provisions of this By-law, applicable legislation and any conditions imposed by the Council.

**Suspension or revocation of a certificate of competence or provisional certificate of competence**

**71.(1)** If the Council is of the opinion, on the strength of an inspection report and/or recommendation by a medical officer of health or environmental health practitioner, that there are reasonable grounds to suspect that –

- (a) the funeral undertaker's premises concerned are utilized in such a way as to create a nuisance or that conditions constituting a nuisance have been or are being created on the funeral undertaker's premises concerned; or
- (b) the premises concerned are utilized in contravention of the provisions of the Health Act, 2003 (Act No. 61 of 2003), this bylaw or other applicable legislation or any conditions imposed by the certificate of competence or provisional certificate of competence, the Council may in its discretion –
  - (i) revoke certificate of competence or provisional certificate of competent concerned;
  - (ii) suspend the certificate of competence or provisional certificate of competence concerned for such period as the Council may determine, to enable the holder to comply with the applicable legislation and/or conditions imposed; provided that if the holder fails to comply within the period stipulated in the notice of suspension, the Council may revoke the relevant certificate without further notice.

(2) A notice issued by the Council in terms of section 71(b)(ii) must be issued in writing, and then served on the holder.

(3) The suspension or revocation of a certificate of competence or provisional certificate of competence in terms of this bylaw will have the effect that, from the date of the notice of suspension or revocation –

- (a) no preparation of any corpse must be performed on the premises concerned;
- (b) no corpse must be received for preparation on the premises concerned; and
- (c) no corpse must be preserved on the premises concerned and every corpse must immediately be removed to a mortuary under the control of the State, a provincial administration or the Councillor any other funeral undertaker's premises, provided that this bylaw will not be applicable and the said notice must not be so construed as to restrict any other business activity relating to the funeral undertaking profession including the sale of coffins and policies.

(4) Where the Council is of the opinion that a condition that gave rise to the revocation of a certificate as contemplated in this bylaw was corrected after such revocation, it may, on written application made by or on behalf of the holder, repeal such revocation by endorsement on the certificate concerned.

**Requirements relating to funeral undertaker's premises**

**72.(1)** Provision for the following must be made on a funeral undertaker's premises -

- (a) a preparation room for the preparation of corpse;
- (b) change-rooms, separate for each sex, for the use of the employees employed at such premises;
- (c) refrigeration facilities for the refrigeration of corpses;
- (d) facilities for washing and cleaning of utensils and equipment inside the building;
- (e) facilities for cleaning of vehicles on the premises; and
- (f) facilities for loading and unloading corpses as contemplated in clause 72(6).

(2) No room on a funeral undertaker's premises must be used for any purpose other than the purpose for which it is intended.

(3) The preparation room -

- (a) must be so designed as to –

(i) be separate from all other rooms on the premises and so as not to be directly accessible from or in view of any office or salesroom: provided that, where a preparation room on existing funeral undertaker's premises is so situated, the entrance thereto must be so concealed that the interior of the preparation room is completely out of sight of any person in any adjoining office or salesroom;

(ii) enable obnoxious odours and vapours to be adequately treated; and

(iii) be sufficiently ventilated and lighted.

(b) must have a floor-covering an area of not less than 6 m<sup>2</sup> for the first table of the kind referred to in section 72(3)(e) and 8m<sup>2</sup> for each additional table; constructed of concrete or similar waterproof material with a smooth non-slippery surface that is easy to clean, and sloped at an angle to ensure that any run-off will drain into a disposal system approved by the Council; and which, if it is replaced or laid after the date of commencement of this By-law, will be provided with half round filling where it meets the walls -

(i) must have walls the inner surfaces of which have a smooth finish and are covered with a light-coloured washable paint or other suitable, smooth, waterproof, light-coloured and washable material;

(ii) must be provided with a ceiling not less than 2,4 m above the floor level, which ceiling must be dust proof and painted with a light-coloured washable paint;

(iii) must contain not less than one table of stainless steel or glazed earthenware or other suitable material, equipped with a raised rim on the outside, a tap with cold running water to which a flexible pipe can be connected and a drainage opening connected to an approved disposal system;

(iv) must contain not less than one wash basin for each table, made of stainless steel or other suitable material, with a working surface of the same material, taps with hot and cold running water and a drainage opening permanently connected to an approved disposal system, and provided with disposable towels, a nailbrush and soap;

(v) must have not less than one tap with running water to which a flexible pipe, long enough to reach all corners of such room, can be connected for cleaning the interior surfaces; and

(vi) must have door openings that are not less than 0,82 m in width and 2,00 m in height so that corpses can be taken into and out of such room without any difficulty.

(4) Each change-room must contain at least the following –

(a) one hand-basin with hot and cold running water for every six employees or part thereof;

(b) disposable towels, soap, nailbrushes and disinfectant; and

(c) not less than one toilet for every 15 male employees or part thereof and not less than one toilet for every 15 female employees or part thereof employed at the funeral undertaker's premises concerned, provided that, where a separate urinal for men forms part of such facilities, one toilet plus one separate urinal must be permissible for every 30 men or part thereof.

(5) Refrigeration facilities such as refrigeration or cold chambers for the keeping of corpses, must be installed in or close proximity of such preparation room and –

(a) where refrigerators are used, it must be constructed of a material that does not absorb moisture, must be provided with removable trays and must be so designed as to drain into an approved drainage system and be easy to clean;

(b) be of such nature that the surface temperature of any corpse must be no higher than 5<sup>o</sup>C during preparation. An accurate thermometer must be provided at the refrigerator or cold chamber and must be operational at all times.

(c) In instances where cold chambers are used, it must comply with sections 10(3)(a)(ii), (b)(ii), (c), (d) and (h) and must be provided with shelves manufactured from a material that does not absorb moisture and that is easy to clean; and

(d) Corpses are not to be stored on top of each other and must be stored individually on the trays or shelves.

(6) The cleansing, loading and unloading facilities must consist of a paved area, screened from public view, with a drainage system into a gulley connected to a sewer system approved by the Council.

(7) The loading and unloading of corpses and the cleansing of vehicles must not take place anywhere except in the area contemplated in section 72(6).

(8) The funeral undertaker's premises must be rodent-proof.

### **Conveyance of Mortal Remains**

**73.** No person may convey any mortal remains –

(a) unless the mortal remains have been sealed in an airtight container and placed in a non-transparent, sturdy, sealed coffin; or

(b) no coffin container in which the mortal remains have been placed may be conveyed unless –

(i) the outer surface of such coffin or container is free from any leakages or any other secretion matter emanating from such mortal remains; and

(ii) offensive odours are absent.

### **Hygiene**

**74.(1)** All health care waste generated must be stored, removed, transported and disposed of in accordance with Council's Environmental Health Bylaws.

(2) Every holder of a certificate of competence relating to funeral undertaker's premises must –

(a) provide clean protective clothing consisting of surgical gloves, gumboots, plastic aprons so designed that the front hangs over the top of the gumboots, face masks and overcoats/overalls to all employees and all other persons involved in the preparation of corpses or post-mortems, and each such employee or other person must, at all times when so involved, wear such clothing;

(b) keep such premises free of pests and insects at all times;

(c) clean immediately after the preparation of any corpse, all working areas or surfaces at such premises where corpses are prepared;

(d) wash and disinfect all equipment used for the preparation of corpses immediately after use;

(e) wash, clean and disinfect all protective clothing that has been used on the premises on a daily basis;

(f) keep such premises clean and tidy at all times; and

(g) if a corpse has been transported without a moisture-proof covering, wash and disinfect the loading space of the vehicle concerned after such corpse has been removed.

## **CHAPTER 13**

### **APPEAL, EXEMPTIONS AND OFFENCES**

#### **Appeal**

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

**Exemptions**

**76.(1)** Any person may by means of a written application, in which the reasons are given in full, apply to the Council for exemption from any provision of this By-law.

(2) The Council may –

- (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
- (b) alter or cancel any exemption or condition in an exemption; or
- (c) refuse to grant an exemption.

(3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the Council under subsection (2). If any activity is commenced with before such undertaking has been submitted to the Council, the exemption granted will be of no force of effect.

(4) If any condition of an exemption is not complied with, the exemption lapses immediately.

(5) The failure to comply with a condition of an exemption in terms of subsection (2) constitutes an offence.

**Offences and penalties**

**77.(1)** Any person –

- (a) contravening or failing to comply with any of the provisions of this By-law;
  - (b) makes a false statement knowing it to be false or deliberately furnishes misleading information to an authorised official or employee of or for the council;
  - (c) threatens, resist, interferes with or obstructs an authorised officer or employee for or of the council in the performance of their duties or functions under this By-law,
- will be guilty of an offence and will upon conviction by a court be liable to a fine not exceeding R 60 000, or imprisonment for a period not exceeding three years or both a fine as well as period of imprisonment, or such other fine or period of imprisonment which the Minister of Justice may from time to time determine in terms of the provisions of section 92 of the Magistrate's Courts Act, 1944 (Act No 32 of 1944).

(2) Any expense incurred by the Council as a result of a contravention of this By-law or in the doing of anything which a person was directed to do under this By-law and which he or she failed to do, may be recovered by the Council from the person who committed the contravention or who failed to do such thing.

**CHAPTER 14****REPEAL OF BY-LAWS****Repeal of existing By-laws**

**78.** The Council's existing Cemeteries, Crematoria and Undertakers By-laws are hereby repealed.

**Short title and commencement**

**79.** This By-law will be called the Emadlangeni Municipality Cemetery, Crematoria and Undertakers By-Law 2015, and shall come into effect on the first day of the month following the date of publication hereof.

## **5. CREDIT CONTROL MUNICIPAL BY- LAW**

Be it enacted by the Council of the Emadlangeni Municipality, in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

### **ARRANGEMENT OF SECTIONS**

#### *Section*

1. Definitions
2. Application of this By-law
3. Provision of municipal services to applicants
4. General terms and conditions for the provision of municipal services
5. Estimated consumption
6. New service agreements and deposits or security by existing customers
7. Termination of service agreements
8. Notices of compliance
9. Accounts
10. Account information
11. Account Administration
12. Queries or complaints in respect of accounts
13. Appeals against decision by service providers on queries and complaints
14. Arrear accounts
15. Action to secure payment
16. Power to terminate or restrict provision of municipal services
17. Reinstatement of municipal services
18. Interest charges
19. Collection charges
20. Full and final settlement of an amount
21. Accounts outstanding after the due date
22. Agreements for the payment of arrears in instalments
23. Disputes as to amounts owing
24. Dishonoured cheques
25. Registration as indigent person
26. Council's right of access to premises
27. Conflicting laws
28. Preservation of rights consequent on non-compliance
29. Transmission of documentation
30. Prima facie evidence of documentation
31. Appeals
32. Offences
33. Repeal of By-laws
34. Short title and commencement

## CHAPTER 1 DEFINITIONS AND APPLICATION

### Definitions

1. In this by-law, unless inconsistent with the context –

“**account**” means a notification by means of a statement of account to a person liable for payment of any amount for which he or she is liable to pay the Council in respect of the following –

- (a) electricity consumption or availability fees based on a meter reading or estimated consumption;
- (b) water consumption or availability fees based on a meter reading or estimated consumption;
- (c) refuse removal and disposal;
- (d) sewerage services and sewer availability fees;
- (e) rates;
- (f) interest; and
- (g) miscellaneous and sundry fees and collection charges.

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

“**authorised official**” means any official or agent of the Council who has been authorised by it to administer, implement and enforce the provisions of this By-law;

“**By-law**” means a By-law adopted and promulgated by the Council;

“**collection charges**” means charges which may be recovered by the Council in terms of section 75A of the Act, and includes the cost –

- (a) of reminding customers of arrears;
- (b) for the termination, restriction and reinstatement of municipal services;
- (c) of any notice rendered, sent or delivered in terms of this By-law; and
- (d) all legal costs, including attorney and client costs, incurred in the recovery of arrear amounts;

“**Council**” means –

- (a) the Emadlangeni Municipality, exercising its legislative and executive authority through its municipal council;
- (b) its successor-in-title;
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in this By-law has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Act; and
- (d) a service provider fulfilling a responsibility under this By-law;

“**customer**” means any occupier of premises to which the Council has agreed to provide or is actually providing any municipal service, or if there is no occupier, the owner of the premises concerned;

“**fee**” means a fee prescribed for or in respect of any municipal service;

“**municipal manager**” means the person appointed municipal manager in terms of section 54A of the Act and includes any person acting in that capacity;

“**municipal service**” means any or all of the services specified in subparagraphs (i) to (iv), inclusive, of section 2(1)(b);

**“occupier”** means any person who occupies any premises or part thereof, without regard to the title under which he or she so occupies;

**“owner”** –

- (a) in relation to a property referred to in paragraph (a) of the definition of “property”, means a person in whose name ownership of the property is registered;
- (b) in relation to a right referred to in paragraph (b) of the definition of “property”, means a person in favour of whom the right is registered;
- (c) in relation to a right referred to in paragraph (c) of the definition of “property”, means a person in favour of whom the right is registered or to whom it was granted in terms of any law; and
- (d) in relation to public service infrastructure referred to in paragraph (d) of the definition of “property”, means the organ of state which owns or controls that public service infrastructure, and includes a person who the Council may for the purpose of this By-law regard as the owner of a property in the following cases –
  - (i) A trustee, in the case of a property in a trust excluding state trust land;
  - (ii) an executor or administrator, in the case of a property in a deceased estate;
  - (iii) a trustee or liquidator, in the case of a property in an insolvent estate or the owner of which is in liquidation;
  - (iv) a judicial manager, in the case of a property in the estate of a person under judicial management;
  - (v) a curator, in the case of a property in the estate of a person under curatorship; (vi) a person in whose favour a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
  - (vii) a lessee, in the case of a property that is registered in the name of the Council and is let by it; or
  - (viii) a buyer, in the case of a property that was sold by the Council and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

**“Policy”** means the Credit Control and Debt Collection Policy adopted by the Council;

**“prescribed”** means prescribed by the Council from time to time, by resolution;

**“premises”** means any piece of land, with or without any building or structure thereon, the external surface boundaries of which are delineated on –

(a) a general plan or diagram registered in terms of the Land Survey Act, 1927 (Act No. 9 of 1927), or in terms of the Deeds Registry Act, 1937 (Act No. 47 of 1937); or

(b) a sectional plan registered in terms of the Titles Act, 1986 (Act No. 95 of 1986), which is situated within the area of jurisdiction of the Council;

**“property”** means –

(a) immovable property registered in the name of a person, including, in the case of a Sectional title scheme, a sectional title unit registered in the name of a person;

(b) a right registered against immovable property in favour of a person, excluding a mortgage bond registered against the property;

(c) a land tenure right registered in favour of a person or granted to a person in terms of any law; or

(d) public service infrastructure;

**“rates”** means a municipal rate on property levied in terms of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004).

#### **Application of this By-law**

2.(1) This By-law only applies in respect of amounts of money due and payable to the Council for –

(a) rates;

(b) fees and surcharges on fees in respect of the following municipal services –

(i) The provision of water and the availability thereof;

(ii) refuse removal and disposal;

(iii) sewerage and the availability thereof; and

(iv) electricity consumption and the availability thereof;

(c) interest which has or will accrue in respect of any amount of money due and payable or which will become due and payable to the Council in regard to rates and municipal services; and

(d) collection charges;

(2) This By-law also applies to any municipal service provided through pre-paid meters, in so far as the By-law may be relevant.

## **CHAPTER 2**

### **SERVICE AGREEMENTS AND GENERAL TERMS AND CONDITIONS OF PROVISION OF MUNICIPAL SERVICES**

#### **Provision of municipal services to applicants**

3.(1) No municipal service may be provided to any applicant, unless and until –

(a) application for the service has been made in writing on a form substantially similar to the form prescribed;

(b) any information and documentation required by the Council have been furnished;

(c) a service agreement, in the form substantially similar to the form of agreement prescribed, has been entered into between the customer and the Council; and

(d) an amount equal to the amount prescribed, in cash or a bank cheque, has been deposited as security or other acceptable security, as prescribed, has been furnished.

(2) If an applicant for a municipal service is an existing customer of the Council in respect of any other municipal service in respect of which the account is in arrears –

- (a) such arrears must be paid; or
- (b) an agreement for payment of the arrears in terms of section 22 must have been entered into and payment in terms thereof must not be in arrears, before an application for a new service in terms of this section may be considered.

(3) The Council may at any time require a customer to increase a deposit paid or security furnished in terms of subsection (1)(d);

(4) No interest is payable on any amount deposited in terms of subsection (1)(d) or (3).

#### **General terms and conditions for the provision of municipal services**

4. The general terms and conditions for the provision of any municipal service set out in a service agreement contemplated in section 3(1)(c) are deemed to be incorporated in this By-law and apply to the provision of such service to any customer.

#### **Estimated consumption**

5. The Council may have an estimate made of the consumption of water or electricity for any relevant period if –

- (a) no meter reading could be obtained in respect of the period concerned; or
- (b) no meter has been installed to measure the consumption on the premises concerned, and the customer concerned is liable for payment of the prescribed fee in respect of such estimated consumption.

#### **New service agreements and deposits or security by existing customers**

6.(a) Any existing customer, or the trustee, liquidator, judicial manager or curator of such customer, may be required by the Council to enter into a new service agreement to replace an existing agreement of the customer concerned, and to pay a deposit or furnish security contemplated in section 3, notwithstanding the fact that a service agreement was previously entered into in respect of the municipal service concerned and the provisions of section 3(3) apply in respect of such new agreement.

(b) The provisions of section 3(4) apply to a deposit referred to in subsection (1).

#### **Termination of service agreements**

7. (1) Subject to the provisions of sections 14 and 22 –

- (a) a customer may terminate an agreement for the provision of any municipal service by notice in writing of not less than seven days' to the Council, of his or her intention to do so;
- (b) the Council may, subject to compliance with the provisions of this By-law and any other applicable law, by notice in writing of not less than 14 days, to a customer, terminate his or her agreement for the provision of the municipal service concerned, if the customer –
  - (i) has not used the municipal service during the preceding six months and has not made arrangements to the satisfaction of the Council for the continuation of the agreement; or

- (ii) has, in relation to the municipal service concerned, failed to comply with any provision of this By-law and has failed to rectify such failure after the service on him or her of a notice of compliance in terms of section 8;
- (iii) has failed to pay any prescribed fee, collection charge or interest due and payable in respect of the municipal service concerned;
- (iv) has made an arrangement with another services provider to provide the municipal service concerned to the customer; or
- (v) has vacated the premises to which the agreement concerned relates.

(2) A customer to whom notice has been given in terms of subsection (1)(b), may within the period of 14 days referred to in that subsection, make written representations to the Council why the agreement concerned should not be terminated and if such representations are unsuccessful, either wholly or in part, the agreement concerned may only be terminated if the decision on such representations justifies it.

#### **Notices of compliance**

8. If a customer fails or refuses to comply with any provision of this By-law, a notice of compliance must be served on that customer, requesting him or her, subject to the provisions of section 7(2), to forthwith comply with the provision concerned to avoid the termination of his or her agreement in terms of section 7(1)(b)(ii).

### **CHAPTER 3**

#### **ACCOUNT ADMINISTRATION**

##### **Accounts**

9.(1) Accounts must be rendered and administered in accordance with the Policy, other prescribed requirements and any other law.

(2) Failure by the Council to render an account does not relieve a customer of the obligation to pay any amount that is due and payable in terms of this By-law.

(3) The Council may, in accordance with the provisions of section 102 of the Act –

- (a) consolidate any separate accounts of a customer liable for payments in terms of this By-law to the Council;
- (b) credit any payment by such customer against any account of that customer; and
- (c) implement any of the debt collection and credit control measures provided for in this By-law in relation to any arrears on any of the accounts of a customer.

(4) The amount due and payable by a customer constitutes a consolidated debt, and any payment made by a customer of an amount less than the total amount due, will, subject to the provisions of section 20(a), be allocated in reduction of the consolidated debt in the order prescribed.

- (5)
  - (a) Any amount paid by a customer in excess of an existing debt may be held in credit for the customer in anticipation of future rates and fees for municipal services or for the purposes contemplated in section 15(b).
  - (b) No interest is payable on any amount contemplated in paragraph (a)

**Account information**

**10.** Accounts must contain the following –

- (a) the consumption or estimated consumption as determined for the measuring or consumption period;
- (b) the measuring or consumption period;
- (c) the applicable prescribed fee;
- (d) the amount due based on the estimated consumption;
- (e) the amount due and payable for any other municipal service;
- (f) the amount in arrears, if any;
- (g) the interest payable on any arrears, if any;
- (h) collection charges insofar as they may be relevant;
- (i) the final date for payment; and
- (j) the methods, places and approved agents where payment may be made.

**Account administration**

**11.** The Council must, subject to the provisions of section 5, endeavour to ensure –

- (a) accurate metering of consumption at fixed intervals with the minimum delay between service connection and first and subsequent rendering of accounts;
- (b) accurate and up-to-date information in accounts;
- (c) accurate monthly accounts with the application of the appropriate and correct prescribed fees, rates and other related amounts due and payable;
- (d) the timely dispatch of accounts;
- (e) adequate provision and the efficient operation of facilities for payment throughout the municipal area;
- (f) the appointment of agents to accept payments on behalf of the Council; and
- (g) appropriate hours of business in order to facilitate account payments.

**Queries or complaints in respect of accounts**

**12.(1)** A customer may lodge a query or complaint in respect of the accuracy of any amount due and payable in terms of an account rendered to him or her in terms of this By-law.

(2) A query or complaint must be lodged with the Council before or on the due date for payment specified in the account concerned, or as soon as reasonably possible thereafter.

(3) If a query or complaint is lodged after the due date for payment specified in the account concerned, such query or complaint must be accompanied by the payment of at least an amount equal to the average amount per month that was due and payable in respect of the service concerned during the preceding three months.

(4) An authorised official must register the query or complaint and provide the customer with a reference number.

(5) The Council must –

- (a) investigate or cause the query or complaint to be investigated within 14 days, or as soon as possible after the query or complaint was received; and
- (b) inform the customer, in writing, of its finding as soon as possible after conclusion of the investigation, instructing that any amount found to be due and payable must, subject to the provisions of section 22, be paid within 21 days from the date on which the customer is

notified thereof, unless an appeal is lodged within that period in terms of subsection (6) or section 13.

(6) A customer may, subject to the provisions of section 13, lodge an appeal with the municipal manager in terms of section 62 of the Act against a decision referred to in subsection (5), within 21 days of the date of the notification of the decision.

(7) The Council must inform the customer concerned in writing of the decision on the appeal, instructing that any amount found to be due and payable, must be paid within seven days from the date on which the customer is notified thereof.

#### **Appeals against decision by service providers on queries and complaints**

**13.(1)** If a decision contemplated in section 12(5) has been made in respect of a municipal service provided by a service provider fulfilling a responsibility under this By-law, assigned to it in terms of section 81(2) of the Act, a customer may lodge an appeal against that decision by giving written notice of the appeal and reasons to the chief executive officer of the service provider concerned, within 21 days of the date of the notification of the decision.

(2) The chief executive officer must promptly submit the appeal to the appropriate appeal authority specified in subsection (4).

(3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation may detract from any rights that may have accrued as a result of the decision.

(4) If an appeal is against a decision taken by –

- (a) a staff member, other than the chief executive officer, the chief executive officer is the appeal authority;
- (b) the chief executive officer or any committee of the service provider –
  - (i) the board of directors of the service provider; or
  - (ii) a committee of directors who were not involved in the decision concerned and appointed by the board of directors for this purpose, is the appeal authority.

(5) An appeal authority contemplated in subsection (4), must commence with an appeal within 42 days and decide the appeal within a reasonable period.

(6) A service provider must comply with the provisions of section 12(7).

#### **Arrear accounts**

**14.(1)** If a customer fails to pay an amount due and payable for any municipal service or rates on or before the due date for payment specified in the account concerned, a final demand notice may be sent to the customer.

(2) Failure by the Council to send a final demand notice does not relieve a customer from paying the arrears concerned.

(3) A final demand notice referred to in subsection (1), must contain the following –

- (a) the amount in arrears and any interest payable, and a statement that payment must be made within 14 days of the date of the final demand notice;

- (b) that the customer may in terms of section 22, conclude a written agreement with the Council for payment of the amount in arrears in instalments within the period contemplated in paragraph;
- (c) that if no such agreement is entered into within the period stipulated in paragraph (b), that the water or electricity services may be terminated or restricted and that legal action may be instituted for the recovery of any amount in arrear without further notice;
- (d) that the customer's name may be made public, and may be listed with a credit bureau in terms of section 21(1)(a);
- (e) that the account may be handed over to a debt collector or attorney for collection;
- (f) that proof of registration as an indigent person in terms of section 25 and any other documentation required by the Council must be furnished to the Council on or before the date for payment contemplated in paragraph (a);
- (g) that an indigent person referred to in paragraph (f) is only entitled to benefits relating to municipal services as stipulated in the Council's policy relating to the supply of municipal services to indigent persons; and
- (h) that the customer has an opportunity to make representations in writing on any matter referred to in a final demand notice within the period of 14 days contemplated in paragraph (a).

#### **Action to secure payment**

**15.** The Council may, in addition to the normal civil legal steps to secure payment of any in arrear amount of accounts, take the following action to secure payment of such amount –

- (a) The termination or restriction of the provision of any municipal service in terms of section 16; and
- (b) the allocation of the whole or a portion of a payment of an account, or the whole or a portion of a pre-payment for future accounts as contemplated in section 9(5)(a), as payment for arrear municipal service fees or rates, in terms of section 20.

#### **Power to terminate or restrict provision of municipal services**

**16.** (1) For the purposes of subsection (2), a final demand notice means a notice contemplated in sections 12(5)(b), 12(7), 13(6) and 14(1).

(2) Subject to the provisions of subsection (4), the Council may terminate or restrict the provision of water or electricity, or both, whichever service is relevant, in terms of the prescribed termination and restriction procedures, to any premises if the customer in respect of the municipal service concerned –

- (a) fails to make full payment of arrears specified in a final demand notice sent to the customer concerned, before or on the date for payment contemplated in sections 12(5)(b), 12(7), 13(6) or 14(1), whichever is applicable, and no circumstances have arisen which requires the Council to send a further final demand notice to that customer in terms of any of those sections, and the customer –
  - (i) fails to enter into an agreement in terms of section 22, in respect of the arrears concerned before termination or restriction of the service concerned; or
  - (ii) fails to submit written proof of registration as an indigent person in terms of section 25, before such termination or restriction;
- (b) fails to pay any instalment payable in terms of an agreement referred to in paragraph (a)(i) before or on the due date;

(c) fails to comply with any condition of provision in respect of electricity or water, as the case may be, imposed by the Council;

(d) obstructs the efficient provision of electricity or water to another customer;

(e) provides electricity or water to a person who is not entitled thereto or permits such provision to continue;

(f) causes a situation relating to electricity or water which, in the opinion of the Council, is dangerous or constitutes a contravention of any applicable law, including the common law;

(g) in any way reinstates the provision of a previously terminated or restricted electricity or water service;

(h) is placed under provisional sequestration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, 1936 (Act No. 24 of 1936) or is subject to an administration order granted in terms of section 74 of the Magistrates Court Act, 1944 (Act No. 32 of 1944), and there is a failure to enter into a new service agreement within 14 days of the Council requiring such service agreement in terms of section 6.

(3) The Council may send a termination notice to a consumer informing him or her –

(a) that the provision of the service concerned will be, or has been terminated on the date specified in such notice; and

(b) of the steps which can be taken to have the service reinstated.

(4) Any action taken in terms of subsections (1) and (2) is subject to compliance with:

(a) sections 3 and 4 of the Water Services Act, 1997 (Act No. 108 of 1997), if the provision of water is involved;

(b) the relevant provisions of the Electricity Act, 1987 (Act No. 41 of 1987), if the provision of electricity is involved;

(c) the relevant provisions of the Health Act, 2003, (Act No. 61 of 2003), and any regulations made in terms of that Act; and

(d) the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), in so far as it is applicable.

#### **Reinstatement of municipal services**

**17.** (1) The Council must reinstate full levels of provision of any electricity or water service terminated or restricted in terms of section 16(1) after –

(a) the full amount of arrears, including interest and collection charges, if any, have been paid; or

(b) an agreement for payment of the arrears contemplated in paragraph (a) has been entered into in terms of section 22; or

(c) the full amount of arrears in respect of any agreement referred to in paragraph (b), including interest and collection charges if any, and any increase deposit, have been paid, or any additional security required has been provided, and any other condition of the Policy that the Council may consider appropriate, has been complied with.

(2) Any reinstatement in terms of subsection (1) may only be done after an authorised official has issued a written certificate of authorisation to the effect that every applicable condition contemplated in subsection (1) has been complied with and that the municipal service concerned may be reinstated.

**Interest charges**

18. All arrears in respect of accounts for rates and municipal services bear interest at a rate prescribed.

**Collection charges**

19. A prescribed collection charge may be levied against the account of a customer, in respect of any relevant action taken in terms of, or for the purposes of, this By-law.

**Full and final settlement of an amount**

20.(a) The Council may appropriate monies received in respect of any debt contemplated in this By-law at its sole discretion, unless the customer otherwise instructs in writing.

(b) If any amount due and payable to the Council in terms of this By-law has not been paid in full, any lesser amount tendered to and accepted by any municipal employee, does not constitute payment in full and final settlement of the full amount, unless the lesser amount was accepted in full and final settlement in writing, under a power delegated or sub-delegated to such employee in terms of section 59 of the Act.

**Accounts outstanding after the due date**

21.(1) If an account for assessment rates or any municipal service rendered to a customer remains unpaid, wholly or in part, after the due date for payment stipulated in the account concerned –  
(a) the defaulting customer's name may be made public, and may be listed with a credit bureau; and  
(b) may be handed over to a debt collector or an attorney for collection.

(2) A customer is liable for any interest and collection charges and in addition payment of a higher deposit or the provision of additional security, if required by the Council.

(3) No action taken in terms of this section may be suspended or withdrawn, unless the arrears, any interest thereon, collection charges, and higher deposit, if required by the Council, have been paid in full or, instead of a higher deposit, additional security has been provided, if so required.

**Agreements for the payment of arrears in instalments**

22.(1) A customer with positive proof of identity or a person authorised, in writing, by such customer, may, subject to the approval of the Council, enter into an agreement in a form substantially similar to a form prescribed, for the payment of arrears in instalments.

(2) The amount due and payable by a customer in terms of an agreement contemplated in subsection (1), constitutes a consolidated debt and any payment made by a customer of an amount less than the total amount due, must be allocated in reduction of the consolidated debt in the order prescribed, unless the customer otherwise instructs in writing.

(3) A customer may be required to arrange a debit order for the payment of arrears in respect of which an agreement, contemplated in subsection (1), has been entered into.

(4) Subject to the provisions of subsection (5), no agreement for the payment of arrears may allow for a period of payment of longer than 24 months.

(5)(a) The Council may allow a period of payment in excess of 24 months for the payment of arrears, but not exceeding a period of 60 months, if special circumstances which the customer could not reasonably have prevented or avoided, prevail and which, in the opinion of the Council, warrant a longer period of payment.

(b) Documentary proof of any special circumstances as contemplated in paragraph (a), must be furnished by a customer on request by the Council.

(6) The Council must, in exercising its discretion in terms of subsection (5), have regard to a customer's –

- (a) credit record;
- (b) consumption;
- (c) ability to afford the proposed instalments, taking into account the customer's financial situation;
- (d) level of service;
- (e) previous breaches of agreements for the payment of arrears in instalments; and
- (f) any other relevant factor.

(7) A copy of an agreement contemplated in subsection (1), must, on request, be furnished to the customer concerned.

(8) If a customer fails to comply with an agreement contemplated in subsection (1), the total outstanding amount, including the arrears, any interest thereon, any collection charges, and payment of a higher deposit if required by the Council, will immediately become due and payable, and additional security, if so required, must be provided, without further notice.

(9) If a customer fails to comply with an agreement contemplated in subsection (1), entered into after receipt of a termination notice for water or electricity services, or both, as the case may be, the municipal service concerned may be terminated without further notice, in addition to any other action taken against or which may be taken against the customer concerned.

(10) No customer is permitted to enter into an agreement contemplated in subsection (1), if that customer has failed to honour a previous agreement for the payment of arrears in instalments, unless the Council otherwise decides.

(11) Once an agreement contemplated in subsection (1), has been concluded, the amount in arrears must be reflected as a current amount, and no further interest may be added.

#### **Disputes as to amounts owing**

**23.** If any dispute arises as to any amount owing by a customer, the customer must, pending resolution of that dispute, continue to make regular monthly payments in respect of rates, if applicable, and in respect of any municipal service concerned based on the average monthly fees for the preceding three months prior to the dispute arising, plus interest if applicable, until the resolution of that dispute.

#### **Dishonoured cheques**

**24.** If any payment is made to the Council by a negotiable instrument, and such negotiable instrument is dishonoured, the Council may levy costs and administration fees against the account of the defaulting customer at a prescribed rate.

**CHAPTER 4****INDIGENT PERSONS****Registration as indigent person**

**25.(1)** A person who wishes to receive assistance in terms of the Council's policy for the provision of municipal services to indigent persons, must make application for registration as an indigent person on a prescribed form at any of the Council's offices.

(2) An application in terms of subsection (1), must be considered by the Council which must adhere to the principles of transparency, equity, consistency, non-discrimination, accessibility, empathy, integrity, confidentiality and objectivity during the evaluation process.

(3) An applicant, contemplated in subsection (1), must, at the request of the Council, furnish any further information to enable the Council to arrive at a decision and the Council may, for the purpose of properly evaluating the application, also conduct any investigation which it considers appropriate.

(4) An applicant must be informed that he or she will automatically be disqualified from receiving any assistance contemplated in subsection (1), and be liable to –

(a) refund the amount of any such assistance received from the Council, if the application or information contemplated in subsection (3), contains any false information; and

(b) prosecution if any false information as contemplated in paragraph (a) is furnished by the applicant.

(5) If the Council finds an applicant to be indigent, such applicant is entitled to assistance in terms of the Policy referred to in subsection (1), and his or her personal particulars must be recorded in a prescribed register of indigent persons.

(6) The position of every indigent person so recorded, must be reviewed annually by an authorised official in accordance with the directives of the Council.

(7) A successful applicant must be informed in writing that he or she must immediately notify the Council when his or her indigent status has changed.

**CHAPTER 5****MISCELLANEOUS****Council's right of access to premises**

**26.** The Council may exercise its right of access to premises in terms of section 101 of the Act through the municipal manager or any authorised official or any duly appointed agent of the Council, authorised thereto in writing.

**Conflicting laws**

**27.** If there is any conflict between a provision in this By-law and a provision of any other By-law, the provision in this By-law must prevail.

**Preservation of rights consequent on non-compliance**

28. A failure by the Council to comply with any provision of this By-law does not in any way affect the liability of any person to pay any amount due and payable to the Council as contemplated in this By-law, nor the Council's right to recover such amount.

**Transmission of documentation**

29. Subject to the provisions of any law, if in terms of or for the purposes of this By-law any written communication must or may be rendered, sent or delivered –

(a) by the Council to any person, such communication must be –

(i) delivered by hand –

(aa) to that person's domicilium citandi et executandi, as stipulated in an agreement entered into in terms of section 3(1)(c) or 6(a); or

(bb) in the absence of such agreement, to that person's most recently recorded address; or

(cc) to the premises concerned in respect of which rates are levied or any municipal service is provided, whichever is relevant; or

(ii) sent by post to the address referred to in subparagraph (i)(aa) or (bb), whichever is applicable, or to the address of the premises contemplated in subparagraph (i)(cc).

(b) by any person to the Council, such communication must be –

(i) delivered by hand to –

(aa) the Council's domicilium citandi et executandi stipulated in the agreement contemplated in paragraph (a)(i)(aa); or

(bb) another address, if the Council in writing furnished such an address to the person concerned; or

(ii) sent by post to the address referred to in subparagraph (i)(aa) or, in the circumstances contemplated in subparagraph (i)(bb), to the address contemplated in that subparagraph.

**Prima facie evidence of documentation**

30. For the purposes of the recovery of any amount due and payable to the Council in terms of this By-law –

(a) a copy of any relevant account; and

(b) an extract from the Council's records relating to the quantity of consumption or provision of any municipal service and the period of provision of such service, certified by an authorised official as being correct,

constitute prima facie evidence of the information contained in such documents.

**CHAPTER 6****APPEALS****Appeals**

31.(1) A person whose rights are affected by a decision taken by any authorised official under this By-law, may appeal against the decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.

(2) The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4).

(3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

(4) When the appeal is against a decision taken by –

- (a) a staff member other than the municipal manager, the municipal manager is the appeal authority;  
or  
(b) the municipal manager, the executive mayor is the appeal authority.

(5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

## **CHAPTER 7**

### **GENERAL**

#### **Offences**

**32.(1)** Any person who -

- (a) contravenes or fails to comply with any provisions of this By-law;
- (b) fails to comply with any lawful instruction given in terms of this By-law; or
- (c) obstructs or hinders any authorised official in the execution of his or her duties under this By-law –

will be guilty of an offence and will be liable on conviction to a fine not exceeding R5 000 or imprisonment for a period not exceeding 3 months or both.

#### **Repeal of existing By-laws**

**33.** The Council's existing Credit Control and Debt Collection By-laws are hereby repealed.

#### **Short title and commencement**

**34.** This By-law will be called the Emadlangeni Municipality Credit Control By-law 2015, and shall come into effect on the first day of the month following the date of publication hereof.

## **6. ELECTRICITY SUPPLY MUNICIPAL**

### **BY-LAWS**

Be it enacted by the Council of Emadlangeni Local Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

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Section 6 : Deposits

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**CHAPTER 1****GENERAL****Definitions**

1. In these by-laws, unless inconsistent with the context, any term defined in the Electricity Act No. 41 of 1987) or Occupational Health and Safety Act, 1993 (Act No. 85 of 1993) and the regulations made in terms thereof shall have the meaning given to it in that Act and -

**"accredited person"** means a person registered in terms of these by-laws as an electrical tester for single phase, an installation electrician or a master installation electrician, as the case may be;

**"applicable standard specification"** means-

(a) SABS 1607 Electromechanical watt-hour meters;

- (b) SABS 1524 Parts 0,1 and 2-Electricity dispensing systems;
- (c) SABS IEC 60211 Maximum demand indicators, Class 1.0;
- (d) SABS IEC 60521 Alternating current electromechanical watt-hour meter (Classes 0.5, 1 and 2);
- (e) SABS 0142 Code of practice for the wiring of premises;
- (f) NRS 048 National Rationalised Specification for the Electricity Supply-Quality of Supply; and
- (g) NRS 057 Electricity Metering;

"**approved**" means approved in writing by the Engineer;

"**certificate of compliance**" means a certificate issued in terms of these by-laws in respect of an electrical installation or part of an electrical installation by an accredited person;

"**consumer**" means the occupier of any premises to which the Council has agreed to supply or is actually supplying electricity, or, if there is no occupier, any person who has entered into a current agreement with the Council for the supply of electricity to such premises, or, if there is no such person, the owner of the premises;

"**conventional meter**" means a meter where an account is issued subsequent to the consumption of electricity;

"**Council**" means the Council of Emadlangeni Municipality and its committees or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any power and duties with regard to these bylaws;

"**engineer**" means the official in charge of the electricity undertaking of the Council or any other person duly authorised to perform this duty on his or her behalf;

"**high voltage**" means the set of nominal voltage levels that are used in power systems for bulk transmission of electricity in the range of 44kV and less than 220 kV [SABS 1019];

"**low voltage**" means the set of nominal voltage levels that are used for the distribution of electricity and whose upper limit is generally accepted to be an a.c. voltage of 1000V (or a d.c. voltage of 1500 V) [SABS 1019];

"**Medium voltage**" means the set of nominal voltage levels that lie above low voltage and below high voltage in the range of 1 kV and less than 44 kV [SABS 1019];

"**motor load, total connected**" means the sum total of the kW input ratings of all the individual motors connected to an installation; "motor rating" means the maximum continuous kW output of a motor as stated on the maker's rating plate;

"**motor starting current**" in relation to alternating current motors means the root-mean-square value of the symmetrical current taken by a motor when energised at its rated voltage with its starter in the starting position and the rotor locked;

"**NRS 047**" means National Rationalised Specification 047: Electricity Supply-Quality of Service; or  
"occupier", in relation to any premises, means any person -

- (a) occupying the premises;
- (b) leasing the premises; or
- (c) who is not occupying the premises but is entitled to do so;

"owner", in relation to any premises, means -

- (a) the person in whose name the title to the premises is registered; or
- (b) if the person referred to in (a) is dead, insolvent, mentally ill, a minor or under any legal disability, the executor, guardian or other person who is legally responsible for administering that person's estate;

"**point of metering**" means the point at which the consumer's consumption of electricity is metered, whether at the point of supply or at any other point on the distribution system of the Council or the electrical installation of the consumer, as specified by the Engineer; provided that it shall meter all of, and only, the consumer's consumption of electricity;

"**point of supply**" means the point determined by the Engineer at which electricity is supplied to any premises by the Council; "premises" means any land or any building or structure above or below ground and includes any vehicle, aircraft or vessel; "prepayment meter" means a meter that can be programmed to allow the flow of pre-purchased amounts of energy in an electrical circuit; "safety standard" means the Code of Practice for the Wiring of Premises (SABS 0142 incorporated);

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

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

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

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

"**tariff**" means the Council's tariff of charges for the supply of electricity;

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

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

**CHAPTER 2****GENERAL CONDITIONS OF SUPPLY****Supply by agreement**

2. (1) No person shall use or be entitled to use an electricity supply from the Council unless or until such person shall have entered into an agreement in writing with the Council for such supply.

(2) The agreement referred to in subsection (1) shall, together with the provisions of this by-law, govern all aspects of electricity supply.

(3) Any person who uses an electricity supply without entering into an agreement referred to in subsection (1) shall be guilty of an offence and shall be liable for the cost of electricity used as stated in section 44(2) of this by-law.

**Application for supply**

3.(1) Application for the supply of electricity shall be made in writing by the prospective consumer on the prescribed form obtainable at the office of the Council, and the estimated load, in kVA, of the installation, shall be stated therein.

(2) An application for an electricity supply for a period of less than one year shall be regarded as an application for a temporary supply and shall be considered at the discretion of the Engineer, who may specify any special conditions to be satisfied in such case.

(3) Applications for the supply of electricity will be processed and the supply made available within the periods stipulated in the NRS 047.

**Way leaves**

4(1) The Council may refuse to lay or erect a service connection or supply mains above or below ground on any thoroughfare not vested in the Council or on any private property, unless and until the prospective consumer shall have obtained and deposited with the Council written permission granted by the owner of the said private property or by the person in whom is vested the legal title to the land upon which any such thoroughfare as aforesaid exists, as the case may be, authorising the laying or erection of a service connection or supply mains thereon.

(2) If such permission is withdrawn at any time or if the aforesaid private property or thoroughfare changes ownership and the new owner refuses to grant or continue such permission, the cost of any alteration required to be made to a service connection or to supply mains in order that the supply may be continued, and of any removal thereof which may become necessary in the circumstances, shall be borne by the consumer to whose premises the supply is required to be continued.

**Electricity tariffs and fees**

5.(1) The consumer shall be liable for all charges for all electricity supplied to his or her premises at the prescribed tariff rates.

(2) The Council shall provide a statement of account indicating-

(a) the meter reading;

(b) the meter reading date;

(c) the due date for payment; and

(d) a warning that interest accrues on outstanding amounts and that the supply may be disconnected should the charges in respect of such supply remain unpaid after the due date.

(3) All accounts shall be deemed to be payable when issued by the Council.

(4) An error or omission in any account or failure to render an account shall not relieve the consumer of his obligation to pay the correct amount due for electricity supplied to the premises and the onus shall be on the consumer to satisfy himself that the account rendered is in accordance with the prescribed tariff of charges in respect of electricity supplied to the premises.

### **Deposits**

6(1). The Council reserves the right to require a consumer to deposit a sum of money as security for any charges which are due or may become due to the Council.

(2) The deposit referred to in subsection (1) shall not be regarded as being in payment or part payment of any accounts due for the supply of electricity for the purpose of obtaining any discount provided for in the electricity tariff referred to in this by-law.

(3) On cessation of the supply of electricity, the amount of such deposit, free of any interest, less any payments due to the Council shall be refunded to the consumer.

### **Availability charges**

7(1) Availability charges as determined from time to time by the Council are payable to the Council by the owner of immovable property, with or without improvements, which is not connected to the electricity distribution system of the Council, if access to an electricity connection is available to such property.

(2) The provisions of subsection (1) are not applicable to-

(a) immovable property which belongs to the Council;; and

(b) immovable property in respect of which the Council has granted written exemption or partial exemption of payment of the availability charges; provided that the Council may at any time withdraw any such exemption by written notice to the owner of the property concerned stipulating reasons for such withdrawal.

### **Interest on overdue accounts**

8(1) The Council may charge interest on overdue accounts at a rate of interest which is one percent higher than the rate of interest payable by the Council to its bank in respect of an overdraft.

(2) The date on which the payment of interest on arrear accounts will come into effect shall be the eighth day of the month if this day is a week day or the first week day after the eighth if the eighth falls on a weekend or a public holiday.

#### **Leakage of electricity**

9. No rebate shall be allowed on any account for electricity supplied and metered as a result of electricity wasted owing to leakage or any other fault in the electrical installation.

#### **Right to disconnect supply**

10(1). The Council shall have the right to disconnect electricity supply to any premises if the consumer fails to pay any amount due to the Council in connection with such supply, or, where any of the provisions of this by-law has been contravened, after 48 hour's notice has been given to the consumer of its intention to do so, or, in the case of a grave risk, without notice.

(2) After disconnection for non-payment of an account or a contravention of any provision of this by-law, the prescribed fees and any amounts due for electricity consumed shall be paid before reconnection is made.

#### **Failure of supply**

11(1). The Council does not undertake to attend to any failure of supply within a specified time, but shall make all reasonable attempts to attend to any such failure.

(2) When any failure of supply is found to be due to a fault in the electrical installation of the consumer or to the faulty operation of apparatus used in connection therewith, the Council shall have the right to charge the consumer the fee as prescribed by the Council for each restoration of the supply in addition to the cost of making good or repairing any damage which may have been done to the service main and meter by such fault or faulty operation as aforesaid.

#### **Temporary disconnection and reconnection**

12(1). The Engineer shall, at the request of the consumer, temporarily disconnect and reconnect the supply to the consumer's electrical installation upon payment of the fee as prescribed by the Council for each such disconnection and subsequent reconnection.

(2) In the event of the necessity arising for the Engineer to effect a temporary disconnection and reconnection of the supply to a consumer's electrical installation and the consumer is in no way responsible for bringing about this necessity, the Engineer shall waive payment of the fee hereinbefore referred to.

(3) The Engineer shall give 48 hours' notice of any proposed temporary disconnection, but may only under exceptional circumstances temporarily disconnect the supply to any premises without notice, for the purpose of effecting repairs or carrying out tests or for any other legitimate purpose.

**Temporary supplies**

13. It shall be a condition of the giving of any temporary supply, as defined in this by-law, that, if such supply is found to interfere with the efficient and economical supply of electricity to other consumers, the Engineer shall have the right, with notice, or under exceptional circumstances without notice, to terminate such temporary supply at any time and neither the Council nor its employees or contractors shall be liable for any loss or damage occasioned by the consumer by such termination.

**Temporary work**

14. Electrical installations requiring a temporary supply shall not be connected directly or indirectly to the supply mains except with the special permission in writing of the Engineer. Full information as to the reasons for and nature of such temporary work shall accompany the application for the aforesaid permission, and the Engineer may refuse such permission or may grant the same upon such terms and conditions as may to him appear desirable and necessary.

**Load reduction**

15(1). At times of peak load, or in an emergency, or when, in the opinion of the Engineer, it is necessary for any reason to reduce the load on the electricity supply system of the Council, the Engineer may without notice interrupt and, for such period as the Engineer may deem necessary, discontinue the electricity supply to any consumer's electrically operated thermal storage water heater or any specific appliance or the whole installation. Neither the Council nor its employees or contractors shall be liable for any loss or damage directly or consequentially due to or arising from such interruption and discontinuance of the electricity supply.

(2) The Council may install upon the premises of any consumer such apparatus and equipment as may be necessary to give effect to the provisions of subsection (1), and the Engineer or any duly authorized official of the Council may at any reasonable time enter any premises for the purpose of installing, inspecting, testing adjusting and/or changing such apparatus and equipment.

(3) Notwithstanding the provisions of sub-section (2), the consumer or the owner, as the case may be, shall, when installing an electrically operated water storage heater, provide such necessary accommodation and wiring as the Engineer may require to facilitate the later installation of the apparatus and equipment referred to in sub-section (2).

**Medium voltage and low voltage switchgear and equipment**

16(1). In cases where a supply is given at either medium voltage or low voltage, the supply and installation of the switchgear, cables and equipment forming part of the service connection shall, unless otherwise approved, be paid for by the consumer.

(2) In the case of a medium voltage supply, all such equipment shall be approved by the Engineer and installed by or under the supervision of the Engineer.

(3) No person shall operate medium voltage switchgear at the points of supply without the written authority of the Engineer.

(4) All medium voltage switchgear operations at the points of supply or interconnecting the points of supply shall be approved by the Engineer and all earthing and testing of medium voltage equipment linked to the Council's network shall be conducted by or under the supervision of the Engineer.

(5) In the case of an low voltage supply, the consumer shall provide and install an approved low voltage main switch and/or any other equipment required by the Engineer.

#### **Transformer substation accommodation**

17(1). The Engineer may, on such conditions as may be deemed fit, require the owner to provide and maintain approved accommodation which shall constitute a substation and which shall consist of a separate room or rooms to be used exclusively for the purpose of housing:

(a) medium voltage cables and switchgear;

(b) transformers;

(c) low voltage cables and switchgear; and

(d) other equipment necessary for the supply requested by the applicant.

(2) The accommodation shall be situated at a point to which free and unrestricted access can be had at all times for purposes connected with the operation and maintenance of the equipment.

(3) The Council reserves the right to supply its own networks from its own equipment installed in such accommodation, and if additional accommodation is required by the Council, such additional accommodation shall be provided by the applicant at the cost of the Council.

#### **Wiring diagram and specification**

18(1). When more than one electrical installation or electricity supply from a common main or more than one distribution board or meter is required for any building or block of buildings, the wiring diagram of the circuits starting from the main switch and a specification shall on request be supplied to the Engineer in duplicate for approval before the work commences.

(2) Where an electrical installation is to be supplied from a substation on the same premises on which the current is transformed from high voltage, or from one of the substations of the Council through mains separate from the general distribution system, a complete specification and drawings for the plant to be installed by the consumer shall, if so required, be forwarded to the Engineer for his approval before any material in connection therewith is ordered.

#### **Standby supply**

19. No consumer shall be entitled to a standby supply from the Council for any premises having a separate source of electricity supply except with the written consent of the Engineer and subject to such terms and conditions as may be laid down by the Engineer.

**Consumer's emergency standby supply equipment**

20(1). No emergency standby equipment provided by a consumer in terms of any by-laws shall be connected to any installation without the prior written approval of the Engineer.

(2) Application for approval for the connection of emergency standby equipment, as contemplated in subsection (1), shall be made in writing and shall include a full specification of the equipment and a wiring diagram.

**Installation circular letters**

21. The Engineer may from time to time issue Installation Circulars to all contractors and/or consulting engineers and/or architects detailing the requirements of the Council regarding matters not specifically covered in this by-law but which are necessary for the safe, efficient operation and management of the supply of electricity.

**CHAPTER 3****SPECIFIC CONDITIONS OF SUPPLY****Service connection**

22(1). The consumer shall bear the cost of the service connection, as determined by the Council.

(2) Notwithstanding the fact that the consumer bears the cost of the service connection, ownership of the service connection, laid or erected by the Council, shall vest in the Council.

(3) The Council shall be responsible for the maintenance of the service connection up to the point of supply.

(4) A service connection shall be laid underground, whether the supply mains are laid underground or erected overhead, unless an overhead service connection is specifically required by the Engineer.

(5) The consumer shall provide, fix and/or maintain on the consumer's premises such ducts, wireways, trenches and fastenings as may be required by the Engineer for the installation of the service connection.

(6) The conductor used for the service connection shall have a cross-sectional area of not less than 10 mm<sup>2</sup> and shall be of copper or copper equivalent, and all conductors shall have the same cross-sectional area, unless otherwise approved by the Engineer.

(7) Unless otherwise approved, the Council shall only provide one service connection to each registered erf.

(8) Any covers of a wireway carrying the supply circuit from the point of supply to the metering equipment shall be made to accept the seals of the Council.

(9) Within the meterbox, the service conductor or cable, as the case may be, shall terminate in an unobscured position and the conductors shall remain visible throughout their length.

(10) In the case of blocks of buildings occupied by a number of individual consumers, separate wireways and conductors or cables shall be laid from the common metering room or rooms to each individual consumer in the blocks of buildings. Alternatively, if bunking is used, the conductors of the individual circuits shall be clearly identified (tied together every 1,5 m) throughout their length.

### **Metering accommodation**

23(1). The consumer shall provide -

(a) approved accommodation in an approved position;

(b) the meter board; and

(c) adequate conductors for the Council's metering equipment, service apparatus and protective devices.

(2) The accommodation and protection referred to in subsection shall be provided and maintained, to the satisfaction of the Engineer, at the cost of the consumer or the owner, as the circumstances may demand, and shall be situated, in the case of conventional meters, at a point to which free and unrestricted access can be had at all reasonable hours for the reading of meters but at all times for purposes connected with the operation and maintenance of the service equipment.

(3) Access at all reasonable hours shall be afforded for the inspection of prepayment meters.

(4) Where sub-metering equipment is installed, accommodation separate from the Council's metering equipment shall be provided.

(5) The consumer or, in the case of a common meter position, the owner of the premises shall provide adequate electric lighting in the space set aside for accommodating the metering equipment and service apparatus.

(6) Where in the opinion of the Engineer the position of the meter, service connection, protective devices or main distribution board is no longer readily accessible or becomes a course of danger to life or property or in any way becomes unsuitable, the consumer shall remove it to a new position, and the cost of such removal, which shall be carried out with reasonable dispatch, shall be borne by the consumer.

(7) The accommodation for the Council's metering equipment and protective devices may, if approved, include the consumer's main switch and main protective devices. No apparatus other than that used in connection with the supply and use of electricity shall be installed or stored in such accommodation unless approved.

**CHAPTER 4****RESPONSIBILITIES OF CONSUMERS****Consumer to erect and maintain electrical installation**

24. Any electrical installation connected or to be connected to the supply mains, and any additions or amendments thereto which may be made from time to time, shall be provided and erected and maintained and kept in good order by the consumer at the consumer's own expense and in accordance with this by-law.

**Fault in electrical installation**

25(1). If any fault develops in the electrical installation, which constitutes a hazard to persons, livestock or property, the consumer shall immediately disconnect the electricity supply. The consumer shall without delay give notice thereof to the Council and shall immediately take steps to remedy the fault, failing which the Council may itself remedy such fault, subject to sub-section (2).

(2) The Engineer may require the consumer to reimburse the Council for any expense to which it may be put in connection with a fault in the electrical installation.

**Discontinuance of use of supply**

26. In the event of a consumer desiring to discontinue using the electricity supply, he shall give at least two full working days' notice in writing of such intended discontinuance to the Council, failing which the consumer shall remain liable for all payments due in terms of the tariff for the supply of electricity until the expiration of two full working days after such notice has been given.

**Change of occupier**

27(1). In the case of a change of occupier, the consumer shall give the Council not less than two full working days' notice in writing of the consumer's intention to discontinue using the electricity supply, failing which the consumer shall remain liable for such supply.

(2) If the new consumer desires to continue using the electricity supply, the new consumer shall make application in accordance with the provisions of section 3 of this by-law. If the new occupier fails to make application for an electricity supply within ten working days of taking occupation of the premises, the supply shall be disconnected, and the new occupier shall be liable to the Council for the electricity supply from the date of occupation until such time as the supply is so disconnected.

**Service apparatus**

28(1). The consumer shall be liable for all costs to the Council arising from damage to or loss of any metering equipment, service protective device, service connection or other apparatus on the premises, unless such damage or loss is shown to have been occasioned by an Act of God or an act or omission of an employee of the Council or caused by an abnormality in the supply of electricity to the premises.

(2) If, during a period of disconnection of an installation from the supply mains, the service main, metering equipment or any other service apparatus, being the property of the Council and having

been previously used, have been removed without its permission or have been damaged so as to render reconnection dangerous, the owner or occupier of the premises, as the case may be, during such period shall bear the cost of overhauling and/or replacing them.

(3) Where there is a common metering position, the owner of the premises shall be liable on the basis set out in sub-section (1).

## **CHAPTER 5**

### **UNAUTHORISED ACTIONS**

#### **Tampering with service connection or supply mains**

29(1). No person shall in any manner or for any reason whatsoever tamper or interfere with any meter or service connection or service protective device or supply mains or any other equipment of the Council, housed on the property of the consumer.

(2) Where prima facie evidence of tampering exists, or where metering equipment has been by-passed, the Council shall have the right to disconnect the supply immediately and without prior notice to the consumer.

(3) The consumer shall be liable for all fees and charges levied by the Council for such disconnection.

(4) In cases where the tampering or by-passing has resulted in the metering equipment recording less than the true consumption, the Council shall have the right to recover from the consumer the full cost of estimated consumption.

#### **Removal of seals**

30. The meter, service protective devices and all apparatus belonging to the Council shall be sealed or locked by a duly authorized official of the Council, and no person not being an official of the Council duly authorised thereto shall in any manner or for any reason whatsoever remove, break, deface, or tamper or interfere with such seals or locks.

#### **Prevention of tampering with service connection or supply mains**

31. If the Engineer decides that it is necessary or desirable to take special precautions in order to prevent tampering with any portion of the supply mains, service connection or meter, the consumer shall either supply and install the necessary protection or pay the costs thereof where such protection is supplied by the Council.

#### **Unauthorised connections**

32. No unauthorized person shall directly or indirectly connect, attempt to connect or cause or permit to be connected any electrical installation or part thereof to the supply mains or service connection.

**Unauthorised reconnections**

33. No unauthorized person shall reconnect, attempt to reconnect or cause or permit to be reconnected to the supply mains or service connection any electrical installation or installations which has or have been disconnected by the Council.

(2) Where the supply that has previously been disconnected is found to have been reconnected, the consumer using the supply shall be liable for all charges for electricity consumed between the date of disconnection and the date the supply was found to be reconnected and any other charges raised in this regard in terms of Council's tariff.

**Improper use**

34(1). If the consumer uses electricity for any purpose or deals with the electricity in any manner which the Engineer reasonable believes interferes in an improper or unsafe manner or is could interfere in an improper or unsafe manner with the efficient supply of electricity to any other consumer, the Council may give written notice to the consumer concerned to desist from such use or dealing within a stipulated period, failing which the Council may without further notice disconnect the electricity supply to such consumer; provided that such supply shall be restored as soon as the cause for the disconnection has been permanently remedied or removed to the satisfaction of the Engineer.

(2) The fee as prescribed by the Council for the disconnection and reconnection shall be paid by the consumer before the electricity supply is restored, unless it can be shown to the satisfaction of the Engineer that the consumer did not use or deal with the electricity in an improper or unsafe manner.

**Protection of electrical distribution system**

35(1). No person shall, except with the consent of the Engineer and subject to such conditions as may be imposed -

(a) construct, erect or permit the erection of any building, structure or other object, or plant trees or vegetation over or in such a position or in such a manner as to interfere with or endanger the electrical distribution system;

(b) excavate, open up or remove the ground above, next to or under any part of the electrical distribution system;

(c) damage, endanger, remove or destroy, or do any act likely to damage, endanger or destroy any part of the electrical distribution system;

(d) make any opening in any part of the electrical distribution system or obstruct or divert or cause to be obstructed or diverted any electricity there from;

(e) the owner shall limit the height of trees or length of projecting branches in the proximity of overhead lines or provide a means of protection which in the opinion of the Engineer will adequately prevent the tree from interfering with the conductors should the tree or branch fall or be cut down. Should the owner fail to observe this provision, the Council shall have the right, after prior written notification, or at any time in an emergency, to cut or trim the trees or other vegetation in such a manner as to comply with this provision and shall be entitled to enter the property for this purpose;

(f) the cost of any such work carried out by the Council which was necessary due to the contravention of this by-law, shall be to the account of the person who acted in contravention of this by-law.

(2) The Engineer may-

(a) demolish, alter or other wise deal with any building, structure or other object constructed, erected or laid in contravention with this bylaw;

(b) fill in and make good any ground excavated or removed in contravention with this by-law;

(c) repair and make good any damage done in contravention of this by-law or resulting from a contravention of this by-law; and

(d) remove anything damaging, obstructing or endangering or likely to damage, obstruct, endanger or destroy any part of the electrical distribution system.

## **CHAPTER 6**

### **SYSTEMS OF SUPPLY**

#### **Load requirements**

36. Alternating current supplies shall be given as prescribed by the Electricity Act, 1987 (Act No. 41 of 1987), and in the absence of a quality of supply agreement, as set out in NRS 048.

#### **Load limitations Natal 1249**

37(1). Where the estimated load, calculated in terms of the safety standard, does not exceed 15 kVA, the electrical installation shall be arranged for a two-wire single-phase supply, unless otherwise approved by the Engineer.

(2) Where a three-phase four-wire supply is provided, the load shall be approximately balanced over the three phases but the maximum out-of-balance load shall not exceed 15 kVA, unless otherwise approved by the Engineer.

(3) No current-consuming appliance, inherently single phase in character, with a rating which exceeds 15 kVA shall be connected to the electrical installation without the prior approval of the Engineer.

**Interference with other consumers**

38(1). No consumer shall operate electrical equipment having load characteristics which, singly or collectively, give rise to voltage variations, harmonic currents or voltages, or unbalanced phase currents which fall outside the standards determined by the Engineer.

(2) The assessment of interference with other consumers shall be carried out by means of measurement taken at the point of common coupling.

**Supplies to motors**

39(1). The following limitations are given as a guide in order to comply with section 50:

Limited size for LOW VOLTAGE motors

The rating of an LOW VOLTAGE single-phase motor shall be limited to 2 kW and/or the starting current shall not exceed 70 A. All motors exceeding these limits shall be wound for three phases at low voltage or such higher voltage as may be required.

(2) Maximum starting and accelerating currents of three-phase alternating current motors

The starting current of three-phase LOW VOLTAGE motors permitted shall be related to the capacity of the consumer's service connection, as follows:

Insulated Service Cable, size in mm <sup>2</sup> , Equivalent	Maximum permissible starting current A	Suggested maximum motor rating in kW 1
mm <sup>2</sup>		
Direct on line (6x full-load current) kW	Star/Delta (2,5 x full-load current) kW	Other means (1,5 x full-load current) kW

16	72	6	13,5	23
25	95	7,5	18	30
35	115	9	22	36,5
50	135	10	25	45
70	165	13	31	55
95	200	16	38	67
120	230	18	46	77
150	260	20	52	87

(3) Consumers supplied at medium voltage In an installation supplied at medium voltage the starting current of an LOW VOLTAGE motor shall be limited to 1,5 times the rated full-load current of the transformer supplying such a motor.

#### **Power factor**

40. If required by the Engineer, the power factor of any load shall be maintained within the limits 0,85 lagging and 0,9 leading.

(2) Where, for the purpose of complying with subsection , it is necessary to install power factor corrective devices, such corrective devices shall be connected to the individual appliance terminals unless the correction of the power factor is automatically controlled.

#### **Protection**

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

### **CHAPTER 7**

#### **MEASUREMENT OF ELECTRICITY**

##### **Metering**

42(1). The Council shall, at the consumer's cost in the form of a direct charge or prescribed fee, provide, install and maintain appropriately rated metering equipment at the point of metering for measuring the electricity supplied.

(2) Except in the case of prepayment meters, the electricity used by a consumer during any metering period shall be ascertained by the reading of the appropriate meter or meters supplied and installed by the Council and read at the end of such period except where the metering equipment is found to be defective, in which case the consumption for the period shall be estimated.

(3) Where the electricity used by a consumer is charged at different tariff rates, the consumption shall be metered separately for each rate.

(4) The Engineer reserves the right to meter the supply to blocks of shops and flats, tenement-houses and similar buildings for the buildings as a whole, or for individual units, or for groups of units.

(5) No alterations, repairs or additions or electrical connections of any description shall be made on the supply side of the point of metering unless specifically approved in writing by the Engineer.

#### **Accuracy of metering**

43(1). A meter shall be conclusively presumed to be registering accurately if its error, when tested in the manner prescribed in sub-section (5) hereof, is found to be within the limits of error as laid down in NRS 057 Part 2: Electricity Metering: Minimum Requirements.

(2) The Council shall have the right to test its metering equipment. If it is established by test or otherwise that such metering equipment is defective, the Council shall-

(i) in the case of a conventional meter, adjust the account rendered;

(ii) in the case of prepayment meters,

(a) render an account where the meter has been under-registering, or

(b) issue a free token where the meter has been over-registering, in accordance with the provisions of subsection (6).

(3) The consumer shall be entitled to have the metering equipment tested by the Council on payment of the prescribed fee. If the metering equipment is found not to comply with the system accuracy requirements laid down in NRS 057 Part 2, an adjustment in accordance with the provisions of subsections (2) and (6) shall be made and the aforesaid fee shall be refunded.

(4) In case of a dispute, the consumer shall have the right at his own cost to have the metering equipment under dispute tested by an independent testing authority accredited by the South African Accreditation Services and the result of such test shall be final and binding on both parties.

(5) Meters shall be tested in the manner prescribed by NRS 057 Part 2: Electricity Metering: Minimum Requirements.

(6) When an adjustment is made to the electricity consumption registered on a meter in terms of sub-section (2) or (3), such adjustment shall either be based on the percentage error of the meter as determined by the test referred to in sub-section (5) or upon a calculation by the Engineer from consumption data in his possession. Where applicable, due allowance shall be made, where possible, for seasonal or other variations which may affect the consumption of electricity.

(7) When an adjustment is made as contemplated in subsection (6), the adjustment may not exceed a period of six months preceding the date on which the metering equipment was found to be inaccurate. The application of this section does not bar a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.

(8) Where the actual load of a consumer differs from the initial estimated load provided for under section 7 to the extent that the Council deems it necessary to alter or replace its metering equipment to match the load, the costs of such alteration or replacement shall be borne by the consumer.

(9) (a) Prior to the Council making any upward adjustment to an account in terms of sub-section (6), the Engineer shall-

(i) notify the consumer in writing of the monetary value of the adjustment to be made and the reasons therefore;

(ii) in such notification provide sufficient particulars to enable the consumer to submit representations thereon; and

(iii) call upon the consumer in such notice to provide him with reasons in writing, if any, within 21 days or such longer period as the Engineer may permit why his account should be adjusted as notified.

(b) The Engineer shall consider any reasons provided by the consumer in terms of subsection (9)(a) and shall, if satisfied that a case has been made out therefor, adjust the account appropriately.

(c) Should the consumer fail to make any representations during the said period or should the Engineer not be satisfied that a case exists for the variation of the account, the Council shall be entitled to adjust the account as notified in terms of subsection (9)(a)(i).

#### **Reading of conventional meters**

44(1). Unless otherwise prescribed, conventional meters shall normally be read at intervals of one month and the fixed or minimum charges due in terms of the tariff shall be assessed accordingly. The Council shall not be obliged to effect any adjustments to such charges.

(2) If for any reason the conventional meter cannot be read, the Council may render an estimated account. The energy consumption shall be adjusted in a subsequent account in accordance with the energy consumption actually used.

(3) When a consumer vacates a property and a final reading is not possible, an estimation of the consumption may be made and the final account rendered accordingly.

(4) If a special reading of the meter is desired by a consumer, this may be obtained upon payment of the prescribed fee.

(5) If any calculating, reading or metering error is discovered in respect of any account rendered to a consumer, the error shall be corrected in subsequent accounts. Any such correction shall only apply in respect of accounts for a period of three years preceding the date on which the error in the accounts was discovered, shall be free of interest up to the date on which the correction is found to be necessary, and shall be based on the actual tariffs applicable during the period.

**Prepayment metering**

45(1). No refund of the amount tendered for the purchase of electricity credit shall be given at the point of sale after initiation of the process by which the prepayment meter token is produced.

(2) Copies of previously issued tokens for the transfer of credit to the prepayment meter may be issued at the request of the consumer.

(3) When a consumer vacates any premises where a prepayment meter is installed, no refund for the credit remaining in the meter shall be made to the consumer.

(4) The Council shall not be liable for the reinstatement of credit in a prepayment meter lost due to tampering with, or the incorrect use or the abuse of, prepayment meters and/or tokens.

(5) Where a consumer is indebted to the Council for electricity consumed or to the Service Authority for any other service supplied by the Service Authority (including rates) or for any charges previously raised against him in connection with any service rendered, the Council may deduct a percentage from the amount tendered to offset the amount owing to the Service Authority and/or Service Provider, as set out in the section 4 agreement for the supply of electricity.

(6) The Council may, at its discretion, appoint vendors for the sale of credit for prepayment meters and shall not guarantee the continued operation of any vendor.

**CHAPTER 8****ELECTRICAL CONTRACTORS****In addition to the requirements of the By-laws the following requirements shall apply:**

46(1) . Where an application for a new or increased supply of electricity has been made to the Council the Engineer may at his discretion accept notification of the completion of any pan of an electrical installation, the circuit arrangements of which permit the electrical installation to be divided up into well-defined separate portions, and such pan of the electrical installation may, at the discretion of the Engineer, be inspected, tested and connected to the supply mains as though it were a complete installation.

(2) The examination, test and inspection that may be carried out at the discretion of the Council in no way relieves the electrical contractor/accredited person or the user or lessor, as the case may be, from his responsibility for any defect in the installation. Such examination, test and inspection shall not be taken under any circumstances (even where the electrical installation has been connected to the supply mains) as indicating or guaranteeing in any way that the electrical installation has been carried out efficiently with the most suitable materials for the purpose or that it is in accordance with this by-law or the safety standard, and the Service Authority nor the Council shall be held responsible for any defect or fault in such electrical installation.

(3) Neither the Service Authority nor the Council shall be held responsible for the work done by the electrical contractor/accredited person on a consumer's premises and, furthermore, the Service Authority and the Council shall not in any way be responsible for any loss or damage which may be occasioned by fire or by any accident arising from the state of the wiring on the premises.

**Right of admittance to inspect, test and/or do maintenance work -**

47. The Engineer or any duly authorised official of the Council may at any reasonable time, or, in an emergency, at any time enter any premises when there are reasonable grounds for supposing that a breach of this by-law has been or is being committed, and may remove any earth, bricks stone, iron or woodwork or other covering on any portion of the premises for purposes of inspection, and the Council shall not be liable for any damage as a result of such removal but shall restore such premises to their former condition should no breach of this by-law be discovered.

**Refusal or failure to give information**

48. No person shall refuse or fail to give such information as may be reasonably required of him by any duly authorised official or agent of the Council or render any false information to any such official or agent regarding any electrical installation work completed or contemplated.

**Hindering officials**

49. No person shall wilfully hinder, obstruct, interfere with or refuse admittance to the Engineer or any duly authorised official or agent of the Council in the performance of his duty under this by-law or of any duty connected therewith or relating thereto.

**CHAPTER 9 PENALTIES**

50(1). Any person who contravenes any of the provisions of sections 4, 6, 12, 13, 20, 25, 26, 27, 29 and 30 of this by-law shall be guilty of an offence and liable upon conviction to the penalties prescribed in the Municipal Systems Act.

(2) Every person committing a breach of the provisions of this by-law shall be liable to recompense the Service Authority or the Council as the case may be for any loss or damage suffered or sustained by it in consequence of such breach.

(3) The occupier, as defined in section I of this by-law, shall be guilty of a contravention under section 26 unless he proves the contrary on a balance of probability.

**CHAPTER 10****GENERAL****Arbitration**

51. If at any time any difference or question arises between the Council and the consumer as to the construction, meaning or effect of this by-law or as to the rights, obligations or liabilities of either party thereunder, such difference or question or matter or thing so subject to agreement or adjustment shall be referred to the National Electricity Regulator for a decision, failing which shall be determined by arbitration in terms of the provisions of the Arbitration Act, 1965 (Act No. 42 of 1965), as amended.

**Indemnity**

52. The Council shall not be liable for any loss or damage, direct or consequential, suffered or sustained by a consumer as a result of or arising from the cessation, interruption or discontinuance of the supply of electricity, unless caused by negligence on the part of the Council.

**Offences**

53. Any person who -

- (a) contravenes or fails to comply with any provisions of these by-laws;
- (b) fails to comply with any notice issued in terms of these by-laws;
- (c) fails to comply with any lawful instruction given in terms of these by-laws; or
- (d) obstructs or hinders any authorised official in the execution of his or her duties under these by-laws -

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R15 000 or imprisonment for a period not exceeding 6 months or both.

**Repeal of existing By-laws**

54. The Council's existing Electricity Supply By-laws are hereby repealed.

**Short title and commencement**

55. These by-laws shall be called the Electricity Supply By-laws, 2015, and shall come into effect on the first day of the month following the date of publication hereof.

## **7. TARIFF POLICY FOR INDIGENT PERSONS MUNICIPAL BY-LAWS**

Be it enacted by the Council of Emadlangeni Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

### **INDEX**

#### **CHAPTER 1: DEFINITIONS**

1. Definitions

#### **CHAPTER 2: FREE BASIC SERVICES**

2. Qualification
3. Excess consumption
4. Voluntary restriction
5. Non-payment

#### **CHAPTER 3: LIFE LINE SERVICES**

6. Application
7. Non-payment

#### **CHAPTER 4: GENERAL**

8. Appeals
9. Repeal of existing By-laws
10. Short title and commencement

#### **CHAPTER 1: DEFINITIONS**

##### **Definitions**

1. In these bylaws, unless the context indicates otherwise -

"**beneficiary**" or "**beneficiaries**" means the -

(a) the owner and the occupiers of a property, where the owner occupies the property with other occupiers; or

(b) the occupiers of a property, where the owner does not occupy the property, where the combined income level of the owners and/or occupiers does not exceed the level determined by Council by resolution from time to time;

"**beneficiary property**" a residential property owned or occupied by a beneficiary or beneficiaries;

"**Council**" means the Council of Emadlangeni Municipality and its committees or any official or agent of the Municipality who has been authorized by the Council to administer, implement, and enforce the provisions of these Bylaws.;

"**consumption**" means the ordinary use of municipal services for domestic or household services;

"**due date**" means, in the absence of any express agreement to the contrary, the date determined from time to time by the Council as the last date on which any account for municipal services rendered shall be paid;

"**free basic water allocation**" means the maximum amount of water which will be provided free of charge to indigent persons as reflected in Council's tariffs from time to time;

"**free basic services**" means free refuse removal or any other service provided by the Municipality without charge;

"**income level**" means the total, combined income of -

(c) the owner and all the occupiers of a beneficiary property, where the owner occupies the property with other occupiers; or

(d) all the occupiers of a beneficiary property, where the owner does not occupy the property, regardless of the source of such income;

"**life line services**" means refuse removal provided at the life line tariff determined by Council by resolution from time to time;

"**municipal services**" means domestic electricity and refuse removal services provided by the Council;

"**municipal value**" means the total combined value of land and the buildings on a beneficiary property, as reflected in the municipal valuation roll;

"**occupier**" means any person in actual occupation of a beneficiary property without regard to the title under which he or she occupies, if any; and

"**owner**" means the person in whose name legal title in the beneficiary property is vested.

## **CHAPTER 2: FREE BASIC SERVICES**

### **Qualification**

2. The owners and/or occupiers of a beneficiary property shall automatically qualify for free basic services where the municipal value of the land and buildings on such property is equal to, or less than, the value determined by resolution of the Council from time to time, as reflected in the Council's tariffs.

### **Excess consumption**

3. Where the consumption of any municipal service on the beneficiary property exceeds the free basic allocation thereof, such excessive consumption will be billed at the normal tariff as determined by the Council from time to time.

**Voluntary restriction**

- 4 (1). A beneficiary may request the Council to restrict the supply of any municipal service in any manner possible, including, where possible, installing a variable flow-restricting device to the supply of such service to the beneficiary property in order to ensure that consumption does not exceed the free basic allocation thereof.
- (2) There shall be no charge for the installation of a variable flow-restricting device in terms of subsection (1).

**Non-payment**

5. In the event that a beneficiary fails to pay any account by due date, notwithstanding that the beneficiary may qualify for free basic services, the Council may -
- (a) restrict the supply of the municipal service concerned to the beneficiary property;
- (b) disconnect or discontinue the supply of such service to the beneficiary property; or
- (c) take any other action permitted in terms of the Council's credit control by-laws.

**CHAPTER 3: LIFE LINE SERVICES****Application**

- 6(1). The owners and/or occupiers of a residential property who do not qualify as beneficiaries, but whose level of income is less than or equal to the amount determined by Council as qualifying for life line services, may apply in writing to the Council for life line services.
- (2) Where life line services are granted, such grant shall be valid for one year.

**Non-payment**

7. In the event that an owner or occupier fails to pay any account by due date, notwithstanding that the owner or occupier may have been granted life line services, the Council may-
- (a) restrict the supply of water to the property;
- (b) disconnect the electricity supply to the property; or
- (c) take any other action permitted in terms of the Council's credit control by-laws.

**CHAPTER 4: GENERAL****Appeals**

- 8 (1). A person whose rights are affected by a decision taken by any authorised official under these by-laws, may appeal against the decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4).

(3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

(4) When the appeal is against a decision taken by -

(a) a staff member other than the municipal manager, the municipal manager is the appeal authority; or

(b) the municipal manager, the Mayor is the appeal authority.

(5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

**Repeal of existing By-laws**

9. The Council's existing Tariff Policy By-Laws for Indigent Persons are hereby repealed.

**Short title and commencement**

10. These by-laws shall be called the Tariff Policy By-Laws for Indigent Persons 2015, and shall come into effect on the first day of the month following the date of publication hereof.

## **8. MUNICIPALITY PUBLIC TRANSPORT** **MUNICIPAL BY-LAWS**

Be it enacted by the Council of Emadlangeni Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, and approval of the Member of the Executive Council responsible for Local Government in terms of Section 80 A of the National Road Act No 93 of 1996, as amended, in the Province of KwaZulu-Natal, read with section 11 of the Local Government: Municipal Systems Act No. 32 2000, as follows :

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#### **CHAPTER 1: DEFINITIONS**

1. Definitions

#### **CHAPTER 2: TAXI METER CAB**

2. Driver to take shortest route
3. Driver to keep engagement
4. Operation of taxi meter cab

#### **CHAPTER 3: BUSES**

5. Stopping places
6. Entering and alighting from a bus
7. Driver to stop at stopping places

#### **CHAPTER 4 : PERMIT FOR BUSES, TAXI METER CAB AND TAXI**

8. Permits
9. Period of validity of a rank permit and token
10. Suspension of rank permit
11. Restrictions relating to rank permit and token

#### **CHAPTER 5: GENERAL**

12. Parking of taxi meter cab, taxi, bus
13. Entering and alighting from the taxi meter cab, taxi, bus
14. Stopping places
15. Engagement of passengers

16. Conveyance of filthy or diseased persons
17. Property left in taxi meter cab, taxi, bus
18. Queue marshal
19. Rank managers
20. Offence and penalties

#### **CHAPTER 6: GENERAL PROVISIONS**

21. Repeal of By-laws
22. Short title and commencement

#### **CHAPTER 1**

#### **DEFINITIONS**

**Definitions** 1. In this by-law, unless the context indicates otherwise, any word or expression defined in the Act shall bear the meaning so given to it.

**"authorised official "** means any official of the Council who has been authorised by it to administer, implement, and enforce the provisions of these by-law;

**"bus rank"** means any place designated or any area demarcated for the exclusive parking of busses;

**"Bus stop "** means any place or area designated or demarcated as a bus stop, by a road traffic sign, for the purposes of loading and off-loading passengers;

**"Chief Traffic Officer "** means the person appointed as such by Council, or during his or her absence, the officer acting in that capacity and includes any employee of the Council acting under control of the Chief Traffic Officer;

**"Council"** means the Council of the Emadlangeni Municipality and its committees or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any power and duties with regard to these bylaws;

**"Lift club "** means any club of which every member shall, for no direct or indirect reward, have a turn to convey or cause to be conveyed by means of a motor car, the members of such a club or the other persons designated by such members , to or from specified places for a specified purpose;

**"Medical Officer of Health"** means a person appointed as such under section 22 or 25 of the Health Act No 63 of 1977;

**"notice"** means an adequate notice in words or in sign, erected or posted in a prominent position;

**"Parking bay"** means any portion of a public demarcated as a parking bay or parking place for the by a road traffic sign or marking;

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

"**Prescribed tariff** " means the fares and charges prescribed by in any journey undertaken in a taxi or a bus;

"**Public car park**" means any land reserved as a park as indicated in the town planning maps of the Emadlangeni Municipality.

"**Public road**" means a public road a defined in the National Road Traffic Act No.93 of 1996 as amended;

"**road carrier permit** " means a public road permit issued in terms of the Road Traffic Transportation Act no 74 of 1977;

"**Road Traffic Act** " means the National Road Traffic Act No 93 of 1996 ( as Amended);

"**Taxi**" means a public motor vehicle (other than a public bus) used for the conveyance of passengers or of passengers and goods;

"**Taxi meter cab**" means a motor vehicle licensed to transport passengers in return for payment of a fare;

"**Taximeter**" means a devise used in taxis that automatically records the distance traveled and the fare payable;

"**taxi rank**" means any place designated or area demarcated as a taxi rank or for the exclusive parking of taxis by a road traffic sign;

"**Traffic offer**" means the same as the meaning in the Road Traffic Act;

## CHAPTER 2

### TAXI METER CAB

#### Driver to take shortest route

2(1). A driver of any taxi meter cab must, while the taxi meter cab is hired, drive to the passenger's destination along the shortest route, unless another route is agreed on or directed by the passenger;

(2) A taxi meter cab driver must have a current map of the municipal area in his or her possession, which must be made available by the driver to a passenger on request.

#### Driver to keep engagement

3(1). A driver of any taxi meter cab must convey a passenger and his or her personal effects to the destination agreed upon between the passenger and the driver;

(2) Should the driver of a taxi meter cab for any reason whatsoever, be unable to convey the passenger and the passenger's personal effects to the agreed destination, such driver must take all reasonable steps to arrange another taxi meter cab, or let the passenger arrange for the transport to get to his or her destination.

#### **Operation of taxi meter cab**

4(1). The driver of a meter taxi cab fitted with the taximeter must, as soon as the driver arrives at the point where his or her hiring commences and not sooner, set the taxi meter in motion, and must upon the termination of hiring immediately stop the taximeter from receding;

(2) Upon the occurrence of any stoppage not caused by traffic congestion or by the action or request of any passenger, the said driver must for the duration of such stoppage stop the taxi meter from recording.

### **CHAPTER 3**

#### **BUSES**

##### **Stopping places**

5. No driver of a bus, as defined in the National Land Transition Act No. 22 of 2000, may stop the bus for the purpose of picking up or setting down any passenger, except at a stopping place designated by the Council.

##### **Entering and alighting from a bus**

6. A prospective passenger of a bus, as defined in the National Transport Land Transition Act No. 22 of 2000, may only enter or alight from a bus at a stopping place designated by the Council.

##### **Driver to stop at stopping places**

7. The driver of a bus engaged in a public passenger road transport service, which at the time is not carrying the maximum number of passengers the vehicle is lawfully entitled to carry, must stop at any designated stopping place if a prospective passenger is waiting at such stopping place.

### **CHAPTER 4**

#### **RANK PERMIT FOR BUSES, TAXI METER, TAXIS**

##### **Permits**

8(1). A bus, taxi or taxi meter operating within the Council's area of jurisdiction shall hold a rank permit which shall be obtained from the offices of the Chief Traffic Officer within its jurisdiction;

(2) Any person wishing to obtain a rank permit shall submit an application to the Chief Traffic Officer on the prescribe form obtainable from the offices of Chief Traffic Officer within his or her jurisdiction;

(3) The Chief Traffic Officer may grant the rank permit if he or she is satisfied-

(a) that the motor vehicle concerned -

- (i) complies with the provisions of this chapter and any law applicable to the testing of motor vehicles prescribe by the Road Traffic Act No 93 of 1996 as amended;
  - (ii) that the taxi meter cab has been fitted with the taximeter;
  - (b) that it is permitted to operate as a motor vehicle use for hire;
  - (c) that the taxi rank fee or fees determined by Council from time to time , have been paid; and
  - (d) that the applicant is in possession of a valid certificate from the Local Road Transportation Board to operate the said motor vehicle in the area jurisdiction of the Council.
- (4) the Council may when granting rank permit, impose conditions, restrictions and requirements in respect of the motor vehicle concerned, its equipage and the use of the taxis and buses rank ;
- (5) the Council shall, with every rank permit issue , issue a token specifying-
- (a) the year for which such permit has been granted;
  - (b) the registration mark allocate to the motor vehicle;
  - (c) the make of such motor vehicle;
  - (d) the area, taxi or bus rank from which the motor vehicle may ply for hire; and
  - (e) the number of the taxi, taxi meter cab and bus approved for use by such motor vehicle;
- (6) the owner of the taxi, taxi meter cab and bus in respect of which a rank permit has been issued under these by-laws, shall advise the Chief Traffic Officer-
- (a) of any change of his or her residential and or postal address during the validity of such permit; or
  - (b) when disposing of or otherwise ceasing to be the owner of motor vehicle during the said year, the name and address of the person to whom the motor vehicle is being disposed to or other cause of his or her ceasing to be the owner, within 31 days of the event.

#### **Period of validity of rank permit and token**

9. A rank permit and token shall be valid from the date of issue until the expiry of one year immediately thereafter.

#### **Suspension of rank permit**

10(1). The Chief Traffic Officer may by notice in writing suspend the operation of the current rank permit issue in respect of any motor vehicle if it fails to comply with the requirements or restriction imposed under these by-laws;

(2) The owner shall within 7(seven) days, upon receipt of such notice , deliver the token to the Chief Traffic Officer within his or her jurisdiction;

(3) The suspension shall be withdrawn by the Chief Traffic Officer on condition that the owner has complied with provisions of these by-laws within 7 (seven) days and the Chief Traffic Officer is satisfied with same.

**Restrictions relating to rank permit and token**

11. No person shall-

(a) affix a token to any other motor vehicle other than the motor vehicle the token was issued for;

(b) operate the motor vehicle -

(i) unless the token of that taxi, taxi meter cab and bus is affixed on the left hand side of the windscreen thereof so that its face is clearly visible from the outside;

(ii) while any token which has ceased to be valid is affixed to such motor vehicle;

(iii) while the operation of the rank permit in respect of such motor vehicle issued is suspended under section 10 above.

**CHAPTER 5**

**GENERAL**

**Parking of taxi meter cab, taxi, bus**

12. No person may park a taxi meter cab, taxi, bus on any public road for the purpose of providing a transport service, except in an exclusive parking bay, marked by a road traffic sign as prescribe in terms of the National Road Traffic Act No. 93 of 1996 as amended , for that motor vehicle.

**Entering and alighting from the taxi meter cab, taxi, bus**

13. A prospective passenger of a taxi meter cab, taxi, bus, as defined in the National Land Transport Transition Act No 22 of 2000, may only enter or alight from a bus, taxi meter cab and taxi, at a stopping place designated by the Council for that purpose.

**Stopping places**

14(1). No driver of a public motor vehicle, as defined in the National Land Transport Transition Act No 22 of 2000 may stop it for the purpose of picking up or settling down any passenger, except at a stopping place designated by the Council;

(2) The driver of a public motor vehicle engaged in a public passenger road service, which at the time is not carrying the maximum number of passengers the motor vehicle is lawfully entitled to carry, must stop at any designate place if a prospective passenger is waiting at such stopping place and, where applicable, indicates by hand or sign language that his or her intended destination is along the route of the public motor vehicle concerned.

**Engagement of passengers**

15(1). No driver of taxi meter cab, taxi, bus, may by using force or threat, or any other offensive manner prevent or seek to prevent any person from hiring any other taxi meter cab, taxi or seek to prevent the driver of such other taxi meter cab, taxi, bus from obtaining or conveying a passenger or a load;

(2) No person may use force, a threat or any clandestine or other method, to prevent or attempt to prevent any person from participating in a lift club;

**Entitlement to refuse to convey or carry certain persons**

16(1). A driver of a motor vehicle engaged in a public passenger road transport may refuse to convey or carry -

(a) any person if he believes on reasonable grounds that the presence of such person in the motor vehicle is likely to pose serious risk to the health or safety of either himself or other passengers by reason of such person being obviously in a state of filth, obviously suffering from any easily transmissible contagious disease or obviously in a state of physical aggression or violence; or

(b) any dead animal except animal or poultry intended for human consumption if the animal or poultry is properly wrapped

(2) No person who has another person in his or her care who, to his or her knowledge, has been exposed to or contaminated with any deadly contagious disease which is transmissible through air or casual contact may place such person in any taxi meter cab, taxi or bus.

(3) No person who is obviously in a state of filth, physical aggression or violence, or who is obviously suffering from any deadly contagious disease which is easily transmissible through air or casual contact may enter any taxi meter cab, taxi or bus or, having entered, remain upon such motor vehicle after being requested by the driver or conductor thereof to leave the motor vehicle;

(4) The owner, driver, conductor or any person in charge of a motor vehicle in a public passenger road transport service must immediately take steps as soon as it comes to his or her knowledge that-

(a) any person suffering from a deadly disease which is easily transmissible through air or casual contact; or

(b) the body of person who has died of such disease; or

(c) anything which has been exposed to or contaminated with such disease;

has been conveyed in or upon such public motor vehicle engaged in a public passenger road transport service to report the matter to the Medical Officer of Health;

(2) The owner, driver, conductor or other person must carry out the instructions issued by the Medical Officer of Health with regard to the disinfection of such motor vehicle engaged in a public passenger road transport services.

**Property left in taxi meter cab, taxi, bus**

17(1). If any property is left in a public motor vehicle engaged in a public road transport service is not claimed within 24 hours after it has been discovered in such public motor vehicle , the driver or conductor of the public motor vehicle must-

(a) if he or she belongs to a taxi association, take such property to the nearest office of such association;

(b) if he or she uses a bus depot for the purposes of the business in which he or she is engaged, take such property to such depot; or

(c) if he or she does not belong to a taxi association or use a bus depot for the purpose of the business concerned, take such property to the referent South African Police Station which have jurisdiction, and obtained a receipt from the person with whom the property is deposited, or the officer on duty at the referent South African Police Services which has jurisdiction, as the case may be;

(2) if the property referred to is not claimed within seven (7) days of its receipt in the office of the offices of the referent taxi association or bus depot, the person with whom it was deposited must take it to the South African Police Services.

**Queue marshal**

18(1). A queue marshal at any rank must be clearly identifiable and must display his or her name in a conspicuous manner on his or her clothing below left shoulder;

(2) A queue marshal must discharge his or her duties in a courteous and polite manner and show respect to every passenger;

(3) Where a queue marshal is controlling the entry onto taxi meter cab, taxi, bus , he or she must not allow more than the number of passengers permitted by law, to enter such taxi meter cab, taxi, bus.

**Rank managers**

19(1). The Taxi Association may appoint rank managers to manage taxi ranks and ensure that there is no shortage of taxis in taxi ranks;

(2) The rank managers may also assist in any manner which ensures a smooth operation of taxis in their areas which shall be stipulated by the Taxi Association;

(3) A remuneration shall be paid by the Taxi Association to the rank managers for their assistance at the tax rank;

(4) The rank managers shall be clearly identifiable and must accept any grievance or complaint from any passenger about a taxi, a taxi driver or a queue marshal.

**Offences and penalties**

20. Any person who-

(a) contravenes or fails to comply with any provisions of these by-laws;

(b) fails to comply with any notice issued in terms of these by-laws;

(c) fails to comply with any lawful instruction given in terms of these by-laws'

(d) who obstructs or hinders any authorised official of the Council in the execution of his or her duties under these by-laws, is guilty of an offence and liable to a fine of R1000.00 and or imprisonment for a period not exceeding one year

**CHAPTER 6****GENERAL PROVISIONS****Repeal of existing By-laws**

21. The Council's existing Municipality Public Transport by-laws are hereby repealed.

**Short title and commencement**

22. These by-laws shall be called the Municipal Public Transport By-laws 2015, and shall come into effect on the first day of the month following the date of publication hereof.

## **9. PROPERTY ENCROACHMENT** **MUNICIPAL BYLAWS**

Be it enacted by the Council of Emadlangeni Local Municipality, in terms of section 156 of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), read with section 11 of the Local Government; Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

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#### **CHAPTER 1: DEFINITIONS**

1. Definitions
2. Council permission required
3. Rules for the construction of encroachments
4. Columns
5. Balconies and bay windows
6. Plinths, pilasters, corbels and cornices
7. Verandas around corners
8. Pavement openings
9. Encroachment erected in front of building
10. Maintenance, removal and tenancy of projections
11. Encroachments
12. Offences and penalties
13. Repeal of existing By-laws
14. Short title and commencement

#### **CHAPTER 1**

#### **DEFINITIONS**

##### **Definitions**

1. In these By-laws, any word or expression that has been defined in the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977) has that meaning and, unless the context otherwise indicates -

"**Council**" means the Council of Emadlangeni Local Municipality and its committees or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any powers and duties with regard to these bylaws;

"**council property**" means any property, including but not limited to public roads -

(a) which is owned by the Council;

(b) over which the Council has control over; or

(c) in respect of which a servitude or other property right has been registered in favour of the Council;

"**encroachment**" means any physical object which intrudes on Council property;

"**prescribed**" means determined by resolution of the Council made from time to time;

"**prescribed fee**" means a fee determined by the Council by resolution from time to time;

"**public road**" means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes -

(a) the verge of any such road, street or thoroughfare;

(b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and

(c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare.

#### **Council permission required**

2(1). No person may, without prior written permission obtained from the Council, make or construct any encroachment into, over or under any Council property.

(2) The Council may in its sole discretion -

(a) refuse the permission required in terms of subsection ; or

(b) grant such permission either unconditionally or subject to such conditions as may be determined by upon the conditions and subject to the payment of the prescribed fee annually or the performance of the works or services determined by the Council in each case.

(3) The prescribed fees mentioned in subsection (2) are payable in advance at the beginning of each year which is calculated from date of approval or the period determined by the Council, and the owner is liable for the payment of prescribed fees in terms of these by-laws for each encroachment.

(4) The owner of any existing encroachment must within three months after the date of commencement of these by-laws make application to the Council on the prescribed form for permission for the existence of the encroachment in terms of these by-laws.

**Rules for the construction of encroachments**

3(1). The design, arrangement and construction of verandas, balconies, bay windows and other encroachments over Council property, as well as the paving, kerb and gutter thereof, must be to the satisfaction of and to the levels approved by the Council.

(2) If corrugated iron is used for covering a veranda, its exposed surfaces must be painted in a colour which will not probably or in fact be unsightly or objectionable.

(3) A veranda over a public road must correspond in line, height and detail with existing adjoining verandas.

**Columns**

4(1). The Council may determine areas within the municipal boundary where no person is permitted to place veranda columns over any public road or pavement.

(2) No person may place any veranda column -

(a) over any pavement where such pavement is less than 2,6 m wide;

(b) more than 3 m from the building line measured to the outside of the column or at less than 3 m centre to centre;

(c) over any pavement at the corner of a public road that is beyond the alignment of the building lines; and

(d) at a distance lesser than 600 mm back from the front edge of any kerb.

(6) No person may place a twin or double veranda column over any public road or pavement.

(7) Where verandas are supported on columns-(a) the columns may not have square arris;

(b) no base may project more than 50 mm beyond the bottom diameter of the column; and

(c) the maximum horizontal axial dimensions of such base may not exceed 350 mm.

(8) Where the form of a column is classic in character, the shaft must have suitable entasis and cap and base in due proportions.

(9) Columns, including cap and base, may not be less than 3 m or more than 3,6 m in height and not more than 4,5 m including plinth.

(10) The minimum height from the footway or sidewalk to the underside of each cantilever or fascia girder is 3 m.

(11) A coping, blocking course or balustrade, if any, may not extend less than 750 mm nor more than 1,05 m above the floor of a balcony.

(12) Nothing in these by-laws prohibits -

(a) the erection and use of a party column common to two adjoining verandas if the column stands partly on the extended boundary lines of two properties or adjoins the same; or

(b) in the case of adjoining verandas, the placement of any column upon a plinth if this is necessary for alignment and all the other provisions of these by-laws are observed.

### **Balconies and bay windows**

5(1). Balconies, bay windows or other similar encroachments may not -

(a) overhang a public road if they are at a height of less than 3 m above the pavement;

(b) encroach more than 1,35 m over any public road; or

(c) encroach more than 900 mm over any public road.

(2) The aggregate horizontal length of bay windows at any level over a public road may not exceed one-third of the length of the building frontage to that road.

(3) Any balcony superimposed upon any veranda must be set back at least 1,2 m from the line of such veranda.

(4) No part of any balcony that is attached to any veranda, may be carried up to a height greater than two storeys above the pavement level except that, where the top portion of the balcony is roofed with a concrete flat roof forming a floor, a balustrade not exceeding 1 m in height is allowed above the level of the floor.

(5) Any dividing wall across a balcony over a public road may not exceed 1 m in height or 225 mm in thickness.

(6) A balcony over any public road may not be the sole means of access to any room or apartment.

(7) No person may place or permit or cause to be placed any article upon any balcony over a public road, except ornamental plants, tables, chairs, canvas blinds and awnings not used for signs or advertisements.

(8) Where any floor of a building is used solely for the parking of a motor vehicle, bay windows at the level of the floor may not project over any public road for more than 1,35 m for the full length of the building frontage to that road.

### **Plinths, pilasters, corbels and cornices**

6(1). No plinths, pilasters or other encroachments beyond building lines carried up from ground level are permitted to encroach on a public road.

(2) Any pilaster, cornice, corbel or similar architectural feature that is at least 3 m above the ground may not exceed the following level of encroachment over a public road:

(a) a pilaster: 450 mm the total aggregate frontage length of the pilaster may not exceed one-fifth of the building frontage and bay windows in the same storey must be included in the calculation of the maximum aggregate length for bay windows;

(b) a fire-resisting ornamental hood or pediment over a door: 600 mm and in any part not less than 2,75 m in height above the footway or pavement;

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

#### **Verandas around corners**

7. Where verandas are built around corners of public roads they must be properly splayed or rounded to follow the curves of the kerb.

#### **Pavement openings**

8(1). No pavement opening may -

(a) be the sole means of access to any vault or cellar; and

(b) extend more than 1,2 m beyond the building line.

(2) Where flaps are permitted in pavement openings each flap may not exceed 0,75 square metres in area and must open upwards and, while open, must be provided with stout iron guard rails and stanchions.

(3) Flap openings may be opened and used only for the purpose of lowering and raising goods and must be kept closed except when lowering and raising operations are in progress.

(4) The front wall or wall parallel to the kerb in every opening must be built with a suitable batter to the satisfaction of the Council.

(5) No pavement opening may be covered with metal bar gratings or with metal plates or with wood.

#### **Encroachment erected in front of building**

9. Where any encroachment has been erected or constructed in front of any building, the owner must –

(a) at his, her or its own expense, pave the whole of the footway or pavement under the encroachment or in front of the building in which the pavement opening is fixed; and

(b) lay the road kerbing and guttering and paving in front of the building for the full width of the footway or pavement.

#### **Maintenance, removal and tenancy of projections**

10. The owner of any encroachment must maintain the encroachment in good order and repair.

(2) Pavement openings, pavement lights, walls thereof and basement walls must be made and kept water-tight by the owner.

(3) The owner of any encroachment on, under or over any public road or pavement, or sign or other fixture on or over any public road, is regarded a tenant in respect of the encroachment, sign or fixture and, if called upon by the Council to remove any or all of them and restore the public road or pavement to its former condition, must do so within a reasonable time.

#### **Encroachments**

11. (a) Any person other than the owner wishing to erect or construct an encroachment or any other fixture on, under or over any public road, or any immovable property owned by or vested in the Council, must apply to the Building Control Officer on a form provided by the Council for that purpose.

(b) Where in the opinion of the Building Control Officer drawings are required for the conclusion of an encroachment agreement, the prescribed charge in addition to any other prescribed charge is payable to the Council.

(2) The owner of the building in connection with which any encroachment or fixture exists, or is proposed -

(a) must defray any cost incurred in connection with wires or property of the Council;

(b) must allow the Council to erect on, or attach to the encroachment or fixture or anything required in connection with electrical or other activities.

#### **Offences and penalties**

12. A person who contravenes any of these by-laws is guilty of an offence and be liable on conviction to a fine not exceeding R500.00 or to imprisonment not exceeding 6 months or to both that fine and that imprisonment.

#### **Repeal of existing By-laws**

13. The Council's existing Property Encroachment by-laws are hereby repealed.

#### **Short title and commencement**

14. These by-laws shall be called the Property Encroachment Municipal By-laws 2015, and shall come into effect on the first day of the month following the date of publication hereof.

## **10. ENVIRONMENT MUNICIPAL BY-LAWS**

Be it enacted by the Council of Emadlangeni Local Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

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#### **CHAPTER 3: PUBLIC HEALTH NUISANCES**

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#### **CHAPTER 1: DEFINITIONS**

##### **Definitions**

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

"**authorised official**" means an official authorised by the Council for the purposes of these bylaws to perform and exercise any or all of the functions in terms of the provisions of these by-laws;

"**compliance notice**" means a notice issued in terms of section 16 to comply with these by-laws or with a permit issued in terms of these by-laws;

"**Council**" means the Council of Emadlangeni Local Municipality and its committees or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any powers and duties with regard to these bylaws;

"**environmental health officer**" means an official appointed by the Council, and who is duly registered as an environmental health officer or environmental health practitioner with the Health Professions Council of South Africa;

"**municipal manager**" means a person appointed as such by the Council in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"**occupier**", in relation to any premises, means any person -

(a) occupying the premises;

(b) leasing the premises; or

(c) who is not occupying the premises but is entitled to do so;

**"owner"**, in relation to any premises, means -

(a) the person in whose name the title to the premises is registered; or

(b) if the person referred to in (a) is dead, insolvent, mentally ill, a minor or under any legal disability, the executor, guardian or other person who is legally responsible for administering that person's estate;

**"permit"** means a public health permit granted by the Council in terms of the section 10;

**"person"** means a natural person or a juristic person, and includes an organ of state;

**"pest"** means any animal that may create a public health hazard or public health nuisance if it is present in significant numbers and without limitation, includes rats, mice, flies, mosquitoes and cockroaches;

**"premises"** means -

(a) any land without any buildings or other structures on it;

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

(c) any vessel, vehicle or movable structure that is used for a scheduled use;

**"prescribed fee"** means a fee determined by the Council by resolution;

**"prohibition notice"** means a notice issued in terms of section 17;

**"public health"** means the mental and physical health and well-being of people in the Council's area;

**"public health hazard"** means any actual threat to public health, and without limitation, includes -

(a) the circumstances referred to in section 2(3);

(b) unsanitary conditions;

(c) circumstances that make it easier for a communicable disease to spread;

(d) circumstances that make food or drink, including water for domestic consumption, unhygienic or unsafe to eat or drink; and

(e) circumstances that allow pests to infest any place where they may affect public health;

**"public health nuisance"** means the use of any premises or place in a manner that creates conditions that significantly increase the risk of a public health hazard occurring or that compromises any aspect of the public health to an extent that is more than trivial or insignificant, and without limitation, includes those circumstances in which a public health nuisance is considered to exist in terms of section 5; and

"**public place**" means any road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, footpath, sidewalk, lane square, open space, garden park, path, bus or taxi rank, servitude or enclosed space vested in a Council and includes any road, place or thoroughfare which is in the undisturbed use of the public or which the public have the right to use.

## **CHAPTER 2: PUBLIC HEALTH HAZARDS**

### **Prohibition on causing a public health hazard**

- 2 (1). No person may create a public health hazard on any premises or public place within the Council's area of jurisdiction:
- (2) Every owner or occupier of premises must ensure that a public health hazard does not occur on the premises.
- (3) An owner or occupier of premises creates a public health hazard if -
- (a) the premises are infested with pests or pests are breeding in significant numbers on the premises;
  - (b) there are conditions on the premises that are conducive to the spread of a communicable disease;
  - (c) there are unsanitary conditions in any part of the premises; or
  - (d) any water supply for domestic consumption on the premises is unsafe for human consumption.
- (4) Any person that contravenes or fails to comply with subsections or (2) commits an offence.

### **Duty to report**

- 3(1). The owner or occupier of premises who knows of a public health hazard on the premises must within 24 hours of becoming aware of its existence -
- (a) eliminate the public health hazard; or
  - (b) if the owner or occupier is unable to comply with subsection (a), take reasonable steps to reduce the risk to public health and report the existence of the public health hazard to the Council.
- (2) An owner or occupier who does not comply with subsection (1) commits an offence.

## **CHAPTER 3: PUBLIC HEALTH NUISANCES**

### **Prohibition on causing a public health nuisance**

- 4 (1). No person may cause a public health nuisance on any premises or public place within the Council's area of jurisdiction.

(2) Every owner or occupier of premises must ensure that a public health nuisance does not arise on the premises.

#### **General nuisances**

5. An owner or occupier of premises creates a public health nuisance where –

(a) any stream, pool, marsh, ditch, gutter, watercourse, cistern, urinal, drain, sewer, septic tank, long drop, slop tank, ash heap or dung heap is so foul or in such a state or so situated or constructed as to be offensive or to be injurious or dangerous to the public health;

(b) any stable, kraal, shed, run or other structure used for the keeping of animals or birds is so constructed, situated, used or kept as to be offensive or to be injurious or dangerous to health;

(c) any accumulation of refuse, offal, manure or other matter is offensive or is injurious or dangerous to health;

(d) any factory, industrial or business premises is so overcrowded, inadequately lit or ventilated as to be injurious or dangerous to the health of those employed therein or thereon; and

(e) any factory, industrial or business premises causes or gives rise to smells or effluvia which are offensive or which are injurious or dangerous to health.

#### **Pest control**

6. An owner or occupier of premises creates a public health nuisance where –

(a) waste or other material is left or kept in a manner that attracts rodents or other pests to the premises; or

(b) flies or mosquitoes are attracted to, or breeding , in significant numbers on the premises.

### **CHAPTER 4: POTENTIALLY HAZARDOUS USES OF PREMISES**

#### **Duty to list potentially hazardous uses**

7. The Council may list any use of premises, in a schedule to these by-laws, which has caused, or is likely to cause, a public health hazard or to create a public health nuisance unless reasonable measures are taken to avoid the risk or to reduce it to an acceptable level and Council must prescribe measures that must be taken to avoid the risk or reduce it to a level acceptable to the Council.

#### **Scheduled uses**

8. Any person who uses premises in a manner or for a purpose listed in the Schedule to these by-laws must -

(a) comply with each of the provisions set out in the Schedule relating to that use unless that person has been granted an exemption under section 9 from complying with any provision; and

(b) obtain a permit under section 10 before commencing the use and must comply with the terms and conditions of the permit.

### **Exemption certificate**

9(1). Any person who wishes to use premises in a manner or for a purpose listed in the Schedule to these by-laws, but who wishes to be exempted from complying with one or more of the requirements of the Schedule, may apply to the Council for an exemption certificate.

(2) The Council may grant an exemption certificate, with or without conditions, if an environmental health officer is satisfied that -

(a) the measures taken to avoid or reduce the risk to public health arising from the scheduled use are equivalent to or better than the measures required by the relevant schedule; and

(b) the scheduled use for which the exemption is required is not likely to cause a public health hazard or a public health nuisance.

### **Public health permits**

10(1). Any person who wishes to use premises in a manner or for a purpose listed in the Schedule to these by-laws must apply in writing to the Council in accordance with section 11 for a public health permit.

(2) The Council may issue a public health permit to the owner or occupier of any premises if an environmental health officer is satisfied that the use for which the permit is required is not likely to cause a public health hazard or a public health nuisance.

(3) A public health permit -

(a) must be issued subject to conditions aimed at reducing the risk to public health created by the scheduled use, to a level acceptable to the Council; and

(b) may exempt the permit holder from complying with one or more of the provisions of the relevant schedule if the person authorised to issue the permit reasonably believes that the permit requires the permit holder to take measures to avoid or reduce the risk to public health arising from the activity that are equivalent to, or better than, the measures required by the relevant schedule.

### **Application procedure**

11(1). Any person who wants to obtain a permit or an exemption certificate must apply to the Council in writing in a form stipulated by the Council, prior to undertaking the relevant scheduled use.

(2) When the Council receives an application for a permit or an exemption certificate it must ensure that the relevant premises are inspected by an environmental health officer as soon as reasonably possible.

(3) Before deciding whether or not to approve an application referred to in subsection (1), the Council -

(a) must ensure that every persons in the vicinity of the premises whose health or wellbeing may be affected if the premises are used for a scheduled use, has been consulted and has had an opportunity to make representations; and

(b) may request the applicant to provide any further information which the Council considers necessary or relevant to enable the Council to make a properly informed decision.

#### **General terms applicable to permits and certificates**

12(1). A permit or an exemption certificate -

(a) is not transferable from one person to another; and

(b) applies only to the premises specified in the permit or certificate.

(2) Every permit or exemption certificate -

(a) must specify the address and other relevant details regarding the location of the premises concerned;

(b) must describe the premises concerned;

(c) must describe the activity concerned;

(d) may specify terms and conditions; and

(e) must indicate when it expires.

(3) The Council may charge applicants a prescribed fee for considering and granting the permit or exemption certificate.

(4) The Council may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and until the prescribed fee, if any, has been paid.

#### **Suspension, cancellation and amendment of permits and of exemption certificates**

13(1). An environmental health officer may, by written notice to the holder of a permit or exemption certificate, suspend, amend or cancel the permit or certificate.

(2) An environmental health officer may suspend or cancel a permit or exemption certificate with immediate effect if -

(a) the environmental health officer reasonably believes that it is urgently necessary to do so to eliminate or to reduce a significant risk to public health posed by a public health hazard or a public health nuisance; and

(b) the holder of the permit or certificate has failed to comply with a compliance notice that states that the permit or certificate may be suspended or cancelled without further notice if the holder fails to comply with the compliance notice.

(3) An environmental health officer may amend a permit or exemption certificate by endorsing the permit or certificate or by written notice to the holder, if the environmental health officer reasonably believes that it is necessary to do so to protect public health or to take account of changed circumstances since the permit or exemption certificate was issued.

## **CHAPTER 5: IMPLEMENTATION AND ENFORCEMENT**

### **Appointment and identification of environmental health officers**

14(1). The Council must issue an identity card to each environmental health officer.

(2) The identity card must -

(a) contain a recent photograph of the environmental health officer;

(b) be signed by the environmental health officer; and

(c) identify the person as an environmental health officer.

(3) The environmental health officer must display his or her identity card so that it is clearly visible or produce it at the request of any person in relation to whom the environmental health officer is exercising a power under these by-laws.

### **General powers of an environmental health officer**

15(1). An environmental health officer may, for the purposes of implementing or administering any power or duty under these by-laws -

(a) exercise any power afforded to such officer in terms of these by-laws or any other applicable legislation;

(b) issue a compliance notice in terms of section 16 requiring any person to comply with the provisions of these by-laws;

(c) issue a prohibition notice in terms of section 17 prohibiting any person from conducting an activity;

(d) undertake measures in terms of section 19 to remove, reduce and/or minimise any public health nuisance;

(e) cancel, suspend or amend any permit or exemption certificate in terms of section 13 or

(f) enter and inspect premises and for this purpose may-

(i) question any person on the premises;

(ii) take any sample that the environmental health officer considers necessary for examination or analysis;

(iii) monitor and take readings or make measurements; and

(iv) take photos or make audio-visual recordings of anything or any person, process, action or condition on or regarding any premises.

(2) An environmental health officer who removes anything from any premises being inspected must -

(a) issue a receipt for it to the owner, occupier or person apparently in control of the premises; and

(b) return it as soon as practicable after achieving the purpose for which it was removed.

### **Compliance notice**

16. If an environmental health officer, after inspecting premises, reasonably believes that a public health hazard or public health nuisance exists on the premises or that the premises are being used in a manner or for a purpose listed in the Schedule to these by-laws without a permit, the environmental health officer may serve a compliance notice on one or more of the following persons:

(a) the owner of the premises;

(b) the occupier of the premises; or

(c) any person apparently in charge of the premises.

(2) A compliance notice must state -

(a) why the environmental health officer believes that these by-laws is being contravened;

(b) the measures that must be taken -

(i) to ensure compliance with these by-laws; or

(ii) to eliminate or minimise any public health nuisance;

(c) the time period within which the measures must be taken;

(d) the possible consequences of failing to comply with the notice; and

(e) how to appeal against the notice.

(3) If a person fails to comply with a compliance notice that requires a particular action be taken, the Council may -

(a) take the required action specified in the compliance notice; and

(b) recover, as a civil debt, from the person to whom the notice was given, the costs and expenses reasonably incurred in taking the required action.

**Prohibition notice**

17(1). An environmental health officer may, after inspecting premises, serve a prohibition notice prohibiting the premises from being used for specified purposes and requiring measures to be taken to ensure that this occurs, on one or more of the following persons:

- (a) the owner of the premises;
- (b) the occupier of the premises; or
- (c) any person apparently in charge of the premises,

If the environmental health officer reasonably believes that that person has not complied with the terms of a compliance notice.

(2) The environmental health officer must give the person on whom he or she intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice unless the environmental health officer reasonably believes that the delay in doing so would significantly compromise public health, in which case the person on whom a prohibition notice is served must be given reasonable opportunity to make representations why it should be withdrawn.

(3) A prohibition notice must state -

- (a) the reasons for serving the notice;
- (b) whether or not the Council will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;
- (c) the possible consequences of failing to comply with the notice; and
- (d) how to appeal against the notice.

(4) The environmental health officer must as soon as possible affix a copy of the notice in a conspicuous position on the premises and in the language which is likely to be understood by the occupants of the premises.

**Withdrawal of prohibition notice**

18(1). An environmental health officer must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a prohibition notice, carry out an investigation of the premises.

(2) After completing the investigation, the environmental health officer must inform in writing the person on whom the prohibition notice was served, or that person's agent whether or not the prohibition has been removed or the prohibition order withdrawn.

(3) The Council may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection (1) a prescribed fee for undertaking the investigation.

**Municipal remedial work**

19. The Council may enter into any premises and do anything on the premises that it reasonably considers necessary -

- a. to ensure compliance with these by-laws or with any compliance notice or prohibition notice;
- b. to reduce, remove or minimise any public health nuisance; or
- c. to reduce, remove or minimise any significant public health hazard.

**CHAPTER 6: APPEALS**

- 20 (1) A person whose rights are affected by a decision taken by any authorised official under these by-laws, may appeal against the decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4).
- (3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (4) When the appeal is against a decision taken by -
- (a) a staff member other than the municipal manager, the municipal manager is the appeal authority; or
  - (b) the municipal manager, the Mayor is the appeal authority.
- (5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

**5. SCHEDULED USES**

The uses of premises defined as scheduled businesses in this Schedule are considered to pose an unacceptable risk to public health unless the measures specified are taken to avoid the risk or to reduce it to a level acceptable to the Council.

**1 Definitions**

In this Schedule, unless the context indicates otherwise -

"**effluent**" means any waste water which may arise as a result of undertaking any scheduled use;

"**scheduled uses**" means any business listed below or that involves an activity listed below -

- (a) panel beating or spray painting;
  - (b) operating a waste recycling plant;
  - (c) scrap yard;
  - (d) tanning, glue or size making;
  - (e) charcoal burning, brick burning or lime burning;
  - (f) manure or compost making or storing;
  - (g) manufacturing malt and yeast;
  - (h) cement works, coke-ovens or salt glazing works;
  - (i) sintering of sulphurous materials;
  - (j) viscose works;
  - (k) ore and mineral smelting, calcining, puddling and rolling of iron and other metals, conversion of pig iron into cast iron, reheating, tempering, hardening, forging, conversion and compounding of carbon with iron and other metals;
  - (l) works for the production of carbon bisulphide, cellulose lacquer, cyan or its compounds, hot pitch or bitumen, pulverized fuel, peridine, liquid or gaseous sulphur dioxide or sulphur chlorides;
  - (m) works for the production of amyl acetate, aromatic ethers, butyric acid, caramel, enameled wire, glass, hexamine, lampblack, B-naphthol, resin products, salicylic acid, sulphated organic compounds, sulphurous paints, ultramarine, zinc chloride and zinc oxide; or
  - (n) the refining or processing of petrol, oil or their products; and
- "scheduled business person" means any person who owns, conducts or carries on a business which is listed as a scheduled use or which includes an activity listed as a scheduled use.

## **2 Permit requirement**

No person may conduct a scheduled business in or on any premises, except in terms of a valid permit.

## **3 Requirements for premises**

No person may undertake a scheduled use of any premises unless -

- (a) the floors of the premises are constructed of cement concrete or a similar impervious material, brought to a smooth finish;
- (b) the floors of the premises are adequately graded and drained for the disposal of effluent to an approved disposal system;

(c) the inside walls, except where glazed or glass brick or glazed tiles are used, are plastered, brought to a smooth finish and painted with a light-coloured, washable paint;

(d) the surface of any backyard or open space is paved with concrete or similar impervious material, brought to a smooth finish;

(e) the premises are provided with adequate light and ventilation as prescribed in National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), as amended;

(t) an adequate supply of running potable water is provided;

(g) an adequate number of portable containers constructed of iron or another non-absorbent material, equipped with closely fitting lids, are provided for the removal of all waste and waste water from the premises;

(h) adequate means are provided for the disposal of all effluents arising from the manufacturing process performed on the premises;

(i) adequate accommodation is provided for the storage of all finished products or articles or materials which are used in the manufacturing process and which may-

(i) discharge offensive or injurious effluent or liquids; or

(ii) decompose in the course of the work or trade;

(j) adequate means are provided to control the discharge in the open air of any noxious, injurious or offensive gases, fumes, vapours or dust produced during any handling, preparation, drying, melting, rendering, boiling, grinding process or storage of material;

(k) adequate toilet facilities are provided as prescribed in the National Building Regulations and Building Standards Act, 1977 (Act No.103 of 1977), as amended;

a perimeter wall or fence with a minimum height of 2 metres is constructed around the premises;

(m) all gates to the premises are of solid construction with a minimum height of 2 metres; (n) all perimeter walls and gates adequately screen activities from public view; and (o) all materials are stacked or stored on the premises below the height of the perimeter screening.

#### **4 Duties of a scheduled business person**

A scheduled business person must -

(a) maintain the premises in a clean, hygienic and good condition at all times;

(b) maintain all walls and floors of the premises in a manner and condition that prevents the absorption of any waste or waste water;

(c) maintain all machinery, plant, apparatus, furniture, fittings, tools, implements, vessels, containers, receptacles and vehicles in a clean, hygienic and good condition at all times; and

(d) prevent the emission of noxious, injurious or offensive gases, fumes, vapours or dust generated during any handling, preparation, drying, melting, rendering, boiling, grinding process or storage of any material on the premises.

## **CHAPTER 7: GENERAL**

### **Offences**

21. Any person who -

(a) contravenes or fails to comply with any provisions of these by-laws;

(b) fails to comply with any notice issued in terms of these by-laws;

(c) fails to comply with any lawful instruction given in terms of these by-laws; or

(d) obstructs or hinders any authorised official in the execution of his or her duties under these by-laws -

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R15 000 or imprisonment for a period not exceeding 6 months or both.

### **Repeal of existing By-laws**

22 The Council's existing Environment by-laws are hereby repealed.

### **Short title and commencement**

23 These by-laws shall be called the Environment By-laws 2015, and shall come into effect on the first day of the month following the date of publication hereof.

**CONTINUES ON PAGE 130 - PART 2**



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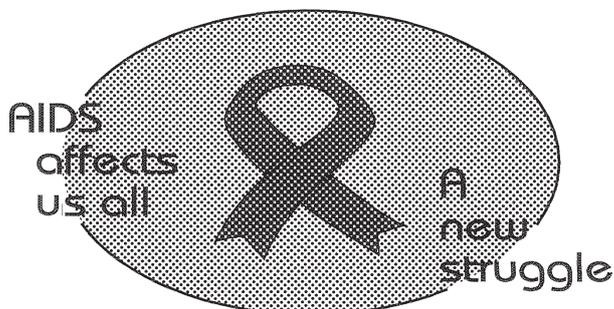
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**PART 2 OF 2**

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# **11. FIRE PREVENTION MUNICIPAL BY-LAWS**

Be it enacted by the Council of Emadlangeni Local Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

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## CHAPTER 1

### DEFINITIONS

#### Definitions

1. In this bylaw, unless the context indicates otherwise -

**"above ground storage tank"** means a tank situated above ground for the storage of a flammable liquid;

**"automatic releasing hold-open device"** means a device used to hold open a fire door and operates on the detection of a fire to close the fire door;

**"building"** means any structure, whether of a temporary or permanent nature and irrespective of the materials used in the construction thereof, erected or used for or in connection with -

(i) the accommodation or convenience of human beings or animals;

(ii) the manufacture, processing, storage or sale of any goods;

(iii) the rendering of any service;

(iv) the destruction or treatment of combustible refuse or combustible waste;

(v) the cultivation or growing of any plant or crop;

(a) any wall, swimming pool, reservoir or bridge or any other structure connected therewith;

(b) any fuel pump or any tank used in connection therewith;

(c) any facilities or system, or part or portion thereof, within or outside or incidental to a building, for the provision of a water supply, drainage, sewerage, stormwater disposal, electricity supply or other similar service in respect of the building;

**"bund wall"** means a containment wall surrounding an above ground storage tank, constructed of an impervious material and designed to contain 100% of the contents of the tank;

**"combustible material"** means combustible refuse, combustible waste or any other material capable of igniting;

"**combustible refuse**" means any combustible rubbish, litter or other material that has been discarded;

"**combustible waste**" means any combustible waste material which is salvageable, retained or collected for scrap or reprocessing;

"**Council**" means the council of Emadlangeni Municipality and its committees or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any powers and duties with regard to these bylaws.

"**dangerous goods**" means a flammable gas, liquid or solid as contemplated in SABS 0228;

"**division separating element**" means a building element or component which separates one area in a building from another and has a fire resistance of not less than that required by the National Building Regulations (T1) read with the SABS 0400;

"**emergency evacuation plan**" means a plan specifically designed to aid in the evacuation of occupants from a building in the event of a fire or other threatening danger and assigns responsibility to various staff, indicates escape routes to be used and provides for general contingencies for a safe and quick evacuation from a building;

"**emergency route**" means that part of an escape route that provides fire protection to the occupants of any building and which leads to an escape door;

"**emergency vehicle**" means any fire, rescue or other vehicle intended for use at fires and other threatening dangers;

"**escape door**" means the door in an escape route, which at ground level leads directly to a street or public place or to any approved open space which leads to a street or public place;

"**escape route**" means the entire path of travel from the furthest point in any room in a building to the nearest escape door and may include an emergency route;

"**escape route plan**" means a diagram indicating the floor layout, the occupant's current position and the route of travel to the nearest primary and secondary escape routes in the building, as well as the action to be taken in the event of a fire or other threatening danger;

"**Fire Brigade Services Act**" means the Fire Brigade Services Act, 1987 (Act 99 of 1987);

"**fire damper**" means an automatic damper and its assembly that complies with the requirements contained in SABS 193;

"**fire door**" means an automatic or self-closing door or shutter assembly especially constructed to prevent the passage of fire for a specific length of time;

"**fire extinguisher**" means a portable or mobile rechargeable container which has a fire extinguishing substance that is expelled by the action of internal pressure for the purposes of extinguishing a fire;

**"fire hazard"** means any situation, process, material or condition which may cause a fire or explosion or provide a ready fuel supply to increase the spread or intensity of the fire or explosion and which poses a threat to life or property;

**"fire lanes"** means the road, path or other passageway constructed or designated to allow access for emergency vehicles;

**"Fire Protection Association"** means a Fire Protection Association registered in Terms of Section 4 of the National Veld and Forest Fire Act, 1998

**"fire protection system"** means any device or system designed and installed to -

(a) detect, control or extinguish a fire, or

(b) alert occupants or the fire service, or both, to a fire, but excludes portable and mobile fire extinguishers;

**"fire wall"** means a wall that is able to withstand the effects of fire for a specific period of time as contemplated in the National Building Regulations (T1) read with SABS 0400;

**"flammable gas"** as contemplated in SABS 0228, means a gas that at 20 degrees centigrade and at a standard pressure of 101,3 kilopascals -

(a) is ignitable when in a mixture of 13% or less (by volume) with air, or

(b) has a flammable range with air of at least 12 percentage points, regardless of the lower flammable limit;

**"flammable liquid"** means a liquid, or mixtures of liquids, or a liquid containing solids in solution or in suspension that give off a flammable vapor at or below 60,5 degrees centigrade;

**"flammable solid"** means a solid that is easily ignited by external sources, such as sparks and flames, solids that are readily combustible, solids that are liable to cause, or contribute to, a fire through friction or solids that are desensitized (wetted) explosives that can explode if not diluted sufficiently;

**"flammable substance"** means a flammable liquid or a flammable gas;

**"flammable store"** means a store that is used for the storage of flammable liquids and complies with the criteria set out in section 46 of this by-law;

**"Hazardous Substances Act"** means the Hazardous Substances Act, 1973 (Act 15 of 1973);

**"National Building Regulations"** means the regulations promulgated in terms section 17 of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977), and -

(a) **"National Building Regulations (A2)"** means the provisions regulating the submission of building plans and particulars to the Council;

(b) **"National Building Regulations (A20)"** means the provisions regulating the classification and designation of occupancies;

(c) "**National Building Regulations (A21)**" means the provisions regulating the population of a building;

(d) "**National Building Regulations (T1)**" means the provisions regulating general requirements for fire protection of a building, and

(e) "**National Building Regulations (T2)**" means the provisions regulating the offences for non-compliance with the National Building Regulations (T1);

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

"**non-combustible**" means a substance or material classified as non-combustible when tested in accordance with SABS 0177: Part 5;

"**occupancy separating element**" means a building element or component which separates one occupancy in a building from another and has a fire resistance of not less than that required by the National Building Regulations (T1) read with the SABS 0400;

"**Occupational Health and Safety Act**" means the Occupational Health and Safety Act, 1993 (Act 85 of 1993);

"**operator**" means the person responsible for the use of a motor vehicle and who has been registered as the operator of such a vehicle in terms of the National Road Traffic Act;

"**owner**" means -

(a) a lessee or other person who controls the land in question in terms of a contract, testamentary document, law or order of High Court;

(b) in relation to land controlled by a community, the executive body of the community in terms of its constitution or any law or custom;

(c) in relation to state land not controlled by a person contemplated in paragraph (a) or a community-

(i) the Minister of the Government Department or the member of the Executive Council of the Provincial Administration exercising control over that state land, or

(ii) a person authorized by his or her, and

(d) in relation to a local authority, the chief executive officer of the local authority or a person authorized by him or her.

"**person in charge**" means -

(a) in relation to premises, either a natural or juristic person who is permanently or temporarily responsible for the management, or utilisation of the premises;

(b) in relation to a building, either a natural or juristic person who is permanently or temporarily responsible for the management, maintenance or utilisation of the building;

(c) in relation to an installation, either a natural or juristic person who is permanently or temporarily responsible for the management or utilisation of the installation; provided that such a person is not the person mentioned in (a), and

(d) in the event of the Council being unable to determine the identity of a person mentioned in (a), (b) and (c), any person who is in the opinion of the Council deemed to be in charge of such premises, building or installation;

**"premises"** means any building, beach, land, terrain, road, vehicle and can include a vessel, train or aircraft;

**"site"** means any erf, lot, plot, stand or other piece of land on which a building has been, is being or is to be erected;

**"Standards Act"** means the Standards Act, 1993 (Act 29 of 1993);

**"storage vessel"** means a pressure vessel as defined in the regulations for pressure vessels promulgated in terms of the Occupational Health and Safety Act;

**"summary abatement"** means to immediately judge a condition to be a fire hazard or other threatening danger to life or property and to order immediate correction of such condition;

**"tank"** means a container mounted permanently or temporarily on or embodied in a vehicle and so constructed to be suitable for the containment of flammable liquid or gas cargo;

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

**"vehicle"** means a vehicle as defined in the National Road Traffic Act, and any reference to an SABS Code shall refer to the relevant Code published by the South African Bureau of Standards and issued in terms of the Standards Act.

## **CHAPTER 2**

### **FIRE PROTECTION OF BUILDINGS**

#### **Reporting a fire hazard and other threatening danger**

2. An owner or the person in charge of any premises must, upon discovering any evidence of a fire hazard or other threatening danger pertaining to this by-law, immediately take reasonable steps to eliminate such hazard or prevent such danger and thereafter notify the Council of such fire hazard or threatening danger and the reasonable steps taken to prevent or eliminate if, if any.

#### **Access for emergency vehicles**

3(1). When, in the opinion of the Council, premises are not readily accessible from public roads, such premises must be provided with emergency vehicle access which must -

(a) be constructed so that it is capable of supporting the mass of the heaviest emergency vehicle required to cater for the risk of the premises; and

(b) where the premises have a motorized or electronically operated gate, be equipped in such a manner that access to the premises can be gained without the use of a motor or electronic device.

(2) Fire lanes must be provided for all premises which are set back more than 45 metres from a public road or exceed nine metres in height and are set back over 15 metres from a public road.

(3) Fire lanes must be at least four metres in width, the position of which must be decided upon after consultation with the Council, and the area from ground level to a clearance height of four metres above the fire lane must remain unobstructed.

(4) A cul-de-sac that is more than 90 metres in length, must be provided with a minimum turning circle at the closed end of the road capable of accommodating the largest emergency vehicle which is required to cater for the risk of the premises.

(5) The design, marking, use and maintenance of fire lanes not forming part of a public road must comply with the requirements of the Council.

(6) It is unlawful for a person to park a vehicle in or otherwise obstruct a fire lane.

#### **Division and occupancy separating elements**

4. An owner or person in charge of a building may not alter a division or occupancy separating element in anyway that would render it less effective or to allow flame, heat or combustion products from penetrating into the adjacent compartment or structure.

#### **Fire doors and assemblies**

5(1). Subject to the provisions of SABS 1253, a fire door and assembly must be maintained in such a manner that in the event of a fire it retains its integrity, insulation and stability for the time period required for that particular class of door.

(2) A fire door may be kept open, only when it is equipped with an automatic releasing hold-open device approved by the Council.

(3) A fire door and assembly may not be rendered less effective through -

(a) altering the integrity, insulation or stability of a particular class of door;

(b) disconnecting the self-closing mechanism;

(c) wedging, blocking or obstructing the door so that it cannot close;

(d) painting the fusible link actuating mechanism of a door;

(e) disconnecting or rendering less effective an electric or electronic release mechanism, or

(f) any other action that renders a fire door or assembly less effective.

#### **Escape Routes**

6(1). No part of a fire escape route shall be obstructed or rendered less effective in any way.

(2) A locking device, which is fitted to an access or escape door in an escape route, must be of a type approved by the Council.

(3) Where required by the Council, an escape route must be clearly indicated with signage, which complies with SABS 1186, indicating the direction of travel in the event of fire or any other emergency.

### **CHAPTER 3**

#### **FIRE SAFETY EQUIPMENT**

##### **Fire extinguishers**

7(1). Fire extinguishers must be provided and installed on premises as required by the National Building Regulations (T1) and (T2).

(2) Fire extinguishers must be maintained in accordance with the requirements of the Occupational Health and Safety Regulations, SABS 1475: Part 1, SABS 1571, SABS 1573 and SABS 0105: Part 1.

(3) No person may fill, recharge, recondition, modify, repair, inspect or test a fire extinguisher in terms of SABS 1475: Part 1, unless such a person is the holder of a permit issued by the South African Bureau of Standards or a certificate of competence issued by the South African Qualifications Certification Committee.

(4) The owner or person in charge of the premises may not allow a fire extinguisher to be filled, recharged, reconditioned, modified, repaired, inspected or tested by a person not in possession of a permit or certificate mentioned in subsection (3).

(5) Where a fire extinguisher has been filled, recharged, reconditioned, modified, repaired, inspected or tested by a person not in possession of a permit mentioned in subsection (3), the Council must instruct the owner or person in charge of such premises to have the work carried out by a person who is in possession of such a permit or certificate.

(6) When, in the opinion of the Council, a fire extinguisher is unsafe or ineffective either by reason of deterioration, design or construction, the Council must instruct the owner or the person in charge of the premises to have the appliance inspected and tested in terms of SABS 1475: Part 1 and SABS 1571.

(7) A fire extinguisher may not be removed from the premises for filling, recharging, reconditioning, modification, repair, inspection or testing unless the appliance is replaced temporarily with a similar appliance in good working condition.

(8) A fire extinguisher may not be installed, dismantled, recharged, disconnected, serviced, modified, repaired or tested in an area where such action would create a danger or hazard.

**Testing and maintenance of fire protection systems**

8(1). A fire protection system must be tested and maintained on a regular basis and the owner or person in charge of the premises must keep a detailed record of the test and maintenance of the system.

(2) A person may not test a fire protection system before notifying the occupants of the premises concerned of the starting and completion times of the test, and where applicable, the parties who monitor the fire protection system.

(3) A fire protection system designed for detecting, fighting, controlling and extinguishing a fire must be maintained in accordance with the National Building Regulations (T2).

(4) A fire protection system may not be installed, dismantled, recharged, disconnected, serviced, modified, repaired or tested in any area where such action would create a danger or hazard.

(5) The owner or person in charge of the premises must immediately notify the Council when the fire protection system, or a component thereof, is rendered inoperable or taken out of service and must notify the Council as soon as the system is restored.

(6) The owner or person in charge of the premises must take all steps deemed necessary by the Council to provide alternate equipment to maintain the level of safety within the premises.

**Interference with fire protection systems and fire extinguishers**

9. No person shall tamper or interfere with a fire extinguisher or fire protection system, except as may be necessary during emergencies, maintenance, drills or prescribed testing.

**CHAPTER 4 PUBLIC SAFETY****Attendance of a service**

10(1). When the Council is of the opinion that a representatives of the fire brigade service are required to be in attendance during a function in a place used for entertainment or public assembly, the Council may provide, in the interest of public safety and subject to the exigencies of the service, one or more members, a vehicle or equipment of a service to be in attendance on the premises for the duration of the function or part thereof.

(2) Where the entertainment or public assembly is taking place on Council property, the costs of the attendance of the representatives of the fire brigade service shall be recoverable from the organizers.

**Formulation of an emergency evacuation plan**

11(1). The owner or person in charge of a school, hospital, residential institution, hotel, guest house, hostel or other similar occupancy which has a population in excess of 25 persons (including staff), must formulate an emergency evacuation plan detailing the appropriate action to be taken by the staff or the occupants in the event of a fire or other threatening danger.

(2) The Council may order the owner or person in charge of the premises, other than those contemplated in subsection (1) , to formulate an emergency evacuation plan detailing the appropriate action to be taken by the staff or the occupants in the event of a fire or other threatening danger.

(3) The plan mentioned in subsections and (2) must be revised if an aspect thereof is no longer applicable or if the building for which the plan was designed has changed.

(4) The emergency evacuation plan must be tested in its entirety at a maximum of six-monthly intervals or when the plan has been revised and a record of the testing must be kept in a register.

(5) The register mentioned in subsection (4) must contain the following information -

(a) the date and time of the test;

(b) the number of participants;

(c) the outcome of the test and any corrective actions required, and

(d) the name and signature of the person supervising the test.

(6) The register, together with the emergency evacuation plan, must be available on the premises for inspection by the Council.

(7) The Council may evaluate the formulation and implementation of the emergency evacuation plan and may officially communicate any recommendations or remedial actions to improve or rectify faults in the plan.

#### **Displaying of escape route plans**

12. The escape route plan must be displayed in a conspicuous position in any room designed for sleeping purposes.

#### **Barricading of vacant buildings**

13. The owner or person in charge of a building or portion thereof which is vacant must remove all combustible waste or refuse therefrom and lock, barricade or otherwise secure all windows, doors and other openings in the building to the satisfaction of the Council which will prevent the creation of a fire hazard caused by the entering of an unauthorized person.

### **CHAPTER 5**

#### **HOUSEKEEPING**

##### **Combustible waste and refuse**

14(1). The owner or person in charge of the premises or a portion thereof must not allow combustible waste or refuse to accumulate in any area or in any manner so as to create a fire hazard or other threatening danger.

(2) Combustible waste and refuse must be properly stored or disposed of to prevent a fire hazard or other danger.

#### **Combustible or flammable substances and sweeping compounds**

15(1) Only water-based solutions, detergents, floor sweeping compounds and grease absorbents must be used for cleaning purposes.

(2) The use of sawdust or similar combustible materials to soak up spilled combustible or flammable substances is prohibited.

#### **Accumulations in chimneys, flues and ducts**

16. The owner or person in charge of the premises or a portion thereof must not allow soot or any other combustible substance to accumulate in a chimney, flue or duct of the premises in such quantities or in such a manner as to constitute a fire hazard or other threatening danger.

#### **Sources of ignition**

17(1). Smoking, the carrying of matches, the use of heating, flame-emitting devices or spark-producing equipment is prohibited in areas containing combustible or flammable substances.

(2) Hot ashes, cinders or smouldering coals must be placed in a non-combustible container and the container must be placed on a non-combustible surface or stand.

(3) An adequate distance, as deemed appropriate by the Council, must be ensured and maintained between combustible substances and heating or lighting equipment or other sources of ignition.

(4) Portable heaters must be secured so that they cannot be overturned and the Council may prohibit the use of portable heaters in respect of occupancies or situations where such use or operation would present a fire hazard or other threatening *danger*.

#### **Smoking**

18(1). If conditions exist where smoking creates a fire hazard on the premises, smoking is prohibited and "No Smoking" signs must be displayed as directed by the Council and the signs must comply with SABS 1186: Part 1.

(2) No person may remove a "No Smoking" sign.

(3) No person may light or smoke a cigar, cigarette, pipe, tobacco or other substance or ignite or otherwise set fire to other material, nor hold, possess, throw or deposit any lighted or smouldering substance in any place where expressly prohibited.

(4) A person may not throw, put down or drop a burning match, burning cigarette, or other burning material or any material capable of spontaneous combustion or self-ignition in a public road or public place.

#### **Electrical fittings, equipment and appliances**

19. No person may cause or permit -

(a) an electrical supply outlet to be overloaded; or

(b) an electrical appliance or extension lead to be used in a manner which is likely to create a fire hazard or other threatening danger.

#### **Flame-emitting device**

20. A person may not cause or permit a flame-emitting device, such as a candle, lantern or torch, but not limited thereto, to be used in a manner which is likely to create a fire hazard or other threatening danger.

### **CHAPTER 6**

#### **FIRE HAZARDS**

##### **Combustible material**

21(1). A person may not store, transport, use or display or cause or permit to be stored, transported, used or displayed, whether inside or outside any premises, any combustible material or a flammable substance in quantities or in a position or in a manner likely to cause or create a fire hazard or other threatening danger.

(2) The owner or person in charge of any premises may not permit vegetation to grow or accumulate thereon, or other combustible material to accumulate thereon, in a manner likely to cause a fire hazard or other threatening danger.

##### **Lighting of fires and burning of combustible material**

22. The lighting of fires and the disposal of combustible material by burning is prohibited, save in the circumstances set out in this section.

(2) A person may light a fire or use a flame-emitting device for the purpose of preparing food or for any other domestic purpose in a manner which will not cause a fire hazard or other threatening danger or where such a fire is not precluded by any other legislation.

(3) Controlled burning may take place on State land, a farm, a small holding, or, subject to prior approval being obtained from the Council, on land within a proclaimed township or a built up area.

**CHAPTER 7****FLAMMABLE SUBSTANCES****Storage and use of a flammable substance**

23(1). Prior to the construction of a new installation or the alteration of an existing installation, whether temporary or permanent, for the storage of a flammable substance, the owner or person in charge of the installation must submit a building plan to the Council, in accordance with the National Building Regulations, and a copy of the approved plan must be available at the site where the installation is being constructed.

(2) Prior to the commissioning of an above ground or underground storage tank installation, liquid petroleum gas installation or associated pipework, the owner or person in charge of the installation must ensure that it is pressure-tested in accordance with the provisions of the National Building Regulations (T1), SABS 0131: Parts 1 and 2, SABS 089: Part 3 and SABS 087: Parts 1, 3 and 7 (whichever is applicable) in the presence of the Council.

(3) Notwithstanding subsection (2), the Council may require an existing above ground or underground storage tank installation, liquid petroleum gas installation or associated pipework, to be pressure-tested in accordance with the provisions of the National Building Regulations (T1).

(4) The Council must be notified at least 48 hours prior to the pressure test.

(5) The owner or person in charge of the premises may not store or use -

(a) a flammable gas in excess of 19 kilogram, or

(b) a flammable liquid of a danger group (i), (ii), (iii) or (iv) in excess of 200 litres,

unless he or she has obtained a flammable substance certificate from the Council.

**Flammable substance certificate**

24(1). The owner or person in charge of the premises, who requires a flammable substance certificate mentioned in section 23(5), must submit an application to the Council.

(2) The Council must refuse to issue the flammable substance certificate if the premises do not comply with the requirements of the National Building Regulations (T1) as well as additional requirements set out in this by-law, and where the Council is of the opinion that the non-compliance of the premises can be remedied, the Council must instruct the owner or person in charge of the premises in writing to take all reasonable steps to render the premises safe prior to usage of the premises and the issuing of the certificate.

(4) A flammable substance certificate must be renewed annually, on or before the date as indicated on the flammable substance certificate, and whenever the quantity or class of the flammable substance requires to be changed.

(5) Premises must be used in accordance with any conditions specified in the flammable substances certificate and when in the opinion of the Council, a flammable substance is stored or utilised for any process in a manner which is hazardous to life or property, or an installation is unauthorised, an order may be issued for the removal of the flammable substance or installation from the premises.

(6) A supplier may not supply flammable substances to the owner or person in charge of the premises, unless the owner or person in charge of the premises is in possession of a valid flammable substance certificate issued by the Council.

(7) A flammable substance certificate is valid only:

(a) for the installation for which it was issued;

(b) for the state of the premises at the time of issue, and

(c) for the quantities stated on the certificate.

(8) The flammable substance certificate must be available on the premises for inspection at all times.

#### **Permanent or temporary above ground storage tank for a flammable liquid**

25(1) A temporary above ground storage tank other than that at a bulk storage depot is permitted, at the discretion of the Council, on the merit of the situation, provided that the following requirements are complied with -

(a) if it has a capacity not exceeding 9 000 litres and is not used for the storage of flammable substances with a flash point below 40 degrees centigrade;

(b) to be on the premises for a period not exceeding six months;

(c) the entire installation must comply with SABS 0131: Part 1 or SABS 0131: Part 2 whichever is applicable, and

(d) written application together with a plan must be forwarded to the controlling authority at least 14 days prior to the erection of the tank and prior written permission must be obtained from the Council for the erection of the tank.

(2) Notwithstanding section 28, if a larger capacity above ground storage tank is required or the tank is to be a permanent installation, an acceptable rational design based on a relevant national or international code or standard must be submitted to the Council for approval in terms of the National Building Regulations (T1).

(3) The design requirements and construction of a permanent tank must be in accordance with relevant national or international recognised codes.

(4) The rated capacity of a permanent or temporary tank must provide sufficient ullage to permit expansion of the product contained therein by reason of the rise in temperature during storage.

- (5) A permanent or temporary tank must be erected at least 3,5 metres from boundaries, buildings and other flammable substances or combustible materials.
- (6) A permanent or temporary tank must be located on firm level ground and the ground must be of adequate strength to support the mass of the tank and contents.
- (7) A permanent or temporary tank must have a bund wall.
- (8) Adequate precautions must be taken to prevent spillage during the filling of a tank.
- (9) Sufficient fire extinguishers, as determined by the Council, must be provided in weatherproof boxes in close proximity to a tank.
- (10) Symbolic safety signs depicting "No Smoking", "No Naked Lights" and "Danger" must be provided adjacent to a tank, and the signs must comply with SABS 1186: Part 1.
- (11) The flammable liquid in the tank must be clearly identified, using the Hazchem placards listed in SABS 0232: Part 1.
- (12) An electrical or an internal combustion-driven pump must be equipped and so positioned as to eliminate the danger of the flammable liquid being ignited.
- (13) The electrical installation associated with the above ground storage tank must comply with SABS 0108 and SABS 089: Part 2.

#### **Underground storage tank for a flammable liquid**

26. The installation of underground storage tanks, pumps, dispensers and pipework at service stations and consumer installations must be in accordance with National Building Regulations (TI) read in conjunction with SABS 0400, SABS 089: Part 3 and SABS 0131: Part 3.

#### **Bulk storage depot for flammable substances**

27. The handling, storage and distribution of flammable substances at bulk depots must be in accordance with the National Building Regulations (TI), read in conjunction with SABS 089: Part 1.

#### **Small installations for liquefied petroleum gas**

28. Liquefied petroleum gas installations involving gas storage containers of individual water capacity not exceeding 500 litres and a combined water capacity not exceeding 3 000 litres per installation must be installed and handled in accordance with SABS 087: Part 1.

**Liquid petroleum gas installation in mobile units and small non-permanent buildings**

29. A liquid petroleum gas installation in mobile units and small non-permanent buildings shall be in accordance with SABS 087: Part 2.

**The fuelling of forklift trucks and other LP gas operated vehicles**

30. The fuelling of forklift trucks and other LP gas operated vehicles shall be in accordance with SABS 087: Part 8.

**The storage and filling of refillable liquid petroleum gas containers**

31. Storage and filling sites used for refillable liquid petroleum gas containers of capacity not exceeding 9kg must be in accordance with SABS 087: Part 7.

**Bulk storage vessel for liquid petroleum gas**

32. The layout, design and operation of installations for the storage of a bulk liquid petroleum vessel and allied facilities must be in accordance with the National Building Regulations (T1), read in conjunction with SABS 087: Part 3.

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

33. If an above ground or underground tank installation, liquid petroleum gas installation or associated pipework is no longer required for the storage or use of a flammable substance, the owner or person in charge of the premises on which the installation was erected must -

- (a) within seven days of the cessation, notify the Council in writing thereof;
  - (b) within 30 days of the cessation, remove the flammable substance from the installation and render it safe;
  - (c) within six months of the cessation, remove the installation including any associated pipework, from the premises entirely, unless the controlling authority otherwise instructs, and
  - (d) restore a public footpath or roadway, which has been disturbed by the removal to the satisfaction of the Council within a period of seven days of the completion of the removal of the installation.
- (2) If the removal of an underground tank installation detrimentally affects the stability of the premises, the owner or person in charge of the installation must apply in writing to the Council to fill the tank with liquid cement slurry.

**Reporting accidents**

34. If an accident occurs which involves a flammable substance and results in a fire, an explosion, spillage or loss of a flammable substance, as well as personal injury or death, the owner or person in charge of the premises must immediately notify the Council.

**Flammable stores**

35(1). The construction of a flammable store must be in accordance with the National Building Regulations (T1) read in conjunction with SABS 0400.

(2) The floor must be of concrete construction or other impermeable material and must be recessed below the door level or incorporate a sill.

(3) The recess or sill must be of such a depth or height that in the case of spillage it will be capable of containing the quantity of flammable liquid, as indicated on the flammable substance certificate and an additional 10% of the quantity mentioned on the certificate.

(4) Notwithstanding the National Building Regulations (T1) read in conjunction with SABS 0400 -

(a) the roof assembly of a flammable store must be constructed of a concrete slab capable of providing a two-hour fire resistance when it forms part of another building;

(b) the ventilation of a flammable store must be achieved by the use of bricks located in the external walls at the ratio of one air brick nominally above the sill level and one air brick located in the top third of the wall per 5 m<sup>2</sup> of wall area or part thereof, so that vapour cannot accumulate inside the store;

(c) the air bricks must be covered both internally and externally with closely-woven, non-corrodible wire gauze of at least 1 100 meshes per metre, and

(d) the wire gauze must be held in position by metal straps, a metal frame or cement.

(5) When required by the Council, the flammable store must be ventilated by a mechanical ventilation system approved by the Council and must comply with the following requirements -

(a) the ventilation system is to be intrinsically safe, provide 30 air changes per hour and must operate continuously;

(b) the fan extraction point must be nominally above sill level and must discharge through a vertical metal duct terminating at least 1 metre above roof height or at least 3,6 metres above ground level, whichever is the greater;

(c) ducting material that is external to the store, but communicates with the remainder of the building, must be fitted with a fire damper of two-hour fire resistance at the point of exit from a flammable store, and

(d) the ducting must be as short as possible and must not have sharp bends.

(6) Notwithstanding the National Building Regulations (T1) read in conjunction with SABS 0400, a flammable store door must be constructed of material with a fire resistance of two hours, provided that all relevant safety distances are complied with, and the door must open outwards.

(7) When required by the Council, a flammable store door must be a D-class fire door, which complies with SABS 1253.

(8) Notwithstanding the National Building Regulations (T1) read in conjunction with SABS 0400, artificial lighting in the flammable store must be by electric light having vapour-proof fittings wired through seamless steel conduit and the switches operating the lights must be located outside the store.

(9) No other electrical apparatus may be installed in the flammable store.

(10) A flammable store must be provided with a foam inlet consisting of a 65 millimetre male instantaneous coupling and mild steel pipework leading to the inside thereof and the foam inlet must be identified by means of a sign displaying the words "Foam Inlet" in 100 millimetre block letters.

(11) Racking or shelving erected in the flammable store must be of non-combustable material.

(12) The flammable store must be identified by the words, "Flammable Store-Bewaarplek vir Vlambare Vloeistowwe- Indawo Yokugcina Impahla Ethatha Lula Umlilo", and the permissible quantity allowed within the flammable store, indicated in 100 millimetre block letters on both the inside and outside of all doors communicating directly with the store.

(13) The owner or person in charge of a flammable store must ensure that the flammable store doors are kept locked when the store is not in use.

(14) A person shall not enter a flammable store or cause or permit it to be entered without the permission of the owner or person in charge of the premises.

(15) Sufficient fire extinguishers, as determined by the Council, must be mounted on the external wall of the flammable store in a conspicuous and easily accessible position.

(16) Any hand tool used in the flammable store must be intrinsically safe.

(17) A person may not use or permit a flammable store to be used for any purpose other than that indicated on the flammable substance certificate, unless the store is not in use as a flammable store and the Council has been notified in terms of the following procedure -

(a) within seven days of the cessation, notify the Council in writing thereof;

(b) within 30 days of the cessation, remove the flammable substance from the flammable store and render it safe, and

(c) within 30 days of the cessation, remove all signage.

(18) Subject to the provisions in this section, the Council may call for additional requirements to improve the fire safety of a flammable store. Container handling and storage

- 36(1). All flammable substance containers must be kept closed when not in use.
- (2) A person may not extract flammable liquids from a container of a capacity exceeding 20 litres, unless the container is fitted with an adequately sealed pump or tap.
- (3) Flammable liquid containers must be labelled and marked with words and decals, which indicate the flammable liquids contained therein as well as the hazard of the liquids.
- (4) Flammable substance containers must be declared gas or vapour-free by a competent person before any modification or repairs are undertaken.
- (5) All flammable substance containers must be manufactured and maintained in such a condition as to be reasonably safe from damage and to prevent leakage of flammable substances or vapours therefrom.
- (6) An empty flammable liquid container must be placed in a flammable store.
- (7) Where a flammable store is not available for the storage of empty flammable liquid containers, the Council may permit such storage in the open, provided that -
- (a) the storage area must be in a position and of sufficient size which in the opinion of the Council, will not cause a fire hazard or other threatening danger;
- (b) the storage area is well ventilated and enclosed by a wire mesh fence and -
- (i) the fence supports are of steel or reinforced concrete;
- (ii) has an outward opening gate that is kept locked when not in use, and
- (iii) when the floor area exceeds 10 m<sup>2</sup> an additional escape gate is installed, fitted with a sliding bolt or other similar locking device that can be opened from the inside without the use of a key;
- (c) the storage area is free of vegetation and has a non-combustible firm level base;
- (d) a two metre distance around the perimeter of the fenced area is clear of grass, weeds and similar combustible materials;
- (e) when the storage area has a roof, the construction of the roof and supporting structure must be of non-combustible material;
- (f) open flames, welding, cutting operations and smoking is prohibited in or near the storage area and signage is prominently displayed on the fence and complies with SABS 1186: Part 1, and
- (g) fire-fighting equipment is installed as determined by the Council.
- (8) An empty flammable liquid container must be securely closed with a bung or other suitable stopper.

**Spray rooms and booths**

37. A spray room, booth or area designated for the application of a flammable liquid must be constructed and equipped in such a manner as to comply with the General Safety Regulations promulgated in terms of the Occupational Health and Safety Act.

**Liquid petroleum gas containers**

38(1). A liquid petroleum gas container must be manufactured, maintained and tested in accordance with SABS 087: Part 1 and SABS 019.

(2) A liquid petroleum gas container must be used and stored in such a manner as to prevent damage or leakage of liquid or vapour therefrom.

(3) A liquid petroleum gas container of a capacity not exceeding nine kilogram must be filled and stored in accordance with SABS 087: Part 7.

**CHAPTER 8****GENERAL PROVISIONS****Indemnity**

39. The Council is not liable in terms of Rule 34 of Fire Act No 101, 1998 for damage or loss as a result of, but not limited to bodily injury, loss of life, damage to property, financial loss, or consequential loss, which is caused by or arises out of or in connection with anything done or performed or omitted in good faith or bad faith in the exercise or performance of a power, function or duty conferred or imposed in terms of this by-law.

**Offences and penalties**

40. Any person who -

(a) contravenes or fails to comply with any provisions of these by-laws;

(b) fails to comply with any notice issued in terms of these by-laws;

(c) fails to comply with any lawful instruction given in terms of these by-laws; or

(d) obstructs or hinders any authorised official in the execution of his or her duties under these by-laws -

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R15 000 or imprisonment for a period not exceeding 6 months or both.

**Enforcement provisions**

41. Any authorized official of the Council may -

- (a) enter any premises at any reasonable time to inspect the premises for compliance with this by-law; and
- (b) summarily abate any condition on any premises which is in violation of any provision of this by-law and which presents an immediate fire hazard or other threatening danger and to this end may -
  - (i) call for the immediate evacuation of the premises;
  - (ii) order the closure of the premises until such time as the violation has been rectified;
  - (iii) order the cessation of any activity, and
  - (iv) order the removal of the immediate threat.

**Authority to investigate**

42. The Council has the authority to investigate the cause, origin and circumstances of any fire or other threatening danger.

**Fire Fighting**

43. (1) Every owner on whose land a veldt-fire may start or from whose las it may spread must have such equipment, protective clothing and trained personnel for extinguishing fires.
- (2) Land owners are obliged to prepare and maintain firebreaks around their property, according to Rule 12 & 13 of the Fire Act.
- (3) Where a Fire Protection Association has been registered in an area the municipality must become a member of the Fire Protection Association according to Rule 6 & 7 of Fire Act)

**Failure to comply with provisions**

44(1). When the Council finds that there is non-compliance with the provisions of this by-law a written notice must be issued and include the following:

- (a) confirmation of the findings;
- (b) provisions of this by-law that are being contravened;
- (c) the remedial action required, and
- (d) set forth a time for compliance.

(2) Nothing in this by-law prevents the Council or any authorized official from taking immediate action to take immediate corrective action in respect of any fire or other threatening danger found on any premises and to recover any costs incurred from the owner.

#### **Repeal of existing By-laws**

45. The Council's existing Fire Fighting by-laws are hereby repealed.

#### **Short title and commencement**

46. These by-laws shall be called the Fire Prevention By-laws 2015, and shall come into effect on the first day of the month following the date of publication hereof.

## **12. PARKING AREAS MUNICIPAL BYLAWS**

Be it enacted by the Council of Emadlangeni Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

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**CHAPTER 1****DEFINITIONS****Definitions**

1. In these By-laws, any word or expression which has been defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996), has that meaning and, unless the context otherwise indicates -

**"association"** means persons who are self-employed and have organized themselves into a car guard association;

**"authorised official"** means any inspector of licenses, a traffic officer, peace officer in terms of section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), or a police officer in terms of the Police Act, 1958 (Act No. 7 of 1958), and includes any other person whom the Provincial Minister of Local Government may from time to time by regulation declare to be an authorized authorised officer;

**"Council"** means the Council of Emadlangeni Municipality and its committees or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any power and duties with regard to these bylaws;

"**nuisance**" means any condition, thing, act or omission which is offensive or injurious or which tends to prejudice the safety, good order, peace of the area or part thereof or the rights of reasonable comfort, convenience, peace or quiet of any neighborhood within the area and includes any act, exhibition or publication contrary to public decency or morals;

"**peace officer**" mean a peace officer as contemplated in Section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

"**public road**" means a public road as described under Section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996).

"**park**" means to keep a vehicle, whether occupied or not, stationary for a period of time longer than is reasonable necessary for the actual loading or unloading of persons or goods, but does not include any such keeping of a vehicle by reason of a cause beyond the control of the person in charge of such vehicle;

"**parking bay**" means a demarcated area within which a vehicle is to be parked in terms of these By-laws, demarcated as such upon the surface of a parking area or a floor thereof;

"**parking area**" means any area of land or any building set aside by the Council as a parking area or garage for the parking of vehicles by members of the public or parking area along a road, whether or not a prescribed fee has been determined for the use thereof;

"**parking meter parking area**" means a parking area or any part thereof where parking is controlled by means of parking meters;

"**parking meter**" means a device for registering and visibly recording the passage of time in accordance with the insertion of a coin or other method of payment prescribed and includes any post or fixture to which it is attached;

"**parking period**" means that period of time, including a period reflected on a parking meter, on any one day during which vehicles are permitted to park in a parking area or parking bay or as indicated by a road traffic sign;

"**pay and display machine**" means a machine installed at a pay and display parking area for the sale of tickets;

"**pay and display parking area**" means a parking area, or any part thereof, where a notice is erected by the Council at the entrance thereof indicating that the parking area concerned or part thereof is a pay and display parking area;

"**pound**" means an area of land or place set aside by the Council for the custody of vehicles removed from a parking area in terms of these By-laws;

"**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 any other applicable legislation.; and

**"Ticket controlled parking area"** means a parking area or any part thereof where parking is controlled by means of tickets.

## **CHAPTER 2 TICKET-CONTROLLED PARKING AREAS**

### **Parking fees**

2. Any person making use of a parking area or parking bay in a ticket ticket-controlled parking area must pay the prescribed fee.

### **Conditions of parking in ticket-controlled parking areas**

3(1). No person may park a vehicle or cause or permit a vehicle to be parked or allow it to be or to remain in a ticket controlled parking area, wherein parking is controlled by the issue of tickets-----

(a) except in a parking bay and in compliance with any directions which may be given by an authorised official or, where no such bay has been marked, except in a place indicated by the authorised official;

(b) after an authorised official has indicated to the person that the parking area is full; or

(c) after the expiry of the parking period.

(2) No person may remove or cause or permit the removal of any vehicle from a ticket-controlled parking area unless -

(a) that person has produced, if so required by an authorised official, a ticket authorising him or her to park in the parking area and which was issued to that person upon entering or leaving the parking area; and

(b) that person has upon entering or leaving the parking area paid the prescribed fee to the authorised official.

(3) If a person fails to produce a ticket authorising him or her to park in a parking area, that person is deemed to have parked the vehicle from 08h00 on the day in question until the time that person wants to remove the vehicle and he or she must pay the prescribed fee for that period.

(4) No person may, after failing to produce a ticket, remove or cause or permit the removal of any vehicle parked in the parking area until that person has produced other proof, to the satisfaction of an authorised official, of his or her right to remove such vehicle.

(5) An authorised official may require a person referred to in subsection (4) to furnish prescribed security.

(6) If a vehicle has not been removed from a parking area by the end of the parking period for which the prescribed fee has been paid, a further prescribed fee is payable for the next parking period.

**CHAPTER 3: PARKING METER PARKING AREAS****Parking fees**

4. Any person making use of a parking area or parking bay in a parking meter parking area must pay the prescribed fee.

**Place of parking**

5. No person may park or cause or permit to be parked any vehicle or allow a vehicle to be or remain in a parking meter parking area otherwise than in a parking bay.

**Conditions of parking**

6(1). No person may park a vehicle or cause any vehicle to be parked in a parking bay unless a coin or other prescribed object is forthwith inserted -

(a) into the meter allocated to that parking bay; or

(b) if a meter controls more than one parking bay, in the meter controlling the parking bay concerned as indicated by any marking or sign on the surface or floor of the parking bay or the surface or floor adjacent thereto; and that meter is put into operation in accordance with the instructions appearing thereon so that the meter registers and visibly indicates the parking period appropriate to the inserted coin or other prescribed object.

(2) Notwithstanding the provisions of subsection (1), -

(a) a person may, subject to the provisions of section (5), park a vehicle in a vacant parking bay without inserting a coin or other prescribed object, for any period indicated on the parking meter as unexpired; and

(b) if a person has ascertained that the parking meter for any parking bay is not operating properly, he or she is entitled to park a vehicle in that parking bay without inserting a coin or other prescribed object, provided that such a person does not park the vehicle in that parking bay for a period exceeding the maximum ordinarily allowed by that parking meter.

(3) The insertion of a coin or other prescribed object into a parking meter entitles the person inserting it to park a vehicle in the appropriate parking bay for the period corresponding with the payment so made.

(4) The period during which a vehicle may be parked in a parking bay and the coin or other prescribed object to be inserted in respect of that period into the parking meter allocated to that parking bay, must be in accordance with the prescribed fee and the period and the coin or other prescribed object to be inserted in respect thereof, must at all times be clearly indicated on the parking meter.

(5) No person may either with or without the insertion of an additional coin or other prescribed object into a parking meter, leave a vehicle in a parking bay after the expiry of the period indicated on the parking meter or return the vehicle to that bay within fifteen minutes after such expiry, or obstruct the use of that bay by any other person.

**Proof of time**

7. The expiry of the parking period, as indicated by a parking meter, is for the purpose of these by-laws and in any proceedings arising from the enforcement of these by-laws, deemed to be correct and may constitute evidence, on the face of it, of the expiry of the parking period.

**CHAPTER 4: PAY- AND- DISPLAY PARKING AREAS****Parking fees**

8. Any person making use of a parking area or parking bay in a pay-and-display parking area must pay the prescribed fee.

**Parking**

9(1). No person may park or cause or permit to be parked any vehicle or allow a vehicle to be or remain in a pay- and- display parking area unless immediately upon entering the parking area-

(a) he or she purchases a ticket issued by means of a pay and display machine in that parking area in accordance with the instructions displayed on, or within a distance of not more than 1,5 m (one comma five meters) of such machine; and

(b) the person displays such ticket by affixing it to the inside of the driver's side of the front windscreen of the vehicle in such a manner and place that the information printed on the ticket by the pay and display machine is readily legible from the outside of the vehicle.

(2) The period during which a vehicle may be parked in a pay-and-display parking area and the coin or other prescribed object to be inserted in respect of that period into the pay-and-display machine, must be indicated on such machine.

(3) Tickets issued by the pay-and-display machine must reflect -

(a) the date or day of issue of the ticket;

(b) the amount paid for the ticket;

(c) the departure time; and

(d) the machine code number.

(4) No person may allow a vehicle to remain in a pay-and-display parking area after the expiry of the departure time indicated on the ticket.

**Proof of date and time of departure**

10. The commencement of the parking period as recorded by a pay-and-display machine and as observed by an authorised official is for the purposes of these by-laws and in any proceedings arising from the enforcement of these by-laws deemed to be correct and may constitute evidence on the face of it of the commencement of the parking period.

**CHAPTER 5: VEHICLES****Abandoned vehicles**

**11(1).** Any vehicle which has been left in the same place in a parking ground for a continuous period of more than 14 fourteen days may, unless otherwise authorised by the Council, be removed by or at the instance of an authorised officer.

(2) The Council must take all reasonable steps to trace the owner of a vehicle removed in terms of subsection (1) and, if after the lapse of 90 ninety days from the date of its removal the owner or person entitled to its possession cannot be found, the vehicle may, subject to the provisions of subsection (3), be sold by the Council by public auction.

(3) The Council must, 14 fourteen days prior to the date of an auction sale contemplated in subsection (2), publish a notice thereof in at least two newspapers circulating within the Council's area of jurisdiction; provided that a vehicle may not be sold at the auction if -

(a) at any time before the vehicle is sold it is claimed by the owner or any other person authorised by the owner to do so or otherwise lawfully entitled thereto; and

(b) every prescribed fee payable in respect thereof in terms of these by-laws and all costs referred to in subsection (4) are paid to the Council.

(4) The proceeds of a sale concluded in terms of this section must be applied first in payment of every fee referred to in subsection (3) and to defray the following:

(a) the costs incurred in attempting to trace the owner in terms of subsection (2);

(b) the costs of removing the vehicle and effecting the sale of the vehicle;

(c) the pro-rata costs of publication in terms of subsection (3), taking into account the number of vehicles to be sold at the auction; and

(d) the costs of keeping the vehicle in the pound which must be calculated at the prescribed rate.

(5) Any balance of the proceeds referred to in subsection (4), must be paid to the owner of the vehicle or any person lawfully entitled to receive it upon that person establishing his or her right thereto to the satisfaction of the Council, and if no claim is established within one year of the date of the sale, the balance will be forfeited to the Council.

**Vehicles of excessive size**

**12.** Unless a road traffic sign displayed at the entrance to a parking area indicates otherwise, no vehicle which, together with any load, exceeds 5 m (five meters) in length may be parked in a parking area.

(2) No person shall park a vehicle with a gross vehicle mass exceeding 3 500 kg three thousand five hundred kilograms, or any trailer with a gross vehicle mass exceeding one thousand kilograms 1000 kg, on a public road or road reserve within the Council's area of jurisdiction for a period in excess of two hours, unless -

(a) a temporary parking permit has been issued to such a vehicle or trailer by the Municipality; and

(b) such vehicle or trailer is parked in a parking bay specifically provided for the parking of such vehicles or trailers.

(3) No person shall park a caravan on a public road or road reserve within the Council's area of jurisdiction for a period in excess of 24 (twenty-four) hours.

(4) The Municipality shall, on written application, issue a temporary parking permit to vehicles and trailers, which must park for specific periods on public roads or road reserves because of agricultural activities.

(5) Any person who contravenes any provisions of this by-law shall be guilty of an offence and be liable on conviction to a penalty not exceeding R1,000.00 (One Thousand Rand).

#### **Parking after parking period**

**13.** No person may park a vehicle or cause or permit it to be parked in any parking area before the beginning or after the expiry of the parking period prescribed for the parking area unless that person is the holder of a ticket issued in terms of these By-laws authorising him or her to do so.

#### **Defective vehicles**

**14.** No person may park or cause or permit to be parked or to remain in any parking area a vehicle which is mechanically defective or for any reason incapable of movement unless such vehicle has, after having been parked in a parking area, developed a defect which immobilises it and the person in control of it shows that he or she took reasonable steps to have the vehicle repaired or removed within a reasonable time.

#### **Parking of a vehicle in parking area**

**15.** No person may park or cause or permit to be parked or to remain in any parking area any vehicle other than a vehicle as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996).

#### **Cleaning and repair of vehicle**

**16.** No person may in any parking area clean, wash, work on or effect repairs to a vehicle except minor emergency repairs, unless the prior written permission of the Council has been obtained.

#### **Tampering with vehicles and obstructions**

**17(1).** No person may, in any parking area, without reasonable cause or without the knowledge and consent of the owner of a vehicle or person in lawful control thereof, enter or climb upon that vehicle or set the machinery thereof in motion or in any way tamper or interfere with its machinery or any other part of it or with its fittings, accessories or contents.

(2) No person may in any parking area -

(a) park any vehicle so that any part of it extends across any white line forming a boundary of a parking bay or that it is not entirely within the confines of the bay; or

(b) perform any act or introduce anything which obstructs or is likely to obstruct the movement of persons or vehicles.

## **CHAPTER 6: MISCELLANEOUS**

### **Refusal of admission**

18. An authorised official may refuse to admit into a parking ground a vehicle which is by reason of its length, width or height likely to cause damage to persons or property or to cause an obstruction or undue inconvenience or which in terms of section 6 or 16 may not be parked in a parking ground.

### **Forging or defacing tickets**

19. No person may with intent to defraud the Council, forge, imitate, deface, mutilate, alter or make any mark upon any ticket issued in terms of these By-laws.

### **Medical practitioners exempt**

20. A medical practitioner is exempt from paying the prescribed fees while the vehicle used by that practitioner is parked in a parking area to enable him or her to perform professional duties at any place other than a consulting room or similar place, subject to a form or token issued by the South African Medical Council for that purpose being displayed on the windscreen of the vehicle concerned in such manner that it is readily legible from outside the vehicle.

### **Parking directives**

21. (1) No driver or person in charge of a vehicle shall park such vehicle or cause it to be parked -

(a) in a demarcated parking bay across any painted line marking the confines of the parking bay or in such a position that the said vehicle is not entirely within the area demarcated;

(b) in a demarcated parking bay which is already occupied or partly occupied by another vehicle;

(c) In an area demarcated for commercial loading purposes, unless it is lawful to do so for the purpose of commercial loading.

(2) The person or driver in charge of a vehicle shall park such vehicle in a demarcated parking bay-

(a) if the demarcated parking place is parallel to the curb or sidewalk of the public road, in such a way that it shall be headed in the general direction of the movement of traffic on the side of the road on which the vehicle is parked and so that the left hand wheels of the vehicle are substantially parallel to and within 450 mm four hundred and fifty millimeters of the left hand curb: Provided that where in a one-way street such demarcated parking place is in existence on the right hand side of the road the same shall apply to the right hand wheels and the right hand curb respectively; and

(b) if the demarcated parking place is at an angle to the curb or sidewalk of a public road, in such a manner that it is headed substantially in the general direction of the movement of traffic on the side of the road on which such vehicle is parked.

(3) Where by reason of the length of any vehicle, such vehicle cannot be parked wholly within a demarcated parking place, it shall be lawful to park such vehicle by encroaching upon a demarcated parking place adjoining the first mentioned parking place, if such be the case, and any person so parking shall be liable for payment of parking fees in respect of both the said places.

#### **Offences and penalties**

22. Any person who -

(a) contravenes or fails to comply with any provision of these By-laws;

(b) fails to comply with any notice issued in terms of these By-laws; or

(c) fails to comply with any lawful instruction given in terms of these By-laws; or

(d) obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties under these By-laws,

shall be guilty of an offence and liable on conviction to a fine to a fine not exceeding R1, 000.00 (One thousand Thousand Rand) or to imprisonment for a period not exceeding 3 (three) months.

#### **Monthly tickets**

23. (1) Notwithstanding anything to the contrary contained in these By-laws, the Council may in respect of any parking area controlled by the issuing of tickets issue, at a prescribed fee, a ticket which entitles the holder thereof to park a vehicle in that area for one calendar month or any lesser period specified therein, at the times specified in the ticket, if a parking bay is available.

(2) The Council may issue to any of its employees a ticket which entitles the holder, when using a vehicle in connection with the business of the Council, to park it in a parking area specified in the ticket, if a parking bay is available in the parking area.

(3) A ticket issued in terms of subsection (1) or (2) may not be transferred to any other person or be used in respect of any vehicle other than the vehicle specified in the ticket, without the prior written permission of the Council.

(4) A ticket issued in terms of subsection (1) or (2) must be affixed by the holder of the ticket to the vehicle in respect of which it is issued in such manner and place that the written or printed text of the ticket is readily legible from the outside of the vehicle.

#### **Closure of parking areas**

24. Notwithstanding anything to the contrary contained in these By-laws, the Council may at any time close any parking area or portion thereof temporarily or permanently and must indicate the fact and the period of such closure by a road traffic sign displayed at the entrance to the parking area that is closed or at the closed portion thereof, as the case may be.

**Parking according to instruction**

25. No person may in any parking area park a vehicle otherwise than in compliance with an instruction or direction, if any, given by an authorised official or introduce or remove a vehicle otherwise than through an entrance thereto or exit therefrom demarcated for that purpose.

**Prohibitions relating to parking meters**

26. No person may -

(a) insert or attempt to insert into a parking meter a coin or object except:

(i) a coin of South African currency of a denomination as prescribed; or

(ii) an object which is prescribed as another method of payment as contemplated in section 8(1);

(b) insert or attempt to insert into a parking meter any false or counterfeit coin or prescribed object or any foreign object;

(c) tamper with, damage, deface or obscure a parking meter;

(d) in any way whatsoever cause or attempt to cause a parking meter to record the passage of time otherwise than by the insertion of a coin or other prescribed object;

(e) jerk, knock, shake or interfere with a parking meter which is not working properly or at all in order to make it do so or for any other purpose; or

(f) obscure a parking meter or any part thereof or remove or attempt to remove it from the post or other fixture to which it is attached.

**Prohibitions relating to pay and display machines**

27. No person may -

(a) insert or attempt to insert into a pay and display machine, a coin or other prescribed object which is false or counterfeit or any object other than a coin of South African currency or other prescribed object;

(b) jerk, knock, shake or in any way interfere with, or damage or deface a pay and display machine; or

(c) remove or attempt to remove a pay and display machine or any part thereof from its mounting.

**CHAPTER 7: GENERAL PROVISIONS****Repeal of By-laws**

29. The Council's existing Parking Areas By-laws are hereby repealed.

**Short title and commencement**

30. (1) These By-laws shall be called the Parking Areas By-laws 2015, and shall come into effect on the first day of the month following the date of publication hereof.

# **13. POLLUTION CONTROL MUNICIPAL BY-LAWS**

Be it enacted by the Council of Emadlangeni Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

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**CHAPTER 1: DEFINITIONS****Definition**

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

**"adverse effect"** means any actual or potential impact on the environment that impairs or could impair human health or well-being or the environment to an extent that is more than trivial or insignificant;

**"air pollutant"** means any substance that causes or may cause air pollution including, without limiting the generality of the foregoing, dust, smoke, fumes and gas;

**"air pollution"** means any change in the environment caused by any air pollutant where that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of any natural or managed ecosystem, or on materials useful to people, or will have such an effect in the future;

**"air pollution control zone"** means the geographical area to which section 9 of these by-laws is declared to apply;

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

**"atmosphere"** means air that is not enclosed by a building, machine, chimney or other such structure;

**"authorised official"** means a person authorised by the Council to perform the functions of an authorised official in terms of these by-laws;

"**chimney**" means any structure or opening of any kind from or through which air pollutants may be emitted;

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

"**Council**" means the Council of Emadlangeni Municipality and its committees or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any powers and duties with regard to these bylaws;

"**dark smoke**" means dark smoke as defined in the Atmospheric Pollution Prevention Act No. 45 of 1965;

"**disturbing noise**" means the a noise level which exceeds the ambient sound level by 7dB(A) or more, and "disturbing" in relation to a noise shall have a corresponding meaning;

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

"**dwelling**" means any building or other structure, or part of a building or structure, used for residential purposes, and any outbuildings ancillary to it;

"**fuel-burning equipment**" means any furnace, boiler, incinerator; or

other equipment, including a chimney -

(a) designed to burn, or capable of burning, liquid, gas or solid fuel;

(b) used to dispose of any material or waste by burning; or

(c) used to subject liquid, gas or solid fuel to any process involving the application of heat;

"**light absorption meter**" means a measuring device that uses a light-sensitive cell or detector to determine the amount of light absorbed by an air pollutant;

"**littering**" means the discarding or leaving behind of any object or matter whether gaseous, liquid or solid by the person in whose control or possession it was;

"**municipal manager**" means the person appointed as such by the Council in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

"**noise level**" means the reading on an integrating sound level meter taken at the measuring point at the end of a reasonable period after the integrating sound meter has been put into operation during which period the noise level alleged to be disturbing noise is present, to which reading 5dB(A) is added if the disturbing noise contains a pure tone component or is of an impulsive nature;

"**obscuration**" means the ratio of visible light attenuated by suspended air pollutants to incident visible light, expressed as a percentage;

"**open burning**" means the combustion of material by burning without a chimney to vent the emitted products of combustion to the atmosphere, and "burning in the open" has a corresponding meaning;

"**operator**" means a person who owns or manages an undertaking, or who controls an operation or process, which emits air pollutants;

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

"**premises**" means any building or other structure together with the land on which it is situated and any adjoining land occupied or used in connection with any activities carried on in that building or structure, and includes any land without any buildings or other structures and any locomotive, ship, boat or other vessel which operates or is present within the area under the jurisdiction of the Council; "proclaimed township" means any land unit zoned and utilized for residential purposes;

"public road" means a road which the public has the right to use;

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

"**vehicle**" means any motor car, motor cycle, bus, truck or other conveyance propelled wholly or partly by any volatile spirit, steam, gas or oil, or by any means other than human or animal power;

"**water course**" includes -

(a) a spring;

(b) a natural channel in which water flows regularly or intermittently; and

(c) a wetland, lake or dam into which, or from which, water flows; and and a reference to a water course includes, where relevant, its bed, banks and mouth.

## CHAPTER 2: NOISE POLLUTION

### Control of noise

2. No person shall, on any premises or land falling within the Council's area of jurisdiction, make, produce cause or permit to be made or produced by any person, machine, animal, device or apparatus or combination of these, a noise which is a disturbing noise.

### Notices

3. The Municipality may by written notice instruct the person causing or responsible for a disturbing noise or the owner of such building or premises on which a disturbing noise is caused or both of them, within a period specified in such notice, immediately to stop such noise or have it stopped or take the necessary steps to reduce the disturbing noise level to a level below that of a disturbing noise; provided that if the Municipality is satisfied that the disturbing noise is due to or caused by -
  - (a) the working of -

- (i) a machine or apparatus which is necessary for the maintenance or repair of property, or the protection of life, property or public services;
- (ii) garden equipment;
- (iii) a machine or device, the noise level of which has in the opinion of the Municipality been reduced or muffled according to the best practicable methods;

(b) a sports meeting; or

(c) circumstances or activities beyond the control of the person responsible for causing the disturbing noise,

The Municipality may, whether generally or specifically, permit the working of such machine or apparatus, or such sports meeting or circumstances or activities to continue, subject to such conditions as the Municipality may deem fit.

### **CHAPTER 3: POLLUTION OF A WATER COURSE**

#### **Pollution of a water course**

4. Except with the permission of the Council or in terms of the provisions of the Sea-Short Act, 1935 (Act No. 21 of 1935), a person may not cause -
- (a) waste water;
  - (b) any toxic or harmful substance; or
  - (c) any litter or waste to run into or be dumped in a water course.

#### **Boats on water courses**

5. No person shall operate a boat on a water course while it is leaking oil, petrol or any toxic or noxious substance.

#### **Equipment on craft**

6. No person shall use a motor-driven boat on a water course unless it is equipped with an effective silencer affixed to the exhaust pipe of the motor.

### **CHAPTER 4: AIR POLLUTION CONTROL**

#### **Air pollution control zones**

7. (1) The whole area within the jurisdiction of the Council is hereby declared an air pollution control zone.
- (2) Within the air pollution control zone, the Council may from time to time by resolution -

- (a) prohibit or restrict the emission of one or more air pollutants from all premises or certain premises;
  - (b) prohibit or restrict the combustion of certain types of fuel;
  - (c) declare smokeless zones, in which smoke with an obscuration of more than 10% may not be emitted; or
  - (d) prescribe different requirements in an air pollution control zone relating to air quality in respect of -
    - (i) different geographical areas;
    - (ii) specified premises;
    - (iii) classes of premises; or
    - (iv) premises used for specified purposes.
- (3) The Council may in writing exempt certain premises, classes of premises or premises used for specified purposes from the provisions of this by-law.

#### **Smokeless zones**

8. (1) Council may by resolution declare certain areas to be smokeless zones from a date indicated in that resolution.
- (2) No owner or occupier of any premises within a smokeless zone shall cause or permit the emission from such premises of smoke of such a density or content as will obscure light to an extent greater than 10 per cent.
- (3) If, on the written application of any person, the Council is satisfied that there are adequate reasons for the temporary exemption of any premises from the provisions of this section, the Council may, by notice in writing to the applicant, grant such exemption for a period specified in such notice.

#### **CHAPTER 5: SMOKE EMISSIONS FROM PREMISES OTHER THAN DWELLINGS**

##### **Prohibition**

9. (1) Subject to subsection (2), dark smoke must not be emitted from any premises for an aggregate period exceeding three minutes during any continuous period of thirty minutes.
- (2) This section does not apply to dark smoke which is emitted from fuel-burning equipment which occurs while the equipment is being started or while the equipment is being overhauled or repaired, or awaiting overhaul or repair, unless such emission could have been prevented using the best practicable means available.

**Installation of fuel-burning equipment**

10. (1) No person shall install, alter, extend or replace any fuel-burning equipment on any premises without the prior written authorization of the Council, which may only be given after consideration of the relevant plans and specifications.

(2) Where fuel-burning equipment has been installed, altered, extended or replaced on premises in contravention of subsection (1) -

(a) the owner or occupier of the premises and the installer of the fuel-burning equipment shall be guilty of an offence; and

(b) the Council may, on written notice to the owner or occupier of the premises, order the removal of the fuel-burning equipment from the premises at the expense of the owner or operator within a period stated in the notice.

**Operation of fuel-burning equipment**

11. (1) No person shall use or operate any fuel-burning equipment on any premises contrary to an authorisation referred to in section 12.

(2) Where fuel-burning equipment has been used or operated in contravention of subsection 1 -

(a) the owner and occupier of the premises concerned and the operator of the fuel-burning equipment shall each be guilty of an offence;

(b) the Council may on written notice to the owner and occupier of the premises –

(i) revoke its authorization under section 12; and

(ii) order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in the notice.

**Installation and operation of obscuration measuring equipment**

12. (1) The Council may give notice to any operator of fuel-burning equipment or any owner or occupier of premises on which fuel-burning equipment is used or operated, or intended to be used or operated, to install, maintain and operate obscuration measuring equipment at his or her own cost, if -

(a) unauthorised and unlawful emissions of dark smoke from the relevant premises have occurred consistently and regularly over a period of at least two days;

(b) unauthorised and unlawful emissions of dark smoke from the relevant premises have occurred intermittently over a period of at least fourteen days;

(c) fuel-burning equipment has been or is intended to be installed on the relevant premises which are reasonably likely in the opinion of an authorised official to emit dark smoke;

(d) the Council considers that the nature of the air pollutants emitted from the relevant premises are reasonably likely to create a hazard to human health or the environment.

(2) A notice referred to in subsection (1) must inform the person to whom it is addressed of -

(a) that person's right to make written representations and to appear in person to present and dispute information and arguments regarding the notice, and must stipulate a reasonable period within which this must be done;

(b) that person's right of appeal under section 28;

(c) that person's right to request written reasons for the issuing of the notice; and

(d) the measures that must be taken and the potential consequences if the notice is not complied with.

### **Monitoring and sampling**

13. (1) An occupier or owner of premises, and the operator of any fuel-burning equipment, who is required to install obscuration measuring equipment in terms of section 16(1) must -

(a) record all monitoring and sampling results and maintain a copy of this record for at least four years after obtaining the results;

(b) if requested to do so by an authorised official, produce the record of the monitoring and sampling results for inspection; and

(c) if requested to do so by an authorised official, provide a written report (in a form and by a date specified by the authorised official) of part or all of the information in the record of the monitoring and sampling results.

## **CHAPTER 6:**

### **SMOKE EMISSIONS FROM DWELLINGS**

14. (1) Subject to the provisions of section 17(4), no person shall emit or permit the emission of dark smoke from any dwelling for an aggregate period exceeding three minutes during any continuous period of thirty minutes.

(2) Any person who emits or permits the emission of dark smoke in contravention of subsection (1) commits an offence.

## **CHAPTER 7: EMISSIONS CAUSED BY OPEN BURNING**

15. (1) Subject to subsection (4), any person who carries out open burning of any material on any land or premises is guilty of an offence, unless the prior written authorization of the Council, which may include the imposition of further conditions with which the person requesting authorization must comply, has been obtained.

- (2) The Council may not authorize open burning under subsection (1) unless -
- (a) the material will be open burned on the land from which it originated;
  - (b) that person has investigated and assessed every reasonable alternative for reducing, reusing, recycling or removing the material in order to minimize the amount of material to be open burned, to the satisfaction of the Council;
  - (c) that person has investigated and assessed the impact that the open burning will have on the environment, to the satisfaction of the Council;
  - (d) a warning under section 10(1)(b) of the National Veld and Forest Fire Act, 1998 (Act 101 of 1998) has not been published for the region;
  - (e) the land on which that person intends to open burn the material is not land within a proclaimed township;
  - (g) the open burning is conducted at least 100 metres from any buildings or structures;
  - (h) the open burning will not pose a potential hazard to human health or safety, private property or the environment;
    - (i) that person has notified in writing the owners and occupiers of all adjacent properties of -
      - (i) all known details of the proposed open burning; and
      - (ii) the right of owners and occupiers of adjacent properties to lodge written objections to the proposed open burning with the Council within 7 days of being notified; and
  - (j) the prescribed fee has been paid to the Council.
- (3) Any person who undertakes or permits to be undertaken open burning in contravention of subsection (1) commits an offence.
- (4) The provisions of this section shall not apply to -
- (a) recreational outdoor barbecue or braai activities on private premises;
  - (b) small controlled fires in informal settlements for the purposes of cooking, heating water and other domestic purposes; or
  - (c) a self-contained fire place used for heating purposes in any dwelling.

#### **CHAPTER 8: EMISSIONS FROM COMPRESSED IGNITION POWERED VEHICLES Prohibition**

- 16 . (1) No person may on a public road drive or use, or cause to be driven or used, a compressed ignition powered vehicle that emits dark smoke

(2) If dark smoke is emitted in contravention of subsection (1) the owner and driver of the vehicle shall each be guilty of an offence.

#### **Stopping of vehicles for inspection and testing**

17. (1) In order to enable an authorised official to enforce the provisions of these by-laws, the owner of a vehicle must comply with any reasonable direction given by an authorised official -

(a) to stop the vehicle; and

(b) to facilitate the inspection or testing of the vehicle.

(2) Failure to comply with a direction given under subsection (1) is an offence.

(3) When a vehicle has stopped in compliance with a direction given under subsection (1), the authorised official may:

(a) inspect and test the vehicle at the roadside, in which case inspection and testing must be carried out:

(i) at or as near as practicable to the place where the direction to stop the vehicle is given; and

(ii) as soon as practicable, and in any case within one hour, after the vehicle is stopped in accordance with the direction; or

(b) conduct a visual inspection of the vehicle and, if the authorised official reasonably believes that an offence has been committed under section 18, instruct the owner or driver of the vehicle in writing to take the vehicle to a testing station, within a specified period of time, for inspection and testing in accordance with section 20.

#### **Testing procedure**

18. (1) An authorised official must use the free acceleration test method in order to determine whether a compressed ignition powered vehicle is being driven or used in contravention of section 18.

(2) The following procedure must be adhered to in order to conduct a free acceleration test -

(a) when instructed to do so by the authorised official, the owner or driver must start the vehicle, place it in neutral gear and engage the clutch;

(b) while the vehicle is idling; the authorised official must conduct a visual inspection of the emission system of the vehicle;

(c) when instructed to do so by the authorised official, the owner or driver of the vehicle must in less than one second smoothly and completely depress the accelerator throttle pedal of the vehicle; provided that the authorised official may do so him/herself or herself if the owner or driver fails or refuses to comply with the authorised official's reasonable instructions;

(d) while the throttle pedal is depressed, the authorised official must measure the smoke emitted from the vehicle's emission system in order to determine whether or not it is dark smoke; and

(e) the owner or driver of the vehicle may only release the throttle pedal of the vehicle when the engine reaches cut-off speed, or when directed to do so by the authorised official.

(3) If, having conducted the free acceleration test, the authorised official is satisfied that the vehicle -

(a) is not emitting dark smoke, then the authorised official must furnish the owner of the vehicle with a certificate indicating that the vehicle is not being driven or used in contravention of section 18; or

(b) is emitting dark smoke, the authorised official must issue the owner of the vehicle with a repair notice in accordance with section 21.

#### **Repair notice**

19. (1) A repair notice must direct the owner of the vehicle to repair the vehicle within a specified period of time, and to take the vehicle to a place identified in the notice for re-testing before the expiry of that period.

(2) The repair notice must contain *inter alia* the following information:

(a) the make, model and registration number of the vehicle;

(b) the name, address and identity number of the driver of the vehicle; and

(c) if the driver is not the owner, the name and address of the vehicle owner.

(3) A person commits an offence if that person fails to comply with the notice referred to in subsection (1).

### **CHAPTER 9: GENERAL PROVISIONS**

#### **Offences**

20. Any person who contravenes any provision of these by-laws shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R20 000 or imprisonment for a period not exceeding 2 years.

## Appeals

21. (1) Any person may appeal against a decision taken by an authorised official under this by-law by giving written notice of the appeal, in which the reasons for the appeal are stated, to the municipal manager within 30 days of the date on which that person receives notification of the decision.
- (2) Pending confirmation, variation or revocation of the decision in terms of subsection (4), any person appealing a decision in terms of subsection (1), unless the Council provides otherwise -
- (a) must nonetheless substantively comply with any obligations that may have been imposed as a result of the decision that is the subject of the appeal; and
  - (b) may not exercise any rights that may have accrued as a result of the decision that is the subject of the appeal application, provided that no other person may exercise any right that may accrue either.
- (3) Within 14 days of receipt of the notice of appeal, the Municipal Manager must -
- (a) submit the appeal to the appropriate appeal authority mentioned in subsection(5);
  - (b) take all reasonable measures to ensure that all persons whose rights may be significantly detrimentally affected by the granting of the appeal application are notified in writing of the appeal application and advised of their right to -
    - (i) obtain a copy of the appeal application;
    - (ii) submit written objections to the application to the municipal manager within 30 days of date of notification.
- (4) After the expiry of the 30-day period referred to in subsection (3)(b)(ii), the appeal authority must consider the appeal and any objections raised to it, and confirm, vary or revoke the decision.
- (5) When the appeal is against a decision taken by -
- (a) an authorised official other than the municipal manager, then the municipal manager is the appeal authority; or
  - (b) the municipal manager, then the Executive Committee is the appeal authority.
- (6) An appeal authority must commence with an appeal within 60 days of receiving notification and must decide the appeal within a reasonable period.

**Repeal of existing By-laws**

22. The Council's existing Pollution Control by-laws are hereby repealed.

**Short title and commencement**

23. These by-laws shall be called the Pollution Control By-laws 2015, and shall come into effect on the first day of the month following the date of publication hereof.

## **14. MUNICIPAL POUNDS BY- LAW**

Be it enacted by the Council of the Emadlangeni Municipality, in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

### **ARRANGEMENT OF SECTIONS**

#### *Section*

1. Definitions
2. Application
3. Establishment of pound
4. Appointment of poundkeeper
5. Trespassing or straying animals may be impounded
6. Animals too vicious, intractable or wild to be impounded
7. Release of animals before removal to pound
8. Care of trespassing animals
9. Pound to which animals must be taken
10. Information to be supplied to poundkeeper
11. Acceptance at pound of animals to be impounded
12. Pound register
13. Notice to owners of animals
14. Care of impounded animals
15. Isolation of infected animals
16. Impounded animals not to be worked
17. Death of or injury to impounded animals
18. Copies of by-laws
19. Fees and costs payable
20. Release of impounded animals
21. Sale of impounded animals
22. Poundkeeper may not purchase impounded animals
23. Animals unsuccessfully offered for sale
24. Proceeds
25. Action for recovery of damages
26. Procedure to be followed in application to Court
27. Indemnity
28. Offences and penalties
29. Schedules 1 and 2 form part of this by-laws
30. Repeal of by-laws
31. Short title

#### **Definitions**

1. In this by-law, unless inconsistent with the context –  
“**animal**” includes a horse, bovine, donkey, sheep, goat, pig, ostrich, dog, cat or the hybrid of any such animal, and “**animals**” will have a corresponding meaning;

“**Council**” means –

- (a) the Municipality, exercising its legislative and executive authority through its municipal council;
- (b) its successor-in-title;

(c) a structure or person exercising a delegated power or carrying out an instruction, where any power in this By-law has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of Systems Act; and

(d) a service provider fulfilling a responsibility under this By-law;

**"Court"** means a Magistrate's Court as referred to in section 166(d) of the Constitution, 1996, having jurisdiction in the area in which the pound is situated;

**"Gazette"** means the official Provincial Gazette of KwaZulu-Natal;

**"municipality"** means the Emadlangeni municipality established in terms of section 155(6) of the Constitution, 1996, and established by and under sections 11 and 12 of the Structures Act, read with sections 3, 4 and 5 of the KwaZulu-Natal Determination of Types of Municipality Act, 2000 (Act No. 7 of 2000);

**"owner"** includes an owner who is known, or whose identity, with the exercise of reasonable diligence, can be ascertained, and in relation to any –

(a) animal, includes the agent of the owner or other person having the lawful custody or possession of such animal; or

(b) land, includes the owner, lessee or lawful occupier of such land or his or her agent;

**"pound"** means a pound established as contemplated in section 3;

**"poundkeeper"** means the person appointed from time to time as contemplated in section 4 and includes any person acting for or on behalf of the appointed poundkeeper;

**"public place"** means any place to which the public has access including, without limiting the generality of the foregoing any –

(a) square;

(b) park;

(c) recreation ground;

(d) sports ground;

(e) open space;

(f) beach;

(g) shopping centre on municipal land;

(h) unused or vacant municipal land; or

(i) cemetery;

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

**"service delivery agreement"** means a service delivery agreement as defined in section 1 of the Systems Act.

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

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

**Application**

2. This By-law applies to the area of jurisdiction of the Municipality: Provided that nothing prevents any animal detained in terms of this By-law from being impounded in a pound or any similar facility established by any other municipality, or other lawful authority.

**Establishment of pound**

3.(1) The Municipality must establish a pound at any convenient place within its area of jurisdiction: Provided that the Municipality may, on application, enter into a service delivery agreement with an institution or person mentioned in section 76(b) of the Systems Act, to provide for the establishment and operation of a pound to service its area of jurisdiction.

(2) The Municipality must give notice of the establishment of a pound by publishing a notice in at least two newspapers circulating in the area of jurisdiction of the Municipality.

(3) A person who intends to establish a pound, as contemplated in subsection (1), must apply in the prescribed manner to the Council as contemplated in subsection (4).

(4) Council must within 90 days of receipt of an application contemplated in subsection (1) and any other information at his or her disposal, if any, relating to the application –

- (a) approve an application for registration and issue a registration license;
- (b) approve an application for registration and issue a registration license subject to conditions determined by the Council; or
- (c) reject an application and provide written reasons for the rejection of the application.

(5) Council may at any time revoke a license after due consideration of the circumstances and consultation with the owner of the pound and must notify the owner of the pound in writing with reasons for such a decision.

**Appointment of poundkeeper**

4. The Municipality must, in terms of its human resource policy, appoint a suitably skilled and experienced person as a poundkeeper, unless the pound is established and operated in terms of a service level agreement contemplated in section 3(1).

**Trespassing or straying animals may be impounded**

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

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

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

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

(4) Any person who has seized an animal for purposes of impounding must comply with the provisions of the Code of Good Practice on the Handling and Transportation of Impounded Animals contained in Schedule 1.

**Animals too vicious, intractable or wild to be impounded**

6. If a State Veterinarian or official contemplated in section 5(2)(a) to (d) is satisfied that an animal found trespassing on any land, or straying untended upon any public road or public place, is too dangerously vicious, intractable or wild to be impounded, he or she may authorise the humane destruction or other disposal of the animal, after giving written reasons and written notice thereof to the owner of the animal.

**Release of animals before removal to pound**

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

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

(a) may release such animal forthwith; or

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

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

**Care of trespassing animals**

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

**Pound to which animals must be taken**

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

**Information to be supplied to poundkeeper**

10. A person sending animals to the pound must advise the poundkeeper in writing of –

(a) the number and descriptions of the animals;

(b) the land upon which they were found trespassing; and

(c) the distance in kilometers, by the shortest practical route, between the place on such land where they were seized and the pound.

**Acceptance at pound of animals to be impounded**

11.(1) The poundkeeper may not refuse to accept an animal for impounding.

(2) The pound manager must, upon acceptance of a detained animal –

(a) record the particulars furnished in terms of section 10 above and enter the same in a book maintained for the purpose;

(b) furnish the person delivering the animal with a receipt reflecting –

(i) his or her name;

(ii) a description of the animal; and

- (iii) the date and time of receipt of the animal at the pound; and
- (c) keep a copy of each receipt issued.

#### **Pound register**

**12.(1)** The poundkeeper must –

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

(2) If the poundkeeper –

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

#### **Notice to owners of animals**

**13.** The owner of an animal contemplated in sections 5(1), 6, 14(2)(b), 17(b), 21(1)(b), and 23(a), must be notified by –

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

#### **Care of impounded animals**

**14.(1)** The poundkeeper –

- (a) is responsible for the proper care of all impounded animals;
- (b) must ensure that fresh water and sufficient food is available to impounded animals at all times; and
- (c) is liable to the owner of an impounded animal for any damage caused by his or her wilful or negligent acts or omissions.

(2)(a) If the poundkeeper is of the opinion that an impounded animal is dangerously vicious, permanently disabled or terminally ill, he or she must apply to the Court, which may authorise the destruction or other disposal of the impounded animal, if the Court is satisfied that the condition of such animal warrants its destruction or disposal.

(b) Where the Court authorises the destruction or disposal of an animal on application by the poundkeeper, the poundkeeper must immediately notify the owner in writing of the order of Court and the destruction or disposal of the animal.

#### **Isolation of infected animals**

**15.** If the poundkeeper suspects, or is aware, that an impounded animal, or an animal to be impounded, is infected with any disease contemplated in the Animal Diseases Act, 1984 (Act No. 35 of 1984), he or she must –

- (a) provide separate accommodation for such animal;
- (b) immediately isolate the animal, and report the disease to the nearest State Veterinarian; and
- (c) immediately notify the owner of the animal of such disease in writing.

**Treatment of impounded animals**

**16.** The poundkeeper –

- (a) may not work or in any way make use of an impounded animal or permit any such animal to be worked or made use of by any other person; and
- (b) must ensure that all impounded male animals are at all times kept apart from female animals.

**Death of or injury to impounded animals**

**17.** If an impounded animal is injured or dies, the poundkeeper must –

- (a) record the injury or cause of death in the pound register referred to in section 12; and
- (b) notify the owner of the animal in writing of the injury or death.

**Copies of by-laws**

**18.** The poundkeeper must ensure that copies of this By-law in English and *isiZulu* are available at the pound for inspection.

**Fees and costs payable**

**19.** The poundkeeper must –

- (a) charge the owner of an impounded animal the fees as set by the Municipality from time to time as contemplated in section 75A of the Systems Act; and
- (b) recover the cost of any dipping, medical treatment, inoculation or other treatment that may be necessary or required in terms of this By-law or in accordance with any other law.

**Release of impounded animals**

**20.(1)** The poundkeeper must immediately release an impounded animal, and give the owner a receipt, upon the owner –

- (a) providing proof of ownership of such animal; and
- (b) paying the fees and costs contemplated in section 19.

(2) If the owner of an impounded animal is unable to pay the fees or costs contemplated in section 19, the poundkeeper may retain such animal in order to recover such fees or costs as may be due and payable.

**Sale of impounded animals**

**21.(1)** The poundkeeper must –

- (a) within 14 days of the impounding of an animal, apply to the Court for authority to sell the animal; and
- (b) in the application contemplated in paragraph (a), provide the Court with proof that he or she lodged a statement as contemplated in sub-section (2) with the owner.

(2) The statement contemplated in subsection (1)(b) must include –

- (a) the fees and costs due in terms of this By-law; and
- (b) the amount of any damages that the owner of the land on which the impounded animal trespassed, may have suffered.

(3) The Court, whether the amounts set forth in the statement contemplated in subsection (1)(b) are disputed or not, must –

- (a) summarily enquire into the matter;
- (b) enquire whether notice was given to the owner of the animal by the poundkeeper; and
- (c) make such order as it considers just and equitable, including an order –
  - (i) as to costs; and
  - (ii) on the process to be followed by the poundkeeper in the sale of the animal.

**Poundkeeper may not purchase impounded animals**

**22.** The poundkeeper, or a family member, or a close associate of the poundkeeper, may not purchase an animal offered for sale at a pound sale, either personally or through any other person, directly or indirectly.

**Animals unsuccessfully offered for sale**

**23.** In the event that any animal is not sold as contemplated in section 21 –

(a) the poundkeeper must immediately advise the Court and the owner of its estimated value and the fees and costs incurred; and

(b) the Court may make such order as it may deem just and equitable.

**Proceeds**

**24.** All proceeds from the collection of fees and costs contemplated in section 19 must be paid into the municipal revenue fund: Provided that in the event that any impounded animal is sold at a price in excess of –

(a) the fees and costs incurred; and

(b) any damages awarded in terms of section 21(3)(c),

such excess must be paid to the owner within 30 days of the sale, unless the identity of the owner has not been established, in which event the excess must be paid into the municipal revenue fund.

**Action for recovery of damages**

**25.** Nothing in this By-law prevents the owner of land or any other person from instituting action against the owner of a trespassing animal, in any court with jurisdiction, for the recovery of damages suffered by reason of such trespassing animal.

**Procedure to be followed in application to Court**

**26.** An application to Court for –

(a) the impoundment of an animal in terms of this By-law, must comply with the procedure contemplated in Rule 55 of the Rules of Court; and

(b) the sale of an impounded animal in terms of this By-law, must comply with the procedure contemplated in section 66 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), and Rule 41 of the Rules of Court,

made by the Rules Board for Courts of Law in terms of section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), and published under Government Notice No. R.1108 in Regulation Gazette No. 980 of 21 June 1968, as amended from time to time, read with the necessary changes.

**Indemnity**

**27.** The Municipality, poundkeeper and any officer, employee, or agent of the Municipality will not be liable for the death of or injury to any animal arising as a result of its detention, impounding or release, or arising during its impoundment.

**Offences and penalties**

**28.** A person who –

(a) releases an animal that was lawfully seized for the purpose of being impounded or which has been lawfully impounded;

(b) unlawfully seizes an animal for the purpose of impounding it;

(c) unlawfully impounds an animal; or

(d) contravenes any provision of this By-law,

is guilty of an offence and is liable on conviction to a fine, or to imprisonment for a period not exceeding one year.

**Schedules 1 and 2 form part of this By-laws**

29. Schedules 1 and 2 to this By-law form part of this By-law for all purposes.

**SCHEDULE 1****Code of Good Practice on the Handling and Transportation of Impounded Animals**

(Section 5(4))

**PART I****Paddock requirements**

1. Different species of animals must be kept in separate paddocks.
2. Animals may not be penned in overcrowded paddocks, and penning space provided for in each paddock must be sufficient to permit all animals to lie down at the same time and must not be less than 1,5 square metres of floor area for each animal.
3. Fractious animals may not be kept with other animals.
4. Young, weaned juvenile animals, may not be penned with adult animals, except in the case of mother and offspring.
5. Provision must be made in paddocks for –
  - (a) facilities such as racks, mangers or other suitable feed containers that are easy to clean, which will allow the feeding of an animal off the floor, and which can be serviced without disturbing the animals;
  - (b) water troughs with an adequate supply of suitable fresh water at all times;
  - (c) sufficient facilities for the adequate cleaning of paddocks; and
  - (d) facilities for the safe handling of animals.
- 6.(a) The paddocks must at all times be maintained in a good state of repair.
  - (b) Sharp points such as wire ends, broken boards, jagged ends or protruding hinges or bolts, which could cause injury to animals, must be removed or otherwise suitably covered.
7. The floor of the entire paddock, including the off-loading banks, races, and passages, must be so constructed as to provide adequate non-slip surfaces that can be efficiently and suitably cleaned and kept dry and in a condition fit for the holding of animals.

**PART II****Handling of animals**

8. Animals must at all times be handled humanely and with patience and tolerance.
9. The following must be kept in mind when handling animals –
  - (a) animals respond more readily to being driven when the driver stands behind the animal but within its field of vision; and
  - (b) herd animals respond more readily to being driven when in a group rather than singly.
10. Animals may not be dragged by their legs, or carried by their head, ears or tail.

11. Young calves must be carried if they cannot walk with ease, by lifting the calf around the chest and hindquarters, alternatively they must be guided with one hand on the hindquarters and the other near shoulder or neck, and walked in the required direction at an appropriate and comfortable pace.

12. Only sticks with canvas or belting flaps may be used when driving animals and it is preferable to strike the ground behind the animal rather than to hit the animal.

13. Electric prodders, sticks or goads may not be used on young calves.

14. Electric prodders may not be used excessively or indiscriminately or applied to the face, anal or genital areas of animals.

### **PART III**

#### **Movement of animals**

15. Animals driven on the hoof must at all times be under proper and competent supervision.

16. Animals on the hoof must be driven in a calm manner at a gait that is relaxed and comfortable, natural to that animal, and not faster than the pace of the slowest animal.

17. Animals may not be driven for periods in excess of 10 hours without being given rest of at least one hour and provided with sufficient suitable fresh water that is available to all the animals.

18. No animal on the hoof may be moved in excess of the following distances –

(a) during a journey of not more than one day's duration –

(i) 20 kilometres for sheep and goats; and

(ii) 30 kilometres for cattle; and

(b) during a journey of more than one day's duration –

(i) 20 kilometres during the first day and 15 kilometres during each subsequent day for sheep and goats; and

(ii) 25 kilometres during the first day and 20 kilometres during each subsequent day for cattle.

19. Animals must be watered and fed immediately on reaching their night camp or final destination, with sufficient food of a quality and of a type compatible with the species.

20. Animals may not be moved in the dark.

21. No sick, injured or disabled animal may be moved on the hoof.

### **PART IV**

#### **Vehicles used in transporting animals**

22. Vehicles and all trailers used in the transport of hooved animals must be suitable for the transport of such animals and in a roadworthy condition.

23. All vehicles and trailers referred to in item 22 must have –

(a) a suitable non-slip floor which may not impede the cleaning of the floor of the vehicle, with hinged or removable battens or steel grids being permissible;

- (b) adequate ventilation and light whilst in motion as well as when stationary, with no vehicle being totally enclosed;
- (c) adequate protection from exhaust gasses, as exposure to exhaust fumes could interfere with the animals' respiration or cause distress;
- (d) sidewalls high enough to prevent animals from escaping or falling out of the vehicle: Provided that –
  - (i) the sides and partitions, when used in a vehicle to separate animals carried therein, must be of a height not lower than the shoulder joint of the largest animal being transported;
  - (ii) in the case of cattle other than calves, the minimum height must be 1 800 millimetres; and
  - (iii) the minimum height must be 750 millimetres in the case of any smaller animals;
- (e) in multi-tier vehicles, heights between decks must be adequate, and in case of sheep and pigs not less than 1 000 millimetres, to enable the largest animals to stand naturally, freely and fully erect and to allow adequate space for the free flow of air above the animals;
- (f) floors that are solid and impervious;
- (g) loading and offloading openings at the rear of the vehicle that are the full width of the vehicle or, if at the sides, a width not less than 2 400 millimetres; and
- (h) gates, with or without partitions –
  - (i) of a design and construction strong enough and suitable for the conveyance of the intended consignment; and
  - (ii) that open and close freely and are able to be well-secured.

**24.** The density of animals packed into any given space must be such as to ensure the safety and comfort of the animals during transport, and the recommended floor space per animal is –

- (a) 1,4 square metres per large animal; and
- (b) 0,5 square metre per small animal.

## **PART V**

### **Watering and feeding of live animals prior to loading**

**25.** Animals must be provided with sufficient and suitable food and fresh water until the commencement of the journey.

### **Loading and off-loading procedure**

**26.** Loading and off-loading into or out of a vehicle must be accomplished as quietly and calmly as possible, with patience and tolerance and without undue harassment, terrifying of the animals, bruising, injury, suffering or undue stress.

**27.** No animal may be loaded or off-loaded by lifting by the head, fleece, skin, ears, tails, horns or legs.

**28.** No animals may be loaded or off-loaded otherwise than –

- (a) by means of a ramp with a non-slip surface, sturdy enough to support the weight of the species of animals being handled, with side panels or bars adequate to prevent animals escaping or falling off the ramp and of an incline not steeper than 25 degrees; or
- (b) at a loading bank equal to the height of the floor of the vehicle or, at off-loading, not more than 310 millimetres below the level of the off-loading vehicle and with an incline not exceeding 25 degrees.

**29.** Where a truck is equipped with an onboard removable loading ramp it must have a non-slip surface and be of a sufficient length when lowered, that the inclination is no steeper than the inclines referred to in item 28, with the distance from the ground to the heel of the ramp not exceeding 120 millimetres.

**30.** Ramps must be correctly adjusted to the exact height of the vehicle's floor.

**31.** Journeys must commence as soon as possible after the live animals have been loaded and the animals must be promptly off-loaded upon arrival at the destination.

**32.** Unless adequate provision has been made for effective separation, different species of animals may not be loaded and transported in the same vehicle.

**33.** Animals of different ages, sizes and sexes may not be loaded and transported in the same vehicle unless adequate provision has been made for the effective separation of such animals.

**34.** Adult horned cattle may not be transported with polled cattle and they must also be penned separately.

**35.** When there is reason to believe that an animal is likely to give birth in the course of a proposed journey, the animal may not be loaded onto a vehicle.

**36.** In the case of an animal giving birth during transport, the necessary measures must be taken to ensure the protection of the mother and offspring from being trampled or otherwise injured or harassed by other animals.

**37.** In the event of –

(a) a breakdown of the transport vehicle;

(b) an accident or collision in which the transport vehicle is involved; or

(c) injury to, or death of, any animal in transit,

the carrier must immediately report the details to, and request assistance from –

(i) in the case of paragraph (a), a breakdown service;

(ii) in the case of paragraph (b), the South African Police and the traffic authorities; or

(iii) in the case of paragraph (c), a veterinarian.

## **PART VI**

### **Restraining of animals during transportation**

**38.** Where the transport of any animal may cause injury to itself or any other animal, it must be restrained in such a manner as to prevent such injury.

**39.** No animals may be kept in restraint for more than 4 hours in any 24-hour period.

**40.** No wire or bailing twine may be used for tying the animal's legs or feet.

**41.** To avoid strangulation or neck-break, a slipknot may not be used where animals are secured to the vehicle by horns or neck, and the rope must be attached to the vehicle at the level of the animal's knees so that in the event of the animal falling, the possibility of serious injury or death is reduced, with the rope being long enough to allow the animal to lie comfortably in a natural position with its head upright.

**SCHEDULE 2****Pound register information***(Section 12)*

A pound register must, at least, contain the following information –

1. Name of pound
2. Date of receipt of animal
3. Number and description of animals
4. Brands or markings on animal
5. Ear tag number assigned by the poundkeeper
6. Name and address of person who seized the animal
7. Name and address of person who delivered the animal to the pound
8. Name and address of owner of land
9. Name and address of owner of animal
10. Name and address or description of place where animal was found
11. Distance from location where animal was seized to pound
12. Particulars of damage caused by the animal
13. Transport fees payable
14. Details of destruction or disposal of animal
15. Cause of death or injury of impounded animal
16. Description and amount of pound fees
17. Damages awarded by Court
18. Date of release of animal
19. Date of sale of animal
20. Proceeds of sale of animal
21. Name and address of purchaser
22. Excess amount (if any) paid to owner or municipality
23. Receipt number
24. Details of Order of Court with regard to animal not sold in execution

**Repeal of existing By-laws**

30. The Council's existing Pound By-laws are hereby repealed.

**Short title and commencement**

31. This By-law will be called the Emadlangeni Municipality Pound By-Laws 2015, and shall come into effect on the first day of the month following the date of publication hereof.

## **15. PUBLIC AMENITIES BY LAWS**

Be it enacted by the Council of Emadlangeni Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

### **INDEX CHAPTER 1: DEFINITIONS**

1. Definitions

### **CHAPTER 2: ENTRANCE TO PUBLIC AMENITIES**

2. Opening times
3. Entrance fees
4. Entrance and exit
5. Maximum number of visitors
6. Closing of public amenities

### **CHAPTER 3: PROHIBITED CONDUCT**

7. Personal behaviour
8. Damage
9. Animals
10. Fishing
11. Vehicles
12. Games and play areas

### **CHAPTER 4: GENERAL PROVISIONS**

13. Authorised officials
14. Directives
15. Penalties
16. Repeal of existing bylaws
17. Short title and commencement

**CHAPTER 1****DEFINITIONS****Definitions**

1. In this bylaw, unless the context indicates otherwise -

"**authorised official**" means an official of the Council who is authorised to manage or assist in the management of a public amenity;

"**Council**" means the Council of Emadlangeni Municipality and its committees or any other body or person acting by virtue of any power delegated by the Council in terms of legislation, as well as under these bylaws;

"**motor vehicle**" includes a motor cycle, motor quadracycle, motor tricycle and a trailer;

"**notice**" means an official notice of the Council displayed at entrances to or at conspicuous places in a public amenity;

"**public amenity**" means any outdoor or indoor amenity which is vested in or controlled by the Council and to which the public have access, and includes, without limiting the generality of this definition -

(a) a park, botanical or zoological garden, pleasure resort, nature reserve, hiking trail, sports ground or swimming pool; and

(b) any building situated within a public amenity; and

"the Municipality" means the Emadlangeni Municipality.

**CHAPTER 2****ENTRANCE TO PUBLIC AMENITIES****Opening times**

2. (1) A public amenity shall be open to the public during times determined by the Council and indicated by notice displayed conspicuously at the entrance thereto.

(2) Unless authorized by the Council in writing to do so, no person shall enter or be present in a public amenity other than during the opening times determined by the Council in terms of subsection(1).

**Entrance fees**

3. (1) Council may determine entrance fees to a public amenity.

(2) No person shall enter a public amenity unless he or she has paid the entrance fee determined by the Council in terms of subsection (1).

(3) The Council may suspend the payment of entrance fees in respect of any public amenity on any specific day or days as it deems fit.

#### **Entrance and exit**

4. No person shall enter or leave a public amenity except through the entrance provided for that purpose.

#### **Maximum number of visitors**

5. The Council may determine, and display by notice, the maximum number of visitors who may be admitted to or be present in any public amenity during specific times or on specific days.

#### **Closing of public amenities**

6. The Council may -

(a) for any special purpose, by written notice displayed conspicuously at the main entrance to the amenity concerned, close a public amenity or part thereof for such time as it may from time to time consider necessary or expedient; and

(b) for any purpose related to the operation and maintenance of the public amenity, by notice close any part of public amenity to the public for such periods as it may deem necessary .

### **CHAPTER 3**

#### **PROHIBITED CONDUCT**

##### **Personal behavior**

7. No person in a public amenity shall -

(a) do anything which endangers or is likely to endanger another person;

(b) do anything which constitutes a nuisance or interferes with another person in the proper enjoyment of the public amenity;

(c) use profane, indecent or improper language;

(d) consume alcohol or any other intoxicating substance, or be intoxicated;

(e) use, intrude upon or attempt to intrude upon any toilet, urinal or other place of convenience provided for the opposite sex;

(f) enter any part of a public amenity determined by council and indicated by notice to be closed to the public;

(g) pollute, through the washing of clothes or otherwise, any stream, river, lake, dam, pond, fountain or ornamental water feature;

(h) swim in any stream, river, lake, dam, pond, fountain or ornamental water feature unless a notice specifically permits swimming in that place; or

(i) launch a boat, canoe, raft or any other floating object on any stream, river, lake, dam, pond, fountain or ornamental water feature except with the written consent of the Council.

### **Damage**

8. No person in a public amenity shall -

- (a) place or leave any placards or notices;
- (b) damage or remove any vegetation, including any grassed area;
- (c) light any fire, except at designated braai facilities;
- (d) litter;
- (e) erect any structure or tent of any kind without the consent of Council in writing; and
- (f) damage any building or other structure erected by or with the consent of the Council.

### **Animals**

9. (1) No person in a public amenity shall -

- (a) take a dog or any other animal into a public amenity in contravention of a notice;
- (b) bathe or wash a dog or any other animal, or allow a dog or any other animal to swim, in any stream, river, lake, dam, pond, fountain or ornamental water feature; and
- (c) interfere with or harm any bird or wild animal.

(2) In any public amenity where dogs are allowed, the owner or person having custody of a dog shall ensure that -

- (a) the dog is kept on a leash;
- (b) the dog does not attack, terrify or interfere with any person, animal or bird; and
- (c) any faeces left by the dog are removed.

(3) The Council may impound any dog or other animal which is found in a public amenity and which appears not to be in the custody of a person.

### **Fishing**

10. No person shall -

- (a) fish without a permit issued by the Council; or
- (b) fish in contravention of any notice or conditions of permit.

**Vehicles**

11. No person in a public amenity shall -

- (a) drive or park a motor vehicle in contravention of a notice;
- (b) clean, maintain or carry out repairs on any motor vehicle; or
- (c) ride a bicycle, skateboard, roller skates or other similar device in contravention of a notice.

**Games and play areas**

12. No person in a public amenity shall -

- (a) play soccer, cricket or rugby or any other similar game, except in the allocated places and at times determined by the Council; and
- (b) enter play areas, or use play apparatus, designated by notice as being for the use of children under a particular age.

**CHAPTER 4****GENERAL PROVISIONS****Authorised officials**

13. An authorised official may -

- (a) require any person to produce proof of payment of any applicable entrance fee; and
- (b) instruct any person to comply with the provisions of these bylaws or a notice.

**Directives**

14. The Council may -

- (a) set aside areas within a public amenity for specified activities and prohibit other specified activities within those areas;
- (b) issue directives regarding any aspect of the use of a public amenity.

**Penalties**

15. Any person who -

- (a) contravenes or fails to comply with any provision of these by-laws
- (b) fails to comply with any notice issued in terms of these by-laws; or
- (c) fails to comply with any lawful instruction given in terms of these by-laws; or

(d) who obstructs or hinders any authorised official or employee of the Council in the execution of his or her duties under these by-laws,

shall be guilty of an offence and liable on conviction to a fine not exceeding R1000, 00 or in default of payment to imprisonment for a period not exceeding 3 months.

**Repeal of existing By-laws**

16. The Council's existing Public Amenities by-laws are hereby repealed.

**Short title and commencement**

17. These by-laws shall be called the Public Amenities By-laws 2015, and shall come into effect on the first day of the month following the date of publication hereof.

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# **16. PUBLIC ROADS MUNICIPAL BY-LAWS**

Be it enacted by the Council of Emadlangeni Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

## **INDEX**

### **Chapter 1: Definitions**

Section 1: Definitions

### **Chapter 2: Obstructions**

Section 2: Obstruction of public roads

Section 3: Removal of obstructions

### **Chapter 3: Encroachments**

Section 4: Excavations

Section 5: Hoardings

### **Chapter 4: Dangerous Fencing**

Section 6: Barbed wire, dangerous and electrical fencing

### **Chapter 5: Protection and Cleanliness of Public Roads**

Section 7: Protection of public road

Section 8: Cleanliness of public roads

Section 9: Defacing, marking or painting public roads

### **Chapter 6: Races, Sports Events and Games**

Section 10: Races and sports events

Section 11: Games on public roads

### **Chapter 7: General**

Section 12: Offences

Section 13: Repeal of By-laws

Section 14: Short title and commencement

**CHAPTER 1: Definitions**

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

**"authorised official"** means a person authorised by the Council to perform the functions of an authorised official in terms of these by-laws;

**"Council"** means the Council of Emadlangeni Municipality and its committees or any other body acting by virtue of any power or delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any powers and duties with regard to these bylaws.

**"prescribed"** means determined by resolution of the Council from time to time;

**"prescribed fee"** means a fee determined by the Council by resolution; and

**"public road"** shall mean a public road as described under Section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996).

**CHAPTER 2: OBSTRUCTIONS****Obstruction of public roads**

2. No person may cause any obstruction of any public road within the Council's area of jurisdiction.

**Removal of obstructions**

3. (1) If any person causes an obstruction on any public road, an authorised officer may order such person to refrain from causing or to remove the obstruction forthwith.

(2) Where the person causing an obstruction cannot be found, or fails to remove or to cease causing such obstruction, an authorised officer may take such steps as may be necessary to remove the obstruction from the public road and the Council may recover the cost of the removal of the obstruction from that person.

**CHAPTER 3: ENCROACHMENTS****Excavations**

4. (1) No person may make or cause to be made any hole, trench, pit, tunnel or other excavation on or under any public road or remove any soil, tar, stone or other materials from any public road without the prior written approval of the Council.

(2) Any person who requires the approval referred to in subsection (1) must -

(a) comply with any requirements prescribed by the Council; and

(b) pay the prescribed fee.

**Hoardings**

5. (1) Any person who erects, removes, alters, repairs or paints any building or structure or carries out any excavation within 2 m of a public road must, before commencing any such work, enclose or cause to be enclosed a space in front of such part of the building or structure.

(2) If the enclosure referred to in subsection (1) will project onto any portion of a public road, the person must -

(a) obtain prior approval from the Council; and

(b) pay the prescribed fee.

(3) If the person making the application is not the owner of the building or land on which the work is done or is to be done, the owner must countersign the application.

(4) The Council may grant a permit in writing specifying -

(a) the area and position at which the enclosure is permitted; and

(b) the period for which the enclosure is permitted.

**CHAPTER 4: DANGEROUS FENCING****Barbed wire, dangerous and electrical fencing**

6. No owner or occupier of land -

(a) other than an owner or occupier of agricultural land, may along any public road erect or cause or permit to be erected, any barbed-wire fence or any railing, paling, wall or other barrier which, by reason of spikes or other sharp or pointed protrusions or otherwise by reason of the nature of its construction or design, is or may become a danger to any member of the public using such public road; and

(b) including an owner or occupier of an agricultural holding or farm land, may along any public road erect or cause or permit to be erected along such public road any electrified fence, railing or other electrified barrier unless -

(i) the fence, railing or other barrier is erected on top of a wall built of brick, cement, concrete or similar material, which wall may not be less than two meters high; or

(ii) the fence, railing, or other barrier is separated from the public road by another, non-electrified fence.

**CHAPTER 5: PROTECTION AND CLEANLINESS OF PUBLIC ROADS****Protection of public road**

7. No person may place upon or off-load on a public road any materials or goods which are likely to cause damage to the road.

**Cleanliness of public roads**

8. (1) No person may spill, drop or place or permit to be spilled, dropped or placed, on any public road any matter or substance that may interfere with the cleanliness of the public road, or cause or is likely to cause annoyance, danger or accident to persons, animals, vehicles or other traffic using such public road, without removing it or causing it to be removed from such public road immediately.

(2) If the person mentioned in subsection (1) fails to remove the matter or substance, the Council may remove such matter or substance and recover the cost of removal from the person.

**Defacing, marking or painting public roads**

9. No person may in any way deface, mark or paint any public road or part of the public road without the prior written consent of the Council.

**CHAPTER 6: RACES, SPORTS EVENTS AND GAMES****Races and sports events**

10. (1) An application for consent to hold a race or sports event on any public road must be submitted in writing to the Council on the prescribed form at least 60 days prior to the event.

(2) The applicant must pay the prescribed fee and deposit to the Council at the time of making application for consent.

**Games on public roads**

11. No person may -

(1) play cricket, football or any other game; or

(2) by any means discharge any missile; upon, over or across any public road.

**CHAPTER 7: GENERAL****Offences**

12. Any person who contravenes any provision of these by-laws shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R5 000 or imprisonment for a period not exceeding 3 months or both.

**Repeal of existing By-laws**

13 The Council's existing Public Roads by-laws are hereby repealed.

**Short title and commencement**

14 These by-laws shall be called the Public Roads By-laws 2015, and shall come into effect on the first day of the month following the date of publication hereof.

## **17. RULES AND ORDERS OF MUNICIPAL COUNCILS AND COMMITTEES BY-LAW**

Be it enacted by the Council of Emadlangeni Municipality, in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

### **ARRANGEMENT OF SECTIONS**

#### *Section*

1. Definitions
2. Application of this by-law
3. Interpretation of this by-law
4. Council meetings
5. Admission of public
6. Notice to attend an ordinary council meeting
7. Special meetings
8. Service of notices and agenda
9. Non-receipt of notice
10. Quorum
11. Cancellation and adjournment in absence of quorum
12. Attendance
13. Leave of absence
14. Non-attendance
15. Adjourned meeting
16. Continuation meeting
17. Speaker and chairpersons of meetings
18. Minutes
19. Order of business
20. Confirmation of minutes of previous meeting

21. Deputations
22. Reports
23. Motions
24. Questions
25. Supply of information to councillors
26. General matters of an urgent nature
27. Interpretation
28. In-committee
29. Decisions by voting
30. Method of voting
31. Dissenting votes
32. Revocation of council resolutions
33. Revocation of committee resolutions
34. Opportunity to speak
35. Relevance
36. Length of speeches
37. Councillors to speak only once
38. Precedence of the speaker or chairperson
39. Points of order
40. Explanation
41. General conduct
42. Misconduct
43. Rules Committee
44. Own rules
45. The chairperson
46. Declaration of pecuniary interest
47. Breach

- 48. Sanction
- 49. Suspension of a rule or order
- 50. Adoption as by-law
- 51. Repeal of existing by-laws
- 52. Short title and commencement

## CHAPTER 1

### Definitions

1. In this by-law, unless inconsistent with the context –

**“by-law”** means legislation passed by the council of a municipality;

**“chairperson”** means a councillor elected in a permanent or acting capacity to control and conduct any meeting of a committee of council;

**“Council”** means –

(a) the Emadlangeni Municipality, exercising its legislative and executive authority through its municipal council;

(b) its successor-in-title;

(c) a structure or person exercising a delegated power or carrying out an instruction, where any power in this By-law has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Systems Act; and

(d) a service provider fulfilling a responsibility under this By-law;

**“Code of Conduct”** means the Code of Conduct for Councillors contained in Schedule 1 to the Systems Act;

**“contact details”** means a physical address, postal address, electronic mail address, telephone number, facsimile number and cellular phone number;

**“calendar day”** means a twenty-four hour day as denoted on the calendar;

**“councillor”** means a member of a municipal council;

**“day”** means any ordinary day other than a Saturday, Sunday or Public Holiday, except where otherwise stated;

**“deputation”** means a person or group of persons who wish to appear personally before the council or a committee of the council in order to address the council or committee of the council;

"**executive committee**" means the council's executive committee established in terms of section 43 of the Structures Act;

"**in-committee**" means any council or committee meeting at which the public and or officials of the municipality are excluded;

"**integrated development plan**" means a single, inclusive and strategic plan for the development of the municipality and applicable in terms of Chapter 5 of the Systems Act;

"**mayor**" means a councillor elected as the mayor of the municipality in terms of section 48 of the Structures Act;

"**meeting**" means a meeting of the council or any one of its committees;

"**municipality**" means the Emadlangeni Municipality established in terms of section 155(6) of the Constitution, 1996, and established by and under sections 11 and 12 of the Structures Act, read with sections 3, 4 and 5 of the KwaZulu-Natal Determination of Types of Municipality Act, 2000 (Act No. 7 of 2000);

"**municipal asset**" means any movable, immovable, corporeal, incorporeal, tangible and intangible property to which the municipality holds title;

"**municipal manager**" means the person appointed municipal manager in terms of section 54A of the Systems Act and includes any person acting in that capacity;

"**notice of motion**" means the instrument by which councillors may bring items on to the agenda of a council meeting in terms of section 23 of this By-law;

"**Peace Officer**" means any person declared as a Peace Officer in terms of the Criminal Procedure Act No. 51 of 1977;

"**point of order**" means the pointing out of any deviation from or anything contrary to, the conduct and or any other irregularity in the proceedings of a meeting;

"**precincts**" means the council chamber and all places of meeting, the areas to which the public are allowed access and all other venues where the meetings of the council or a committee of the council are conducted;

"**public**" includes the media and means any person residing within the Republic of South Africa;

"**service delivery agreement**" means an agreement between a municipality and an institution or person mentioned in section 76(b) of the Systems Act in terms of which a municipal service is provided by that institution or person, either for its own account or on behalf of the municipality;

"**speaker**" means the chairperson of the council elected in terms of section 36 of the Structures Act and includes any acting speaker when he or she is elected to perform the functions of the speaker;

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

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

“**table**” means to submit a report or any official document to the council or a committee of council for consideration at a meeting of the council or a committee of council of which notice has been given in terms of this By-law;

## **CHAPTER 2**

### **APPLICATION AND INTERPRETATION OF RULES AND ORDERS**

#### **Application of this by-law**

**2.** This By-law governs the proceedings of the council and committees of the council which bind and must be complied with by –

- (a) all councillors;
- (b) any member of the public while present in the precincts;
- (c) any deputation addressing the council or a committee of the council; and
- (d) any municipal official of the municipality.

#### **Interpretation of this by-law**

**3.(a)** Any interpretation of this By-law must be made having due regard to the supremacy of the Constitution, national, provincial and municipal legislation, the rule of law and the rules of natural justice.

(b) The ruling of the speaker or chairperson with regard to the interpretation of this By-law at a meeting of the council or committee of the council will, subject to sections 3(e) and 3(f), be final and binding.

(c) The interpretation and the ruling of the speaker or chairperson on any of this By-law must be recorded in the minutes of the council or committee meeting.

(d) The municipal manager must keep a register of the rulings and legal opinions.

(e) Any councillor may request the municipal manager, in writing within five days from a ruling made in terms of section 3(b), to obtain clarity on the interpretation and ruling and to report to the council or committee of the council.

(f) The council or committee of the council may after consideration of the report in terms of section 3(e) confirm, amend or substitute the ruling of the speaker or chairperson, subject to any rights which any third party may have accrued as a result of the ruling and all decisions effecting the rights of others must be in writing and reasons must be recorded of such decisions.

**CHAPTER 3****FREQUENCY, ADMISSION OF PUBLIC AND NOTICE OF MEETINGS****Council meetings**

4.(a) The council must hold an ordinary meeting of the council not less than once in every three months.

(b) The speaker must convene all meetings of the council in accordance with section 4(a) and subject to section 6.

**Admission of public**

5.(1) All meetings of the council and those of its committees must be open to the public, and the council or committee of the council may not exclude the public from a meeting, other than when the council or committee, due to the nature of the business being transacted or when the disclosure of any matter may be prejudicial to the interests of the municipality, deems it reasonable and justifiable to do so having due regard to the principles of an open and democratic society.

(2) The council or a committee of the council, may not for any reason whatsoever, exclude the public when considering, voting or noting any of the following matters –

(a) a draft by-law tabled in the council;

(b) a budget tabled in the council;

(c) the municipality's integrated development plan, or any amendment of the plan, or any amendment of the plan tabled in council;

(d) the municipality's performance management system, or any amendment of the system, tabled in council;

(e) the decision to enter into a service delivery agreement;

(f) any reports on an award in terms of supply chain management policy;

(g) the disposal or acquisition of municipal capital asset;

(h) any other matter prescribed by legislation.

(3) The municipal manager must give notice to the public, in a manner determined by the council, of the time, date and venue of every ordinary meeting of the council or committee of the council and any special or urgent meeting of the council or committee of the council, except when time constraints make this impossible.

(4) Members of the council together with members of the public attending any council or committee meetings must accord the meeting the dignity it deserves by dressing appropriately as per Rule 41(d) and must not wear any attire which could be ascribed to a political party

**Notice to attend an ordinary council meeting**

6.(1) The speaker must convene meetings of the council, at least once every three months, through a duly signed "Notice of Council Meeting", stating the date, place and time of the meeting and accompanied by or containing the agenda of the proposed meeting.

(2) Notice to attend a meeting in terms of section 6(1) must be given at least –

(a) five calendar days prior to an ordinary meeting; and

(b) two calendar days prior to a special meeting.

**Special meetings**

7.(1) The speaker must call a special meeting of the council –

(a) for the purpose of pertinent or urgent council business; or

(b) or at the request of a majority of the councillors of the municipality.

(2) A special meeting must be held in compliance with section 6(2)(b) and in terms of section 7(1)(b) no later than four days from the date of receipt of a request.

(3) A request for the calling of a special meeting, as contemplated in section 7(1)(b), must –

(a) be signed by no less than fifty percent plus one of all councillors of the municipality; and

(b) be accompanied by –

(i) a duly signed notice of motion; and

(ii) a written statement by the councillor signing the notice of motion giving reasons as to why the intended business of the special meeting is urgent and cannot wait for an ordinary meeting of the council.

(c) If the speaker fails to convene a meeting in terms of this section, the municipal manager must convene such meeting and conduct an election of an acting speaker in terms of section 41 of the Structures Act.

**Service of notices and agenda**

8.(1) Notice to attend a meeting or any other official communication from the council, must be delivered to –

(a) a physical address within the area of jurisdiction of the municipality; or

(b) an e-mail address;

(c) facsimile; or

(d) by a short message service:

Provided that contact details must be supplied by each councillor to the municipal manager in writing within two days of a councillor's election and, thereafter, whenever the councillor wishes to change either address and at which address the councillor will accept service and or receipt of any notice to attend a meeting and any other official communication from the council.

(2) All documentation relevant to any council or committee meeting, except special meetings convened in terms of section 7, must be given to all councillors at least five calendar days prior to an ordinary council or committee meeting and two calendar days prior to a special council or special committee meeting.

(3) All councillors must inform the speaker of any change of his contact details within three days of such change.

(4) Subject to section 5(3), notice to attend a meeting must be displayed on the public notice boards of the municipality.

#### **Non-receipt of notice**

9.(a) A councillor may request an investigation regarding the non-receipt of a notice to attend a meeting.

(b) Non-receipt of a notice to attend a meeting will not affect the validity of any meeting or proceedings of council or any of its committees.

#### **CHAPTER 4**

##### **Quorum**

10.(1)(a) Notwithstanding that there may be vacancies, the quorum of a council must be fifty percent plus one of the total number of councillors determined in accordance with the municipality's establishment notice, before a vote may be taken on any matter.

(b) Subject to a quorum, the failure of any councillor to vote will not invalidate the proceedings of the council meeting.

(2)(a) Notwithstanding that there may be vacancies, a majority of the number of councillors appointed to a committee of council must be present at a meeting of the committee before a vote may be taken on any matter.

b) Subject to a quorum, the failure of any councillor to vote will not invalidate the proceedings of the committee meeting.

##### **Cancellation and adjournment in absence of quorum**

11.(1) No meeting may take place, if no quorum is present fifteen minutes after the time at which a meeting was due to commence, unless it is unanimously agreed by the councillors present to allow further time not exceeding fifteen minutes for a quorum, whereafter if no quorum is present, the meeting must be cancelled.

(2) If during discussion on an item at any meeting of council or any of its committees the attention of the speaker or chairperson is called to the number of councillors present, he or she must –

(a) count the councillors present;

(b) if it is found that there is no quorum, the speaker or chairperson must adjourn the meeting and allow an interval of fifteen minutes for a quorum to become present;

(c) if a quorum becomes present after the adjournment then the meeting must continue;

(d) if no quorum becomes present after the adjournment then the chairperson or speaker must forthwith adjourn the meeting.

(3) When a meeting is adjourned as a result of no quorum, the meeting will be re-convened within seven days as a continuation meeting.

## **CHAPTER 5**

### **Attendance**

**12.(1)** All councillors must punctually attend and remain in attendance at each meeting of the council and a committee of which that councillor is a member except when –

(a) leave of absence is granted in terms of section 13;

(b) that councillor is required to withdraw in terms of section 46(b); or

(c) that councillor is absent with the permission of the speaker or chairperson.

(2) Each councillor attending any meeting of the council or a committee of the council must sign an attendance register provided for that purpose.

(3) The attendance register must be filed in the office of the municipal manager.

(4) Any councillor who is entitled to leave of absence in terms of section 13 and no longer requires such leave, is entitled to attend, participate and vote in the meeting from which leave of absence was granted and sign the attendance register.

### **Leave of absence**

**13.(1)** Leave of absence must not be granted in such a manner that more than the number required for a quorum will at any one time be absent.

(2) If a councillor –

(a) is unable to attend a meeting of which notice had been given; or

(b) is unable to remain in attendance at a meeting; or

(c) will arrive after the stipulated commencement time of a meeting, he or she will, as soon as is reasonably possible and prior to that meeting, lodge with the municipal manager a written application for leave of absence from the whole or any part of the meeting concerned, which application must provide reasonable and bona fide reasons for the application and show good cause for the granting of the application.

(3) The municipal manager must as soon as possible inform the speaker or chairperson of the meeting concerned of any application for leave of absence received.

(4) The speaker or chairperson of the meeting concerned must as soon as possible consider an application for leave of absence and either grant or reject the application with reasons and immediately inform the municipal manager of his decision.

(5) The municipal manager must as soon as is reasonably possible, inform a councillor who has applied for leave of absence of the speaker or chairperson's decision.

(6) A councillor will be deemed absent without leave from the meeting concerned where an application for leave of absence has not been granted and he or she –

(a) failed to attend a meeting; or

(b) failed to remain in attendance at a meeting.

(7) Where a councillor fails to remain in attendance at a meeting –

(a) without being granted permission to do so; or

(b) without obtaining permission from the speaker or chairperson to leave prior to the close of the meeting, the time of leaving must be recorded in the minutes of the meeting and that councillor will be deemed to have been absent without leave at that meeting.

(8) Where a councillor arrives late at a meeting, without obtaining permission to do so, the time of arrival and the reasons for the late attendance must be recorded in the minutes of the meeting and the councillor may attend the meeting and sign the attendance register in terms of section 12(2).

(9) Leave of absence for two or more consecutive council or committee meetings must be sanctioned by the council or the relevant committee.

#### **Non-attendance**

**14.(1)(a)** Subject to compliance with the procedure set out in section 13 and the provisions of item 4(2) of Schedule 1 of the Systems Act, a councillor who is absent without good cause from a meeting, of which notice has been given, will be liable to pay a fine equivalent to one week's remuneration, which fine may be deducted from remuneration due to the councillor concerned.

(b) A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that councillor is required to attend in terms of item 3 of Schedule 1 of the Systems Act, must be removed from office as a councillor in accordance with section 14(2)(e) of the Systems Act.

(c) Proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with a uniform standing procedure which each municipal council must adopt.

(2) Where a councillor has been absent without obtaining leave from a meeting—

(a) the Rules Committee as contemplated in section 43 or the speaker or chairperson as the case may be, must invite the councillor to provide a formal explanation setting out the reasons for the councillor's absenteeism from the meeting;

(b) the speaker or chairperson must consider the explanation and decide whether or not the councillor was absent with good cause, providing appropriate reasons for the decision;

(c) the councillor may appeal in writing to the speaker's or chairperson's decision within seven days of receipt of such decision.

(d) the council or committee, as the case may be, must –

(i) allow the councillor an opportunity to make representations, oral or written; and

(ii) consider the councillor's appeal, together with any comments from the speaker or chairperson of the meeting concerned;

(iii) make a finding as to whether the councillor was absent with or without good cause.

(3) The municipal manager must keep a record of all incidents in respect of which councillors have been found to be absent or deemed to be absent without leave and without good cause and must submit a written report to the speaker whenever a councillor is absent from three or more consecutive meetings which that councillor was required to attend.

(4) Where the speaker receives a report in terms of section 14(3), the speaker must submit the report to council and direct that the matter be investigated in accordance with Item 14 of the Code of Conduct.

## **CHAPTER 6**

### **Adjourned meetings**

**15.** Subject to section 11(3), a council or committee meeting may, by majority vote, be adjourned to another day or hour but no later than 14 days after the original meeting.

### **Continuation meeting**

**16.(1)** When a meeting is adjourned, notice of the continuation meeting must be served in terms of section 8.

(2) No business will be transacted at a continuation meeting except such as is specified in the notice of the meeting, which was adjourned.

**CHAPTER 7****PROCEEDINGS****Speaker and chairpersons of meetings**

17.(1) At every meeting of the council, the speaker, or if he or she is absent, an acting speaker, will be the chairperson and will perform the duties stipulated in terms of section 37 of the Structures Act and must ensure that each councillor when taking office is given a copy of this By-law and the Code of Conduct.

(2) The speaker and chairperson of council and committee meetings –

- (a) must maintain order during meetings;
- (b) must ensure compliance in the council with the Code of Conduct for Councillors; and
- (c) must ensure that meetings are conducted in accordance with this By-law.

(3) If the speaker or chairperson of the council or committee of the council is absent or not available to perform the functions of speaker or chairperson, or during a vacancy, the council or committee under the direction of the municipal manager or his/her nominee must elect another councillor to act as speaker or chairperson as the case may be.

(4) No meeting of the council or a committee of the council may commence or continue unless a speaker or chairperson presides at a meeting.

**Minutes**

18. (a) The proceedings of every council meeting must be accurately and electronically recorded and retained in accordance with the Archives and Record Service of South Africa Act, 43 of 1996.
- (b) Written minutes of the proceedings of each council and committee meeting must contain an accurate record of the resolutions adopted by council at such meeting.
- (c) The approved minutes of every meeting of a council or committee other than in-committee meetings must be available to the public.
- (d) Where the municipal manager is of the opinion that any resolution or proceeding of a council or committee meeting may be in contravention of any law or by-law, he or she must advise the council or committee accordingly and full details of such opinion must be recorded in the minutes.

**Order of business**

19. (1) The order of business at every meeting of the council or its executive committee or committee of council is as follows:
- (a) notice of meeting;

- (b) applications for leave of absence;
- (c) confirmation of minutes of previous meeting;
- (d) announcements by the chairperson;
- (e) declarations of pecuniary or other interests;
- (f) deputations;
- (g) reports;
- (h) notices of motion;
- (i) questions of which notice has been given; and
- (j) general matters of an urgent nature.

(2) The speaker or chairperson may, in his discretion, at any stage bring forward any business that is on the agenda paper.

#### **Confirmation of minutes of previous meeting**

**20.(1)** The minutes of every meeting must be confirmed at the next ordinary meeting of that council or committee and must be signed by the speaker or chairperson.

(2) No motion or discussion will be allowed upon the minutes of a previous meeting, other than relating to the accuracy of those minutes.

#### **Deputations**

**21.(a)** A deputation wishing to address the council or a committee of council must submit a memorandum to the municipal manager in which is set out the representations it wishes to make.

(b) A request by a deputation to address the council or a committee of the council must be approved by the speaker or relevant chairperson.

(c) The municipal manager must submit the memorandum to the council or a committee of the council, which may receive the deputation.

(d) Any matter requiring consideration arising from a deputation, will not be further considered by the council or committee until the deputation has withdrawn provided that questions of clarity may be permitted.

(e) A member of the public, other than a deputation, who wishes to speak at a council or committee meeting, must obtain the permission of the speaker or chairperson to do so, prior to the commencement of the meeting.

(f) When speaking at a council or committee meeting, a member of the public and a deputation must comply with any directions or orders given by the speaker or chairperson.

(g) If a member of the public or a deputation conducts himself/herself in a disorderly and unruly manner at any time, the speaker or chairperson must direct that that member remove himself or be removed by a Peace Officer from the precincts.

(h) Any member of the public or deputation who fails or refuses to comply with the speaker's or chairperson's directions in terms of section 21(f) and section 21(g) will be guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding one month or both such fine and such imprisonment.

### **Reports**

**22.(a)** Any report submitted to the council or a committee of the council must, with the exception of a report accepted by the speaker or chairperson as a matter of urgency, be provided to councillors in terms of section 8.

(b) The speaker or chairperson must allow debate in accordance with sections 34, 35, 36, 37, 38, 39 and 40 on any report submitted to the council or a committee of the council, at the meeting at which that report is submitted and if the debate is incomplete or does not take place for any reason whatsoever, then the debate in respect of that report must be held, at the next meeting.

### **Motions**

**23.(1)** No subject will be brought before council or a committee of council by a councillor except by way of notice of motion.

(2) A notice of motion must –

(a) be in writing; and

(b) be signed by the councillor submitting it and by another councillor acting as seconder; and

(c) refer to one matter only.

(3) A notice of motion must, subject to section 7, be lodged with the municipal manager before 12h00 seven calendar days prior to the next meeting, failing which the notice will be considered at the next ensuing meeting.

(4) The municipal manager must –

(a) date and number each notice of motion;

(b) enter each notice of motion lodged in a register, which must be open to inspection by any councillor and the public; and must

(c) enter each notice of motion on the agenda in the order received.

(5) The speaker or chairperson must –

(a) read out the number of every motion and the name of the mover and seconder;

(b) ascertain which motions are unopposed and these will be passed without debate; and

(c) call the movers of the opposed motions in the order they appear on the agenda.

(6) A councillor submitting a motion must move such motion and will have the right of reply.

(7) A motion will lapse if the councillor and seconder who submitted it is not present at the meeting when such motion is being debated.

(8) A councillor will be allowed not more than three notices of motion on the same agenda.

(9) The speaker or chairperson must not reject a motion received by him or her in terms of this By-law.

### **Questions**

**24.(a)** A councillor may put a question requiring a written reply from any political or municipal office bearer of the municipality concerning any matter related to the effective performance of the municipality's functions and the exercise of its powers, provided that written notice of the question has been lodged with the speaker or chairperson and the municipal manager at least seven days prior to the council or committee meeting and the municipal manager must ensure that the councillor receives a written reply from that political or municipal office bearer, at the council or committee meeting.

(b) If after a question has been replied to, a councillor is of the opinion that the reply is not clear and is ambiguous, he or she may, with the consent of the speaker or chairperson, request a follow-up question.

### **Supply of information to a councillor**

**25.(a)** No councillor may approach or communicate with any officer of the municipal administration concerning the business of the municipality other than when exercising his rights or liberties as an ordinary member of the public.

(b) A councillor may approach and communicate with the municipal manager or any head of department or any officer of the municipal administration specifically designated by the municipal manager or by the head of department concerned for this purpose, in order to obtain such information as he or her may reasonably require for the proper performance of his duties as a councillor.

### **General matters of an urgent nature**

**26.(a)** General items of an urgent nature may be placed on an agenda by the municipal manager and any member of the council with the prior consent of the speaker or chairperson, which consent will not be unreasonably withheld.

(b) Prior to adoption, councillors must be afforded reasonable time to peruse and consider any report or official documents submitted to the council.

**Interpretation**

27. If a majority of councillors present so resolve, an interpreter may be used in meetings of the council and committees of the council.

**In-committee**

28. (a) Subject to section 5, the council or a committee of council may, at any time, resolve to proceed in-committee.
- (b) The public will be excluded from any in-committee meetings.
- (c) The municipal manager or another official exempted from this section by the speaker or chairperson, will not be excluded from any in-committee meeting.
- (d) All proceedings in-committee must be recorded in terms of section 18(1) and 18(2) and must be confidential.
- (e) Unauthorised disclosure of any confidential matter must be dealt with in terms of the Code of Conduct.

**CHAPTER 8****VOTING****Decisions by voting**

29. (1) A quorum must be present in order for a vote to be taken.
- (2) All questions concerning the following matters must be determined by a decision taken by the council with a supporting vote of a majority of the number of councillors determined in accordance with the municipality's establishment notice –
- (a) the passing of by-laws;
  - (b) the approval of budgets;
  - (c) the imposition of rates and other taxes, levies and duties;
  - (d) the raising of loans;
  - (e) the rescission of a council resolution within 6 months of the taking thereof; and
  - (f) any other matter prescribed by legislation.
- (3) All other questions before the council must be decided by a majority of the votes cast by the councillors present.

(4) If on any matter there is an equality of votes, the speaker or chairperson may exercise a casting vote in addition to a deliberative vote as a councillor, provided that a speaker or chairperson will not exercise a casting vote during the election of any office bearer of council.

#### **Method of voting**

- 30.** (a) Voting will be by a show of hands unless the law prescribes otherwise, or the council or committee by resolution of a majority of the councillors present resolves to proceed with a secret written ballot.
- (b) During the taking of a vote no councillor may leave the council chamber or committee room.
- (c) The municipal manager or his nominee, will count the votes cast and will record the result of voting, but the speaker or chairperson will announce the result.

#### **Dissenting votes**

- 31.** A councillor may request that his dissenting vote be recorded as evidence of how he or she voted on the motion.

### **CHAPTER 9**

#### **REVOCAION OF COUNCIL AND COMMITTEE RESOLUTIONS**

##### **Revocation of Council Resolutions**

- 32.** (a) Approval to revoke or alter a resolution of council may not be delegated to any person or committee.
- (b) Prior notice of an intention to move a motion for the revocation or alteration of a council resolution must be given.
- (c) Any revocation or alteration of a council resolution must be made in terms of section 29(2)(e).

##### **Revocation of Committee Resolutions**

- 33.** (a) Approval to revoke or alter a resolution of a committee of the council may not be delegated to any person.
- (b) Prior notice of an intention to move a motion for the revocation or alteration of a resolution of a committee of the council must be given.

(c) Any revocation or alteration of a resolution of a committee of the council must be approved by a majority of the number of the members of that committee.

## **CHAPTER 10**

### **DEBATE**

#### **Opportunity to speak**

- 34.** (a) A councillor may only speak when so directed by the speaker or chairperson.
- (b) A councillor may indicate a desire to speak by raising his hand and awaiting the direction of the speaker or chairperson, which direction must not be withheld.
- (c) Councillors and officials must stand when speaking and must direct their address to the speaker or chairperson.

#### **Relevance**

- 35.** Every speaker must restrict him or herself strictly to the matter under consideration.

#### **Length of speeches**

- 36.** Other than the delivery of the mayoral report or the presentation of the estimates of income and expenditure, no speech will exceed five minutes in length without the consent of the speaker or chairperson.

#### **Councillors to speak only once**

- 37.** A councillor may not speak more than once on any motion or proposal unless permission to do so is granted by the speaker or chairperson provided that the mover of the motion may speak to the motion, will have the right of reply and the reply will be confined to answering previous speakers and will not introduce any new matter into the debate.

#### **Precedence of the speaker or chairperson**

- 38.** Whenever the speaker or chairperson rises during a debate, any councillor then speaking or offering to speak must seat himself and the councillor must be silent, so that the speaker or chairperson may be heard without interruption.

#### **Points of order**

- 39.** (a) Any councillor may raise a point of order at any time by standing to draw the attention of the speaker or chairperson.
- (b) The point of order takes precedence over everything else in the meeting and the speaker or chairperson must grant immediate hearing to the councillor raising the point of order and rule accordingly.
- (c) The ruling of the speaker or chairperson on a point of order will be final and will not be open to discussion.

**Explanation**

40. Any councillor may speak in explanation, provided that such explanation is confined to some material part of the discussion, which may have been misunderstood.

**CHAPTER 11****CONDUCT****General conduct**

41.(1) Councillors and officials must during any council or committee meeting –

- (a) conduct the business in the highest decorum and integrity that the occasion deserves;
- (b) must, at all times adhere to the principles contained in the code of conduct and this By-law;
- (c) must at all times adhere to the rule of law and the by-laws of the municipality;
- (d) must be dressed appropriately for the dignity of the meeting;
- (e) must not use offensive or objectionable language; and
- (f) must not use a cellular phone during, bring a firearm or any dangerous weapon into, a meeting of council or any of its committees.

**Misconduct**

42. (a) The speaker may order a councillor to withdraw and apologise for any word, statement, opinion or gesture made by that councillor.
- (b) If a councillor or councillors behave improperly during a meeting of council or any of its committees, the speaker must direct the councillor or councillors to conduct himself or themselves properly and, if speaking, to stop speaking and resume his seat or seats.
- (c) In the event of persistent disregard of the directions of the speaker, the speaker must direct such councillor or councillors to retire from the meeting and remove himself or themselves from the place of meeting until the item under discussion has been finalised.
- (d) In the event that any misconduct by a councillor or councillors prejudices the proceedings of the council or committee the speaker or chairperson must adjourn the meeting and any such misconduct by a councillor or councillors must be dealt with in terms of this By-law and the Code of Conduct.

(e) Any councillor who refuses to leave a meeting of the council or a committee of the council when directed to do so by the speaker or chairperson of a meeting in terms of any section in this By-law, may be forcibly removed and will be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one month or to both such fine and such imprisonment.

## **CHAPTER 12**

### **COMMITTEES**

#### **Rules Committee**

**43.** (a) The municipal council may by resolution of a majority of councillors establish a special committee to be known as the Rules Committee to investigate and make findings on any alleged breaches of the Code of Conduct, including sanctions for non-attendance at meetings and to make recommendations regarding any other matter concerning this By-law.

(b) The Rules Committee will consist of the speaker, the mayor and one representative of each political party represented on the council, such representative to be nominated from time to time by each political party.

#### **Own rules**

**44.** (a) Every committee of the council must determine its own procedures subject to any directions from council and this By-law.

(b) Sections 34, 35, 36, 37, 38, 39 and 40 of this By-law may be relaxed by a chairperson of a committee to accommodate interactive and effective participation, provided that the chairperson may, at his/her discretion, apply the provisions of any section contained in chapter 10.

#### **The chairperson**

**45.** (1) The chairperson of a committee must—

(a) preside at every meeting of the committee at which he or she is present; and

(b) be entitled to vote in the first instance and in the case of an equality of votes in addition to his deliberative vote, will give a second or casting vote.

(2) In his absence, the acting or deputy chairperson will have the same powers and rights of voting as those possessed by the chairperson.

**CHAPTER 13****PECUNIARY INTEREST****Declaration of pecuniary interest**

- 46.** (a) A councillor must disclose to the municipal council , or to any committee of which that councillor is a member, any direct or indirect personal or private business interest that that councillor, or any spouse, partner or business associate of that councillor may have in any matter before the council or committee.
- (b) The councillor making a declaration must withdraw from the proceedings of the council or committee unless the council or committee decides that the councillor's direct or indirect interest in that matter is trivial or irrelevant.
- (c) A councillor who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councillor is aware at the first meeting of the council at which it is possible for the councillor to make disclosure.
- (d) The disclosure of interests in terms of section 46(a) and benefit in terms of section 46(c) does not apply to an interest or benefit which a councillor, or a spouse, partner, business associate or close family member, has or acquires in common with other residents of the municipality.
- (e) When elected or appointed, a councillor must within 60 days or as soon as possible thereafter declare in writing to the municipal manager the financial interests referred to in item 7 of schedule 1 of the Systems Act.

**CHAPTER 14****BREACH AND SANCTIONS****Breach**

- 47.** Any councillor who fails or refuses to obey this By-law, or any resolution of Council, may be guilty of a breach of the Code of Conduct.

**Sanction**

- 48.** Where it is alleged that a councillor has breached this By-law, the council must, in terms of Item 14 of the Code of Conduct, investigate the alleged breach and may impose a sanction.

**CHAPTER 15****GENERAL PROVISIONS****Suspension of a rule or order**

**49.(1)** In instances of urgency or where a council considers that adherence to a section would be unreasonable and would prejudice the operation of a meeting of the council, then the council may with the approval of the majority of the number of councillors of the municipality and for the duration of that meeting, temporarily relax the provisions of a section, provided that:

- (a) such relaxation must not be in contravention of any national or provincial legislation or any by-law of the municipality;
- (b) no section may be relaxed when the removal of any political office bearer is before the council.
- (c) the suspension or relaxation of the section relates to an item on the agenda for the meeting of the council or committee of the council; and
- (d) section 22 must not be suspended; and
- (e) the reasons for the suspension of the section are recorded in the minutes of the meeting.

**Adoption as by-law**

**50.** This By-law must be adopted as a by-law of the municipality.

**Repeal of existing by-laws**

**51.** The council's existing by-laws in respect of RULES AND ORDERS OF MUNICIPAL COUNCILS AND COMMITTEES BY-LAW are hereby repealed.

**Short title and commencement**

**52.** This By-law will be called the Emadlangeni Municipal RULES AND ORDERS OF MUNICIPAL COUNCILS AND COMMITTEES BY-LAW 2015, and shall come into effect on the first day of the month following the date of publication hereof.

## **18. STORMWATER MANAGEMENT BY-LAWS**

Be it enacted by the Council of Emadlangeni Municipality, in terms of section 156 of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) as follows:

### **INDEX**

#### **CHAPTER 1: DEFINITIONS**

##### **Definitions**

1. In this bylaw, unless the context indicates otherwise -

**"Council"** means the Council of Emadlangeni Municipality and its committees or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any powers and duties with regard to these bylaws;

**"non-stormwater discharge"** means any discharge into the stormwater system which is not composed entirely of stormwater;

**"occupier"**, in relation to any premises, means any person -

(a) occupying the premises;

(b) leasing the premises; or

(c) who is not occupying the premises but is entitled to do so;

**"owner"**, in relation to any premises, means -

(a) the person in whose name the title to the premises is registered; or

(b) if the person referred to in (a) is dead, insolvent, mentally ill, a minor or under any legal disability, the executor, guardian or other person who is legally responsible for administering that person's estate;

**"premises"** means any privately-owned land or land on which buildings or other structures are situated;

**"stormwater"** means any storm water runoff, surface water runoff, sub-soil or spring water;

**"stormwater drain"** means any closed or open drain used or intended to be used for carrying stormwater within any premises to the stormwater system; and

**"stormwater system"** means the system of conduits, the ownership of which is vested in the Council, and which is used or intended to be used for collecting and carrying stormwater, including without limiting the generality of the foregoing, any road with a drainage system and any gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, drainage channel, reservoir or other drainage structure.

**CHAPTER 2****PROHIBITED ACTIVITIES****Unauthorised discharge**

2. (1) Subject to subsection (2), no person shall, directly or indirectly, lead or discharge any non-stormwater discharge into the stormwater system without the prior authority of the Council, which may be granted subject to such conditions as may be stipulated by the Council

(2) Nothing prevents the discharge into the stormwater system of flow from -

(a) potable water sources;

(b) natural springs or wetlands;

(c) diverted streams;

(d) rising groundwater;

(e) fire fighting activities;

(f) individual residential car washing;

(g) swimming pools, provided that the water has been allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance; and

(h) street sweeping.

**Unauthorised connection**

3. No person shall construct, use, allow, maintain or continue any unauthorized drain or conveyance which allows discharge into the stormwater sewer.

**Obstruction of flow**

4. No person shall obstruct or interfere with the normal flow of stormwater into, through or out of the stormwater sewer without the prior written approval of the Council.

**CHAPTER 3****SUSPENSION OF ACCESS AND NOTIFICATION****Suspension of access**

5. (1) The Council may issue a notice suspending access to the stormwater system when such suspension is necessary to stop an actual or threatened discharge of any pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment.

(2) In the event that any owner or occupier fails to comply with a suspension notice, the Council may, at the cost of the owner or occupier of the premises, as the case may be, take all reasonable steps required to prevent or minimize harm to the public health, safety or the environment.

**Notification of spills**

6. As soon as the owner or occupier of any premises becomes aware of any discharge of any pollutants into the stormwater system, the owner or occupier shall -

- (a) take all immediate steps necessary to ensure containment and cleanup of the discharge; and
- (b) notify the Council as soon as reasonably possible of the discharge.

**CHAPTER 4****CONSTRUCTION AND MAINTENANCE****Construction and maintenance of stormwater drains and connections**

7. The owner or occupier, as the case may be, of any premises shall be responsible for the construction and maintenance, at his or her expense, of any stormwater drains on the premises and any connection between such drains and the stormwater system.

**CHAPTER 5****GENERAL PROVISIONS****Offences**

8. Any person who -

- (a) contravenes or fails to comply with any provisions of these by-laws;
- (b) fails to comply with any notice issued in terms of these by-laws;
- (c) fails to comply with any lawful instruction given in terms of these by-laws; or
- (d) obstructs or hinders any authorised official in the execution of his or her duties under these by-laws -

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R5 000 or imprisonment for a period not exceeding 3 months or both.

**Repeal of existing by-laws**

9. The Council's existing Stormwater Management by-laws are hereby repealed.

**Short title and commencement**

10. These by-laws shall be called the Stormwater Management By-laws 2015, and shall come into effect on the first day of the month following the date of publication hereof.

## **19. STREET TRADING MUNICIPAL BY-LAW**

Be it enacted by the Council of the Emadlangeni Municipality, in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

### **ARRANGEMENT OF SECTIONS**

#### *Section*

1. Definitions
2. Purpose of the By-law
3. Forms of informal trading
4. Freedom to engage in informal trading
5. Designated areas
6. Lease and allocation of lands
7. Environmental health and safety
8. Prohibition
9. Restrictions
10. Display of goods
11. Removal and impoundment
12. Disposal of impounded goods
13. Vicarious liability of persons carrying on informal trading
14. Offences and penalties
15. Policy
16. Repeal of By-laws
17. Short title

### **Definitions**

1. In this By-law, unless inconsistent with the context –

"**the Act**" means the Business Act, 1991 (Act No. 71 of 1991) and includes the regulations promulgated thereunder,

"**approval**" means approval by an authorised official and "approve" has a corresponding meaning;

"**Authorised official**" means –

- (a) any official of the Municipality who has been authorised by the Municipality to administer, implement or enforce the provisions of this By-law;
- (b) a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996 (Act No. 93 of 1996);
- (c) a member of the police service, as defined in terms of section 1 of the South African Police Services Act, 1995 (Act No. 68 of 1995);
- (d) a peace officer, contemplated in terms of section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977); or
- (e) a service provider and its employees exercising a power in terms section 81(2) of the Local Government: Municipal Systems Act, 2000, or any other relevant law;

**“Council”** means —

- (a) the Emadlangeni Municipality, exercising its legislative and executive authority through its municipal council;
- (b) its successor-in-title;
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in this By-law has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act; 2000 (Act No. 32 of 2000); and
- (d) a service provider fulfilling a responsibility under this By-law;

**“demarcated stand”** means stand demarcated by Municipality for the purposes of street trading in terms of section 6(A)(3)(b) of the Act;

**“designated area”** means an area prescribed by the Council in terms of this By-law, subject to the Act, as the area in which informal trading can be conducted;

**“foodstuff”** means any article or substance, except a drug as defined in the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992), ordinarily eaten or drunk by persons or purporting to be suitable to be sold for human consumption and includes any part or ingredient or substance used or intended or destined to be used as a part or ingredient of any such article or substance, as defined in section 1 of the Foodstuff Cosmetics and Disinfectants Act, 1972 (Act No.54 of 1972).

**“garden” or “park”** means a garden or park to which the public has a right of access;

**“goods”** means any movable property used in connection with street trading and, without limiting the generality of the foregoing, includes products for sale, display tables, stands, receptacles, vehicles, structures or animals;

**“impoundment costs”** means all those costs incurred by the Council in respect of impounding and storing of impounded goods or property and, where applicable, costs incurred in respect of disposal of impoundment goods;

**“informal trader”** means the selling of goods and/or services by an informal trader in the designated area, which includes, without any limitation, the forms of trading included in this By-law;

**“Informal Economy”** means activities as defined in the KZN Policy on Informal Economy, 2010;

**“Intersection”** means an intersection as defined in the regulations promulgated in terms of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

**“kerb line”** means, as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996), the boundary between the shoulder and the verge or, in the absence of a shoulder, the part between the edge of the roadway and the verge;

**“linear market”** means a designated area located in a pedestrian environment.

**“litter”** includes any receptacle, container or other matter, which has been discarded, abandoned or left behind by an informal trader or by his or her customers;

**“motor vehicle”** means any self-propelled vehicle as more fully defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

**“municipality”** means the Emadlangeni Municipality established in terms of section 155(6) of the Constitution of the Republic of South Africa, 1996, and established by and under sections 11 and 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998),

**“periodic markets”** means sale of legal goods and or services by individuals and or groups in locations designated for informal trading for a period no longer than 5 days;

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

**“property”** in relation to an informal trader, includes any article, goods container, motor vehicle or structure used or intended to be used in connection with informal trading;

**“public building”** means a building belonging to or occupied solely by any sphere of the government, including the Council;

**“public monument”** means any one of the public monuments and memorials as defined in terms of section 2 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999);

**“public place”** means any square, park, recreation ground or open space which is vested in the Council or to which the public has the right to use or is shown on a general plan of a township filed in the deeds registry or Surveyor-General’s office and has been provided for the use of the public or the owners of erven in such township;

**“public road”** means a public road as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996), and is any road, street or thoroughfare or any place commonly used by the public or any section thereof or to which the public or any section thereof has the right of access;

**“rental”** means an amount payable by the informal trader for the allocated trading space in the designated area as agreed between the Council and an informal trader;

**“roadway”** means a roadway as defined in section 1 of the National Road Traffic Act, 1996, (Act No. 93 of 1996), but excludes a public place;

**“sell”** includes –

- (a) barter, exchange or hire out;
- (b) display, expose, offer or prepare for sale;
- (c) store on a public road or public place with a view to sell; or
- (d) provide a service for reward,

and **“sale”** or **“selling”** has a corresponding meaning;

**“sidewalk”** means a sidewalk as defined in section 1 of the National Road Traffic Act No. 93 of 1996;

**“shoulder”** means, as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996) that portion of the road, street or thoroughfare between the edge of the roadway and kerb line;

**“special events”** means special events that occur from time to time, including without limitation, sports events, religious events, social, cultural or political gatherings and music festivals;

**“street furniture”** means any furniture installed by the Council on the street for public use;

"**street trader**" means a person who sells, barter, exchanges, hires out, displays, exposes, offers or prepares for sale, barter, exchange or hire any goods or who provides or offers any service for reward as a street vendor, hawker or pedlar in a public road or in a public place, but does not include any person who sells newspapers only;

"**the Traffic Act**" means the National Road Traffic Act, 1996 (Act No. 93 of 1996); and

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

#### **Purpose of the By-law**

2.(1) The Council recognises the objective of its existence in terms the Constitution which includes –  
(a) to promote social and economic development;  
(b) to promote a safe and healthy environment; and  
(c) municipal planning, trading regulations, licensing and control of undertakings that sell food to the public, markets, public places, municipal roads and street trading.

(2) The Council therefore recognises the need to adopt a developmental approach to enable access to job and entrepreneurial opportunities within the informal trading sector, to harmonise the relationship between the informal trading sector and the formal trading sector and to facilitate the migration of the informal trading sector into the formal trading sector.

(3) The purpose of this By-law is to regulate the informal trading within the jurisdictional area of the Municipality in a manner that recognises and enhances the municipality's constitutional and other statutory obligations.

#### **Forms of informal trading**

3.(1) Informal trading may include any of the following forms of legal trading –  
(a) street trading, which comprises the selling of goods or supply of services for reward in a public road;  
(b) selling of goods in linear market;  
(c) sale of goods or services in a public place  
(d) mobile trading such as from caravans, and light motor vehicles;  
(e) selling of goods in stalls or kiosks; and  
(f) selling of goods at special events

#### **Freedom to engage in informal trading**

4. Subject to compliance with the provisions of this By-law, the Act and any other applicable law, any member of the community of the municipality may be permitted to engage in informal trading.

#### **Designated areas**

5.(a) The Council may by resolution in terms of section 6A(3)(b) of the Act, set apart and demarcate stands or areas for the purposes of informal trading on any public road, the ownership or management of which is vested in the Council, or on any other property in the occupation and under the control of the Council.

(b) Any such stands or areas demarcated for informal trading may be extended, reduced or disestablished by resolution of the Council.

(c) The Council may, by resolution in terms of section 6A(3)(a) of the Act, lease any verge or any portion thereof to the owner or occupier of the contiguous land on condition that such owner or occupier will admit a specified number of informal traders in stands or places on such verge designated by the owner or occupier.

#### **Lease and allocation of stands**

6.(1) Any person who intends to carry on a business as an informal trader in terms of the provisions of this By-law may apply to the Council in the prescribed manner for the lease or allocating of a stand in terms of section 6A(3)(c) of the Act.

(2) The Council may grant subject to conditions, or refuse an application referred to in subsection (1).

(3) If such application is successful –

(a) an informal trader must enter into a lease agreement with the Council in respect of such stand, which lease agreement must be produced at the request of an Authorised Official;

(b) in respect of the allocation, as well as the lease of a stand, a token will be issued to an informal trader as proof of an informal trader's rights to occupy the stand for the purpose of conducting informal trading;

(c) an informal trader must, at all times while carrying on business on the stand or public space, retain such token on his/her person ready for display to an Authorised Official, if requested; and

(d) the Council may, on the written request of the informal trader issue a token to a bona fide employee of the informal trader.

(4) Any person who carries on informal trading on a stand or public place, inclusive of mobile, roving, containerised, bakkies and caravans and who, without a reasonable explanation, is unable to produce a valid lease agreement or token as envisaged in subsection (3) above, will be guilty of an offence.

(5) Any person who carries on informal trading on a stand or public place and who, without a reasonable explanation, fails to comply with the terms of conditions of the lease agreement will be guilty of an offence.

#### **Environmental health and safety**

7.(1) An informal trader must –

(a) keep the area or site occupied by him or her for the purposes of conducting business in a clean and sanitary condition;

(b) keep his or her property in a clean, sanitary and well maintained condition;

(c) dispose of litter generated by his or her business in whatever refuse receptacle is provided by the Council for the public or at a dumping site of the Council;

(d) not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter;

(e) ensure that on completion of business for the day, the area or site occupied by him or her for the purposes of conducting informal trading is free of litter;

(f) take such precautions in the course of conducting his or her business as may be necessary to prevent the spilling onto a public road, or public place, or into a storm water drain, any fat, oil or grease;

- (g) ensure that no smoke, fumes or other substance, odours, or noise, emanating from his or her activities associated with informal trading causes pollution of any kind;
- (h) on request by an authorised official, move his or her property so as to permit the cleansing of the space or the area or site where he or she is conducting informal trading, or the effecting of municipal services.

### **Prohibition**

**8.(1)** No street trader may carry on or undertake street trading –

(a) on a verge contiguous to–

- (i) a building belonging to or occupied solely by the state or the Municipality;
- (ii) an auto teller bank machine or banking premises;
- (iii) a church or other place of worship; or
- (iv) a building declared to be a national monument in terms of the National Monuments Act, 1969 (Act No. 28 of 1969);

(b) on any verge contiguous to a building in which business is being carried on by any person who sells goods of the same nature as, or of similar nature to, goods being sold by the street trader or who offers services of the same nature as, or of a similar nature to, a service offered by the street trader concerned without the consent of such person;

(c) on that half of a public road contiguous to a building used for residential purposes, if the owner or person in control or any occupier of the building objects thereto;

(d) at any place where the carrying on of such business causes an obstruction to–

- (i) the entrance to or exit from a building, or
- (ii) a fire hydrant;

(e) in any declared area identified as such in terms of section 6A(2) of the Act in respect of which the carrying on of the business of street trader has been –

- (i) prohibited by the Municipality, or
- (ii) restricted by the Municipality, unless such business is carried on in accordance with such restrictions;

(f) at any place which has been set apart and demarcated as stands or areas by the Municipality in terms of section 6A(3)(b) of the Act for the purposes of the carrying on of the business of a street trader, unless such business is carried on in accordance with –

- (i) an agreement with the Municipality, or
- (ii) the allocation by the Municipality to the street trader of any area or stand;
- (g) within 5 meters of a road intersection; and

(h) in any public garden or park except with prior written consent of the Municipality.

(2) The Council may, by resolution in terms of section 6(A)(2) of the Act, declare any place in its area of jurisdiction to be an area in which informal trading is restricted or prohibited, and must, to enable compliance therewith, prescribe or make signs, markings or other devices indicating –

- (a) Specified places, goods or services in respect of which informal trading is restricted or prohibited;
- (b) the location of boundaries in respect of restricted or prohibited areas;
- (c) the boundaries of a stand or area set apart for the purposes of carrying on the business of informal trading;
- (d) the fact that any such stand or area has been let or otherwise allocated; and
- (e) any restriction or prohibition against informal trading in terms of the By-laws.

(3) The Council may display any such sign, marking or device in such a position and manner as will indicate any restriction or prohibition and the location or boundaries of the area or stand concerned.

(4) Any sign erected in terms of this By-law or any other law, will serve as sufficient notice to an informal trader of the prohibition or restriction in respect of the area concerned.

(5) The resolution of the Council will be subject to the provisions of section 6A(2)(b) to (j) of the Act, which require, *inter alia*, that the Council first consider the effect its resolution will have on the existing informal traders in the designated area in question.

(6) Any sign may be amended from time to time and displayed by the Council for the purpose of this By-law and will have the same effect as a road sign in terms of the Traffic Act.

### Restrictions

9. (1) No person engaging in street trading may –
- (a) sleep overnight at the business site;
  - (b) erect any permanent structure in a public place or public road for the purpose of providing shelter unless a written approval has been obtained from council, or
  - (c) place or store any goods in such a manner or position as to constitute a danger to any person;
  - (d) carry on such business in such a manner as to–
    - (i) create a nuisance;
    - (ii) damage or deface any public road or public place or any public or private property; or
    - (iii) create a traffic hazard;
  - (e) obstruct access to a service or to service works of the Municipality or of the State or any statutory body;
  - (f) interfere with the ability of persons using a sidewalk to view the goods displayed behind a shop display window or obscure such goods from view;
  - (g) obstruct access to a pedestrian arcade or mall;
  - (h) carry on such business in a place or area in contravention of any restriction imposed by a Municipal resolution in terms of section 6A(2)(a) of the Act;
  - (i) place or store his or her goods on or in a building, without the consent of the owner, lawful occupier, or person in control of such building or property;
  - (j) attach any of his or her goods by any means to the building structure, pavement, tree, parking meter, lamp, pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or a public road or public place;
  - (k) make an open fire on a public road or public place unless written approval has been obtained from council;
  - (l) interfere with the ability of a person using a sidewalk to view the goods displayed behind a shop display window, or obscure such goods from view;
  - (m) obstruct access to a pedestrian crossing, a parking or loading bay or other facility for vehicular or pedestrian traffic; or
  - (n) obstruct or inhibit the use of street furniture and any other facility designed for the use of the general public.

### Display of goods

- 10.(1) A street trader must ensure that any structure, container, surface or other object used by him or her for the preparation, display, storage or transportation of goods –
- (a) is maintained in a good state of repair and in a clean and sanitary condition; and
  - (b) is not so placed or stored so as to constitute a danger to any person.

**Removal and impoundment**

**11.(1)** An inspector may remove and impound any goods which he or she –

- (a) reasonably suspects are being used or intended to be used or have been used in or connection with the carrying on of the business of a street trader, and
- (b) finds at a place where the carrying on of such business is prohibited or restricted in terms of this By-law, whether or not such goods are in the possession or under the control of any person at the time of such removal and impoundment.

(2) An inspector removing and impounding any goods may –

- (a) except in the case of goods which appear to have been abandoned or in respect of which the owner or person having control thereof cannot be found, issue to the owner or person having control of such goods a receipt for the removal and impoundment thereof and stating –
  - (i) the place where the goods will be kept;
  - (ii) the amount payable in respect of expenses incurred by the Municipality in impounding and removing the goods; and
  - (iii) the date on or after which the goods will be sold or destroyed unless claimed; and
- (b) forthwith place such goods in safe custody within the control of the Municipality.

(3) Neither the Municipality nor any inspector, officer or employee of the Municipality will be liable for any loss, theft or damage to any goods removed and impounded in terms of this By-law.

**Storage and Disposal of impounded goods**

**12(1)** Any goods impounded in terms of this By-law must be dealt with as follows –

- (a) if the goods are claimed, the street trader must pay the expenses incurred by the Municipality for impoundment; and
- (b) if the goods are not claimed within the period specified on the receipt issued in terms of this By-law, the goods must be sold to defray expenses incurred by the Municipality in impounding and removing the goods.

(2) In the event that the goods –

- (a) are not capable of being sold, they must be destroyed after the time specified on the receipt issued in terms of this By-law; and
- (b) are perishable, they may be sold or destroyed as soon as may be necessary.

(3) If the proceeds contemplated by this section are insufficient to pay for the expenses incurred by Municipality, the owner will be liable for any excess.

**Vicarious liability of persons carrying on informal trading**

**13.(a)** When an employee or agent of an informal trader contravenes a provision of this By-law, the informal trader will be deemed to have committed such contravention unless such informal trader satisfies the court that he or she took reasonable steps to prevent such contravention.

(b) The fact that the informal trader issued instructions to the employee or agent, prohibiting such contravention, will not in itself constitute sufficient proof of such reasonable steps.

**Offences and penalties**

14.(1) Whenever the Municipality is of the opinion that a person has not complied with the provisions of this by-law, it may serve a written notice on such person, calling upon him or her to comply with such provisions within a period specified in the notice.

(2) Any person who –

(a) contravenes or fails to comply with any provision of this By-law; or  
(b) fails to comply with the terms of any notice served upon or given to him in terms of this By-law, is guilty of an offence and is liable on conviction to a fine, or to imprisonment for a period not exceeding three months.

(3) in the case of a continuing offence, the offender will be liable to a further fine not exceeding R50 per day, or in default of payment, to imprisonment not exceeding one day, for every day during the continuance of such offence, after a written notice has been issued by the Council, and served on the person concerned, requesting the discontinuance of such offence.

**Policy**

15. The Council may make policy regarding –

- (a) the declaration of any place to be an area in which informal trading is restricted or prohibited and the prescription or making of signs, markings or other devices, as contemplated in this By-law;
- (b) The setting apart and demarcation of stands or areas for the purposes of street trading and the extension, reduction or disestablishment therefrom as contemplated in terms of this By-law;
- (c) The disposal of any property which has been removed and impounded, as contemplated in this By-law;
- (d) The liability of any person for any reasonable expenses incurred in connection with such removal, impoundment and disposal;
- (e) The prescription of penalties for the offences contemplated in terms of this By-law;
- (f) The amendment of such penalties from time to time; and
- (g) Any matter which may be prescribed in terms of this By-law and any matter which may facilitate the application of this By-law.

**Repeal of existing By-laws**

16. The Municipality's existing Street trading By-laws are hereby repealed.

**Short title**

17. This By-law will be called the Emadlangeni Municipality Street Trading By-Law, 2015.

## **20. DUMPING AND LITTERING MUNICIPAL BY-LAWS**

The Municipal Manager hereby publishes in terms of Section 13 of the Local Government Systems Act, 2000 (Act No. 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-laws Relating to Dumping and Littering which shall come into operation on the date of publication thereof.

### **(1) DEFINITIONS**

In these By-laws words used in the masculine includes the feminine or any corporate entity, the singular includes the plural and, unless the context indicates otherwise –

**"dump"**, in relation to waste, means deposit, discharge, spill, release (whether or not the waste is in a container or receptacle) in any manner other than a manner permitted in terms of these By-laws and in or at any place whatsoever, whether publicly or privately owned, and including but not limited to vacant land, rivers and waterways and sewage and stormwater systems;

**"Municipality"** means the Municipality of Emadlangeni, a local municipality established in terms of Section 12 of the Local government: Municipal Structures Act, 1998 and includes any duly authorised political structure or political office bearer as defined in the Local Government: Municipal Structures Act, 1998 or official thereof;

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

**"waste"** means waste and refuse of any kind and generated at any source, including –

- (a) general domestic, household and garden waste and refuse;
- (b) hazardous and toxic waste, including medical waste;
- (c) waste generated by businesses, commercial enterprises and institutions such as factories, schools, hostels and religious institutions, including construction waste such as builder's rubble and industrial waste.

### **(2) DUMPING, LITTERING AND OTHER CONTRAVENTIONS**

(1) No person may-

- (a) litter or cause or permit littering;
- (b) dump or cause or permit the dumping of any waste;
- (c) burn or cause or permit the burning of any waste, otherwise that provided for in any law;
- (d) accumulate or store waste, or cause or permit the accumulation and storage of waste in any way which, in the opinion of the municipality, is unsightly or is or may become a nuisance or health hazard;
- (e) deal or cause or permit the dealing with waste in any way other than provided for in any law.

(2) Where the provisions of sub-section (1) are contravened, the municipality may direct any or all of the following persons –

- (a) any person responsible for, or who directly or indirectly contributed to, such contravention;
- (b) the owner of the waste, whether or not such owner is responsible for the contravention;
- (c) the owner of the land or premises on or at which the contravention takes place, where such owner failed to take the steps set out in sub-section (5);

- (d) the person in control of, or any person who has or had a right to use, the land or premises on or at which the contravention takes place at the time of the contravention, where such person failed to take the steps set out in sub-section (5);
- (e) any person who negligently failed to prevent the contravention from taking place' within a specified time to cease the contravention or to prevent a further contravention or the continuation of the contravention and to take whatever steps the municipality considers necessary to clean up or remove the waste, to rehabilitate the premises or place at which the contravention takes place and to ensure that the waste is disposed of lawfully.

(3) In addition to or as an alternative to the steps set out in sub-section (2), the municipality may itself take whatever steps it deems necessary to clean up or remove the waste, to rehabilitate the premises or place at which the contravention takes place and to ensure that the waste is disposed of lawfully and then recover the costs of taking such steps from any persons listed in sub-section (2), who shall, where applicable, be jointly and severally responsible therefor.

(4) The costs claimed in terms of sub-section (3) must be reasonable and may include but are not limited to labour, administrative and overhead costs.

(5) No person who owns land or premises or who is in control of or has a right to use land or premises may use or permit the use of such land or premises for the purposes of unlawful dumping, burning or storage of waste and such persons must take reasonable steps to prevent the use of such land or premises for those purposes.

(6) Every occupier of premises, whether the premises are residential or Commercial, must keep the area immediately surrounding such premises clean, neat and free of litter to the satisfaction of the municipality.

(7) The municipality shall Issue notices for the purposes of giving directions in terms of sub-section (2), compelling persons to comply with their obligations under sub-sections (5) and (6) and for any other purpose under these By-laws.

### **(3) OFFENCES**

Any person who -

- (1) contravenes Section 2(1) or 2(5);
- (2) obstructs municipality when it is taking steps in terms of Section 2(3);
- (3) fails to comply with the terms of any notice issued in terms of Section 2(7), is guilty of an offence.

### **(4) PENALTIES AND CONVICTIONS**

(1) A court shall, if it has convicted a person of an offence constituting a contravention of Section 2(1)(b) or (c), impose a sentence of imprisonment for a period of not less than six months or a fine in accordance with the Adjustment of Fines Act (Act 101 of 1991); provided that If the court is satisfied that substantial and compelling circumstances exist which justify the imposition of a lesser sentence, the court shall enter those circumstance on the record of the proceedings and may impose such a lesser sentence.

(2) A court may, when considering sentence, take into account, inter alia that:

- (a) a convicted person has delayed in complying with the terms of any notice or directions given in terms of these By-law to such person;

(b) a financial advantage was or would have been gained by a convicted person in consequence of the commission of the offence.

(3) A court convicting a person of an offence in terms of these By-laws may, subject to the provisions of sub-section 4(1), impose a sentence of community service in place of a fine or imprisonment.

(4) If a person is convicted by a court of an offence which has caused damage to or loss of property, then in addition to any other sentence it imposes, the court may –

(a) where the property belongs to another person upon the application of the injured person or of the prosecutor acting on the instructions of the injured person, forthwith award the injured person compensation for such damage or loss in accordance with the provisions of Section 300 of the Criminal Procedure Act, 51 of 1977 or any similar law;

(b) order the convicted person to repair at his cost and to the satisfaction of the municipality any damage caused to the site of the offence or to the environment as a result of the commission of the offence.

(5) If a person convicted by a court of a contravention of these By-laws or of any notice or directions issued under these By-laws, the court may, in addition to any punishment which it imposes, issue an order compelling such person to comply with the relevant provisions of these By-laws or of the notice or directions within a period determined by the court.

(6) When –

(a) a manager, agent or employee does or omits to do an act which it was his task to do or refrain from doing and which, in terms of these By-laws, is an offence for the employer to do or refrain from doing; and

(b) the act or omission of the manager, agent or employee took place because the employer failed to take all reasonable steps to prevent the act or omission, then the employer concerned shall be guilty of the offence and proof of the act or omission by the said manager, agent or employee shall be prima facie evidence that the employer is guilty under this sub-section; provided that no penalty other than a fine shall be imposed if a conviction is based on this sub-section.

#### **5. Repeal of existing Bylaws**

The Council's existing Bylaws on Dumbing and Littering are hereby repealed.

#### **6. Short title and commencement**

These Bylaws shall be called the Dumbing and Littering Municipal Bylaws 2015, and shall come into effect on the first day of the month following the date of publication hereof.

## **21. ABATTOIR MUNICIPAL BY-LAWS**

The Emadlangeni Municipality acting in terms of section 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000) hereby publishes the bylaws as set forth hereafter as bylaws made by the Municipality which bylaws will come into effect on the first day of the month following the date of publication hereof.

The Emadlangeni Municipality seeks to provide, establish, regulate, manage and maintain hygienic facilities for the receiving, holding and slaughtering of animals, to ensure the humane treatment of animals and to facilitate the trading of healthy and wholesome meat in its municipal area.

**The Emadlangeni Municipality adopts the following as the "Abattoir By-laws";**

### **(1) Definitions**

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

"**Abattoir**" means the abattoir established, regulated and managed in terms of the Council's powers and functions, and includes all buildings, structures, pens, lairages, facilities, grounds and open spaces within the boundaries of the premises there situated;

"**Act**" means the Abattoir Hygiene Act, 1992 (Act 121 of 1992) or any statutory modification or re-enactment thereof;

"**agent**" means a livestock agent as defined in the Agricultural Produce Agents Act, 1992 (Act 12 of 1992);

"**animal**" includes ape bull, ox, cow, heifer, steer, calf, sheep, lamb, goat, pig, horse, mule, donkey or other quadruped;

"**Municipal Area**" means the proclaimed area of jurisdiction of Emadlangeni Municipality;

"**contractor**" means any person appointed by the Council in terms of Section 10 of these By-laws;

"**Council**" means the Council of the municipality, political office bearers or officials, whether employed by, seconded to or made available to the Council, acting under powers, functions and duties lawfully delegated to them;

"**meat**" means the flesh or offal of any animal;

"**owner**" in relation to any animal or meat means any person who is the sole or part owner thereof;

"**person**" includes, where applicable, any legal person or body;

"**prescribed**" means as prescribed by the provisions of the Act or the Regulations, or as prescribed by the Council from time to time, as the case may be;

**"Regulations"** means the Standing Regulations under the Animal Slaughter, Meat and Animal Products Hygiene Act, 1967 (Act 87 of 1967), as maintained by Section 29 of the Act, published by Government Notice No. R.3505 of 9 October 1969, as amended;

**"slaughter"** in relation to an animal, means kill, skin, dress the carcass, and performing the usual accompanying acts;

**"veterinarian"** means a veterinarian as defined in the Act.

(2.2) Any word or expression which is not defined herein but which is defined in the Act or the Regulations shall have the meaning assigned to it in the Act or the Regulations, as the case may be.

(2.3) In these By-laws, words used in the masculine gender include the feminine and the singular includes the plural and vice versa.

### **(3) Place of Slaughter of Animals**

No person shall slaughter or cause to be slaughtered any animal in the municipal area anywhere else other than at the Abattoir, except as may be provided by the Minister of Agriculture by regulation in terms of Section 3(2) of the Act.

### **(4) Times of Operation**

(4.1) Subject to sub-sections 4.2 and 4.3, the Abattoir shall be open from Monday to Friday (both days inclusive) from 06h00 to 17h00 excluding public holidays.

(4.2) The Council may determine the hours during which the Abattoir shall be open for the receiving of livestock.

(4.3) The Council may extend these hours from time to time at its discretion.

### **(5) Control and Operation**

(5.1) Control of the Abattoir shall be exercised by the Council in accordance with these By-laws, the Act, the Regulations and other applicable statutory provisions.

(5.2) The Council may issue such directives and give such oral or written instructions as it may deem necessary for the proper and efficient operation and management of the Abattoir.

(5.3) All persons at the Abattoir shall obey all lawful directives or instructions given by the Council and any person failing to comply with any such instructions shall be liable, in addition to any other lawful penalty, to be removed from the Abattoir.

(5.4) The Council shall control and regulate the volume and movement of vehicles entering the Abattoir and within the Abattoir.

- (5.5) The Council shall be empowered to set aside parking spaces at the Abattoir from time to time and to regulate the use of such parking spaces.
- (5.6) The Council shall set aside loading bays to cater for the off-loading of animals and the loading of meat.
- (5.7) The Council may forbid any vehicle from entering or remaining at the Abattoir.
- (5.8) The Council may control and regulate the volume and movement of animals entering the Abattoir and within the Abattoir, control the offloading of animals and allocate and determine the number of animals to be slaughtered on any given day.
- (5.9) The Council may forbid the slaughter of any animal or the sale of any meat at the Abattoir.
- (5.10) Without limiting the generality of sub-section 5.9, if the Council reasonably suspects that any animal or meat at the Abattoir is stolen property, it shall refuse to allow such animal to be slaughtered or such meat to be sold and the Council shall, if it so suspects only after the sale of such meat, seize and retain the proceeds of such sale until ownership of such meat has been established to its satisfaction.
- (5.11) The Council may refuse to release for sale at the Abattoir or allow to be removed from the Abattoir any meat or offal re-inspected there or the meat or offal of any animal slaughtered there, if it has reason to believe that any fees, charges or levies owing to the Council in respect of such meat or offal or the slaughter of such animal have not been paid.
- (5.12) The Council may forbid any person who is indebted to the Council in respect of any fee, charge, levy, rental or other amount which is due and payable to the Council, or who has been requested by the Council to furnish a deposit or guarantee and has failed to do so, from entering or remaining at the Abattoir or from trading or using the facilities at the Abattoir.
- (5.13) The Council shall take all reasonable steps to ensure that all disputes that may arise at the Abattoir affecting the smooth and orderly operation thereof are resolved as expeditiously as possible.

#### **(6) Registration of Animals**

Every person bringing or causing to be brought to the Abattoir any animal or animals for slaughter shall, immediately on their arrival, register such animal or animals with the Council which shall issue to such person an entry document in the form prescribed from time to time.

#### **(7) Care of Animals**

- (7.1) All animals awaiting slaughter shall be treated with the utmost care and be kept in a manner which causes no unnecessary suffering to the animal.

- (7.2) Without limiting the generality of sub-section 7.1, all animals awaiting slaughter shall:
- (7.2.1) be adequately watered at the expense of the Council;
  - (7.2.2) be adequately fed at the expense of the agent concerned.
- (7.3) If any agent fails to discharge his obligation in terms of sub-section 7.2.2, the Council may do so and shall be entitled to recover from such agent the costs thereof.
- (7.4) The agent responsible for any animals awaiting slaughter shall ensure that the animals are not allowed to run loose about the grounds of the Abattoir, but shall confine them in the pens provided for that purpose.
- (7.5) The Council shall ensure that:
- (7.5.1) cattle, equine animals, sheep or goats, and pigs are penned separately;
  - (7.5.2) fractious animals are kept apart from other animals and are adequately restrained by the agent concerned so as to prevent them from causing injury to other animals;
  - (7.5.3) the prescribed periods for which animals awaiting slaughter are to be, or may be, penned are observed;
  - (7.5.4) all persons engaged in driving, kraaling or moving an animal within the Abattoir shall adopt such methods and precautions as will prevent the infliction of any unnecessary pain, suffering, or undue excitement to the animal;
  - (7.5.5) all other provisions of the Act and the Regulations regarding the care of animals are complied with and strictly enforced.
- (7.6) During the slaughtering process every effort shall be made to ensure that all animals experience as little pain or suffering as possible and that they are not subjected to any cruelty of any nature whatsoever.
- (7.7) The slaughter of all animals shall be conducted in a humane manner and shall comply in all respects with the applicable prescribed methods and procedures.
- (7.8) So as to promote transparency and in the interests of the prevention of cruelty to animals, the Council may authorise any person or persons to enter the Abattoir for purposes of inspecting the manner in which animals awaiting slaughter are kept and the manner in which the animals are killed.

### **(8) Stunning of Animals**

- (8.1) Subject to sub-section 8.5 below, no person shall slaughter any animal at the Abattoir unless it has first been stunned in accordance with the Regulations.
- (8.2) All sheep, lambs, goats and pigs shall be stunned according to the electrical method.

- (8.3) All other animals shall be stunned according to the captive bolt method.
- (8.4) Notwithstanding the provisions of sub-sections 8.2 and 8.3, the Council may in its discretion change, from time to time, the method of stunning to be used to that of another prescribed method.
- (8.5) In the case of ritual slaughter as provided for in the Regulations, the requirement of the stunning of the animals prior to slaughter shall not apply, but all unnecessary cruelty shall be avoided.

#### **(9) Cleaning of Parts**

- (9.1) No heads, feet, tails or the Internal parts (hereinafter referred to as "offal"), except the kidneys, of any animals shall be cleaned at any place In the Abattoir other than such place provided by the Council for that purpose.
- (9.2) Unless otherwise authorised by the Council, paunches and intestines shall be emptied, cut, trimmed and cleaned in a place provided by the Council for that purpose in the Abattoir, and shall not be removed from the Abattoir unless and until they are in a condition satisfactory to the Council.
- (9.3) No dealing in offal shall take place in the Abattoir without the written permission of the Council.

#### **(10) Appointment of Contractors**

- (10.1) The Council shall be entitled, in its absolute discretion, to appoint contractors to supervise, control and carry out any of the requisite functions at the Abattoir, particularly those relating to the slaughter of animals, the dressing of carcasses, the handling of offal, the classification and the auctioning of meat.
- (10.2) Any contractor so appointed shall assume sole responsibility for the proper carrying out of the nominated function.

#### **(11) Allocation of Facilities**

- (11.1) The Abattoir facilities shall be allocated by the Council at its discretion, and it shall have the right to change such allocation when the smooth and efficient operation of the Abattoir requires it, irrespective of whether or not a charge is levied for such facilities.
- (11.2) If, in the opinion of the Council, any of the Abattoir facilities are being or have been abused, the Council may take such steps as may be necessary to prevent the offending party from using or continuing to use such facilities.

- (11.3) whenever the number of animals awaiting slaughter is so great as may occasion delay, inconvenience, or loss, the Council may in its discretion prescribe quotas to each agent as to the number of animals to be allocated for slaughter on any given day and regulate the order in which the slaughter of those animals shall proceed.

### **(12) Agents**

Every person engaged or employed at the Abattoir as an agent for and on behalf of any owner of livestock shall:

(12.1) be registered with the Agricultural Produce Agents Council established in terms of the Agricultural Produce Agents Act 1992 (Act 12 of 1992);

(12.2) be the holder of a valid fidelity fund certificate, unless exempted in terms of the aforementioned Act; and

(12.3) comply in all respects with the Rules in Respect of Livestock Agents made by the Agricultural Produce Agents Council in terms of Section 22(1) of the aforementioned Act and promulgated under Government Gazette No. 15144 dated 1 October 1993, or any statutory modification or re-enactment thereof

### **(13) Registration of Employees**

(13.1) Every person or contractor employing a slaughter person, dresser, labourer or other worker in the Abattoir shall, within one month of such employee starting work, register such employee with the Council as a slaughter person, dresser, labourer or other worker as the case may be, according to the nature of his work.

(13.2) Every applicant for registration of an employee shall furnish to the Council, if so requested, a medical certificate that such employee is in good health and fit to be employed in the Abattoir.

(13.3) The Council shall have a discretion to refuse or to cancel the registration of any such employee where such employee is not a fit and proper person to be employed in the Abattoir or has been convicted of any contravention of these By-laws, the Act, the Regulations or other applicable statutory provision.

(13.4) Every applicant for registration of an employee and every such employee shall have a right of appeal to the Council against any decision by the Council to refuse or to cancel any such registration.

(13.5) The provisions of this section shall not apply to persons employed by the Council in the Abattoir.

### **(14) Medical Examination**

All slaughter persons and persons handling meat in the Abattoir shall, upon being required so to do by the Council, submit to the Council a medical certificate in regard to their health and fitness for the

work in which they are engaged, failing which such persons shall be deemed to be unfit to continue such work until such time as the required medical certificate has been submitted.

#### **(15) Wearing of Protective Clothing and Hoods**

(15.1) All persons employed in the slaughtering or dressing of animals or In the handling of carcasses or meat in the Abattoir, shall at all times while so engaged, maintain their person in a state of cleanliness and wear clean protective clothing approved by the Council.

(15.2) All persons engaged in the carrying of meat in the Abattoir shall wear close-fitting hoods approved by and kept clean to the satisfaction of the Council.

(15.3) Such clean protective clothing and hoods shall be provided daily by the employers of such persons, at the cost and expense of such employers.

(15.4) The Council shall have the power to cause any such person who is not clothed as prescribed, to leave the Abattoir or prohibit him from handling meat.

#### **(16) Liability of Employers and Contractors**

(16.1) Employers and Contractors shall be responsible for the conduct of their employees at the Abattoir and also for any damage, other than fair wear and tear, that may be caused to the Council's property by such employees.

(16.2) Employers and Contractors at the Abattoir shall comply in all respects with the provisions of the Occupational Health and Safety Act, 1993 (Act 85 of 1993) and shall ensure that all services performed and all machinery used by their employees at the Abattoir shall be so performed or used in accordance with the provisions of the aforementioned Act.

#### **(17) Hygiene**

(17.1) Subject to Section 19, the Council shall do all things necessary to ensure the maintenance of proper standards of hygiene at the Abattoir and to prevent the contamination and infection of any meat, offal or other animal products.

(17.2) All persons at the Abattoir shall ensure that the Abattoir is kept in a clean state at all times.

(17.3) All vehicles used for the transportation of any animal, carcass, meat or meat product to or from the Abattoir shall comply in all respects with the Regulations and other applicable statutory provisions.

#### **(18) Cold Storage**

(18.1) All articles placed in cold storage are accepted by the Council on the understanding that the contents, weights, quantities and values are unknown, unless a special endorsement to the contrary is made on the receipt issued for such articles when they are accepted for placing in cold storage.

(18.2) Articles will only be released from the cold store on presentation of a written order from the person at whose instance they were placed there, or his duly authorised agent, and provided a signed receipt for such articles is given to the Council.

(18.3) The Council may at any time refuse to accept any article for placing in cold storage if, in its opinion, circumstances then existing justify such refusal, and the Council may order the immediate removal from the cold store of any article deemed by it to be unsound or liable to cause damage or constitute a nuisance, and if the owner of the article concerned, or his duly authorised agent, fails to comply with such order, the Council may remove such article from the cold store at the expense of such owner or agent, and no liability for any resulting damage or inconvenience shall devolve upon the Council.

### **(19) Limitation of Council's Liability**

(19.1) The Council shall not be liable for any loss, damage or injury to any property or any injury to or death of any person at the Abattoir, howsoever arising, except where such loss, damage, injury or death is proved to be due to the wilful misconduct or gross negligence of the Council or of its employees acting in the course and scope of their employment.

(19.2) All articles placed in cold storage for keeping, chilling, freezing or treatment shall be at the entire risk of the person requiring such facilities, and no liability shall devolve on the Council in respect of any loss, damage, shortage or delay arising out of the maintenance of too high or too low a temperature, failure of machinery or plant, flood, wind, leakage, dampness, sweat, decay, putrefaction, or destruction by vermin, act of God, civil commotion, military authority, insurrection, strikes, lock-outs, labour disputes, the country's enemies, quarantine, war, explosion, the nature of the goods, inherent vice, contact with or proximity to other goods, or concealed damage, variation or shrinkage in weight, defective or insufficient packages or containers, theft or any other cause whatsoever, except upon proof that such loss, damage, shortage or delay was occasioned by or through the wilful misconduct or gross negligence of the Council or of its employees acting in the course and scope of their employment.

(19.3) Notwithstanding anything contained in sub-section 19.2, the Council shall not be liable for damage, howsoever caused, unless a report on the inspection of the articles concerned by a veterinarian, has been submitted to the Council before such articles are removed from the Abattoir, nor shall the amount of the Council's liability for any loss, damage, shortage or delay exceed the value of the articles concerned. In this sub-section, "value" shall mean the average price realised at the auction in the Abattoir for similar articles on the day on which the articles concerned are removed from the cold store.

(19.4) The provisions of this section shall apply, mutatis mutandis, irrespective of whether the premises in question are used and occupied by the Council itself or leased by it to any other person.

### **(20) Payment of Deposits**

(20.1) No person shall be permitted to operate at the Abattoir unless a deposit has first been paid by him to the Council, in an amount which shall be determined by the Council in its absolute discretion.

(20.2) All deposits shall:

(20.2.1) be in the form of either cash or a bank guarantee acceptable to the Council;

(20.2.2) be controlled and administered by the Council;

(20.2.3) subject to sub-section 20.3, be refunded on request to the person on whose behalf same is held.

(20.3) In the event of any person failing to pay timeously any fee, charge, levy, rental or other amount which is due and payable to the Council and on behalf of which person the Council holds a deposit paid in terms of sub-section 20.1, the Council shall be entitled to apply his deposit, in whole or in part, in reduction or settlement of such fee, charge, levy, rental or other amount.

(20.4) If any deposit held on behalf of any person has been applied, in whole or in part, in terms of sub-section 20.3, or if circumstances so require, the Council may require such a person to pay to the Council such additional deposits as it may reasonably require, before such a person shall be permitted to operate at the Abattoir.

#### **(21) Abattoir Advisory Committee**

The Council may appoint an Abattoir Advisory Committee which shall consist of such members and exercise such functions as may be determined by the Council.

#### **(22) General**

(22.1) No person shall enter any part of the Abattoir without the permission of the Council subject to such conditions as it may impose, and no child under the age of 16 years shall, at any time, be admitted to any part of the Abattoir except under the direct supervision of an adult, who shall be responsible and accountable for such child.

(22.2) No person shall commit a nuisance or cause a disturbance or wilfully damage or handle without authority or tamper with any property, plant, machinery, equipment, fitting, tap, stopcock or other apparatus, or behave in a noisy, unseemly or objectionable manner, in the Abattoir.

(22.3) No person shall without the consent of the Council, bring intoxicating liquor or any dependence-producing substance into the Abattoir or be in possession of such liquor or dependence producing substance in the Abattoir, provided that this sub-section shall not apply to any substance containing alcohol lawfully used in the operation of the Abattoir.

(22.4) No person employed at the Abattoir shall be under the influence of intoxicating liquor or any dependence-producing substance In the Abattoir

(22.5) No person shall spit in any part of the Abattoir.

(22.6) No person shall smoke in any part of the Abattoir other than in a demarcated smoking area.

(22.7) No person shall enter or remain in the Abattoir when suffering from any contagious or infectious disease.

(22.8) No person shall sit, lie or stand on any carcass or on any part thereof, whether or not such carcass or part thereof is covered.

(22.9) No person shall throw any meat, offal or meat product at any person or object at the Abattoir.

(22.10) No person shall be in possession of or cause or suffer to be used any imitation, counterfeit or facsimile of the Council's stamp or brand used for stamping any carcass or meat in terms of the Regulations, or fix or impress any such imitation, counterfeit or facsimile on any carcass or meat so as to make it appear that such carcass or meat has been lawfully stamped in terms of the Regulations.

(22.11) No person shall, without the authority of the Council, be in possession of or use the Council's stamp or brand used for stamping any carcass or meat in terms of the Regulations.

(22.12) All equipment and vehicles used in the Abattoir by any person shall be kept at all times by such person in a sound, clean and hygienic condition.

(22.13) No person shall use any such equipment or vehicle in such a way or for such a purpose as to render any meat deposited, kept or conveyed thereby or therein liable to contamination, or unwholesome or dangerous for consumption.

(22.14) No animal found dead in the Abattoir from causes other than lawful slaughtering in the Abattoir shall be skinned and retained until it has been examined by the Veterinarian, who shall thereafter direct as to how the carcass of such animal shall be disposed of.

(22.15) No official shall directly or indirectly be allowed to trade or purchase meat at the Abattoir, either for his own account or for commission, except such meat as he bona fide requires for his own private consumption, provided that such meat shall not be given to such Council official as a gift or at a price below the normal market value of such meat as traded on the day in question.

(22.16) A certificate issued by an official indicating the amount which any person owes to the Council shall constitute prima facie proof of such person's indebtedness to the Council as at the date of such certificate.

### **(23) Fees and Charges**

All fees, charges, tariffs and levies as may be determined by the Council from time to time shall be payable to the Council.

**(24) Offences**

(24.1) Any person who contravenes any provision of these By-laws or fails to comply with any lawful directive or instruction of the Council; shall be guilty of an offence and liable, upon conviction, to a maximum penalty of six months imprisonment or to a fine as prescribed for the offence under the Adjustments of Fines Act, 1991 (Act 101 of 1991).

(24.2) The Council may impound any animal, carcass or meat which in its opinion may afford evidence of a contravention of these By-laws and where any animal, carcass or meat is so impounded, the Council shall issue a receipt in respect thereof to the owner, agent or person concerned.

**(25) Repeal of existing Bylaws**

The Council's existing Abattoir By-laws are hereby repealed.

**(26) Short title and commencement**

These Bylaws shall be called the Abattoir By-laws 2015, and shall come into effect on the first day of the month following the date of publication hereof.

## **22. BY-LAWS RELATING TO THE CONTROL OVER BUILDINGS**

The Council of Emadlangeni Local Municipality hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act 2000 (Act 32 of 2000) read with Section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-laws Relating to the Control over Buildings which shall come into effect on the first day of the month following the date of publication hereof.

### **Purpose of By-laws**

To provide for the control over buildings erected on land In the Municipality of Emadlangeni and for matters connected therewith.

### **Definitions**

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

**"Act"** means the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), and shall include any regulation made in terms of Section 17 of the Act;

**"building"** includes -

(a) any other structure, whether of a temporary or permanent nature and irrespective of the materials used In the erection thereof, erected or used for or in connection with -

- (i) the accommodation or convenience of human beings or animals;
- (ii) the manufacture, processing, storage, display or sale of any goods;
- (iii) the rendering of any service;
- (iv) the destruction or treatment of refuse or other waste materials;
- (v) the cultivation or growing of any plant or crop;

(b) any wall, swimming bath, swimming pool, reservoir or bridge or any other structure connected therewith;

(c) any fuel pump or any tank used in connection therewith;

(d) any part of a building, including a building as defined in sub-section (a), (b) or (c) of this sub-section;

(e) any facilities or system, or part or portion thereof, within or outside but incidental to a building, for the provision of a water supply. drainage, sewerage, stormwater disposal, electricity supply or other similar service in respect of the building.

**"Building Control Officer"** means any person appointed or deemed to be appointed as Building Control Officer by the Municipality in terms of section 5 of the Act;

**"Municipality"** means the Municipality of Emadlangeni and includes any duly authorised political structure, political office bearer or official thereof; and

**"Municipal Manager"** means the person appointed as such in terms of Section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) and includes any person acting in this position.

#### **Buildings on land to be reflected on plans**

(2) (1) Subject to the provisions of these By-laws, the Municipality shall not issue a certificate referred to in Section 118(1) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), regarding land, unless the Municipality is satisfied that -

(a) any building erected on the land, in respect of which plans and specifications are to be drawn and submitted to the Municipality for approval in terms of the Act, is properly erected and maintained in accordance with such plans and specifications; and

(b) no building contemplated in sub-section (a), in respect of which plans and specifications have not been approved by the municipality, is erected on the land; and

(c) any building erected on the land complies with all the requirements of the Act; or

(d) there is no building on the land, and in writing, makes a statement to that effect.

(2) An application to the Municipality for the issue of a certificate referred to in Section 118(1) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), shall, subject to section 4, be accompanied by the statement referred to in sub-section (1).

#### **Application for and issue of statement**

(3) (1) Any application for the issue of a statement referred to in section 2(1) shall-

(a) be directed to the Municipal Manager;

(b) be in writing on the form made available by the Municipality for that purpose; and

(c) be accompanied by the prescribed fees.

(2) The Municipal Manager shall refer the application to the Building Control Officer, who shall do, or cause to be done, an inspection of the land concerned and make a recommendation regarding the application to the Municipality.

(3) After the Municipality has considered the recommendations of the Building Control Officer, it shall -

(a) make the statement referred to in section 2(1); or

(b) refuse to make such statement, and forthwith, in writing, notify the applicant accordingly.

(4) If the Municipality refuses to make the statement, it must provide written reasons for its decision when notifying the applicant of the decision and indicate what steps must be taken before a new application in terms of sub-section (1) could again be submitted.

**Failure by the Municipality to act within a certain period**

(4) Should the Municipality fail to act in accordance with section 3(3) within a period of 30 days after the application was made in terms of section 3(1), it shall be deemed that the Municipality has made the statement referred to in section 2(1).

**Delegation of powers**

(5) The Municipality may, subject to such conditions as it may determine, delegate any of its powers under these By-laws to the Municipal Manager.

**Repeal of existing by-laws**

The council's existing by-laws in Relating to the Control over Buildings are hereby repealed.

**Short title and commencement**

This By-law will be called the By-laws Relating to the Control over Buildings 2015, and shall come into effect on the first day of the month following the date of publication hereof.



# IMPORTANT

## Information

### from Government Printing Works

Dear Valued Customers,

Government Printing Works has implemented rules for completing and submitting the electronic Adobe Forms when you, the customer, submits your notice request.

Please take note of these guidelines when completing your form.

#### GPW Business Rules

1. No hand written notices will be accepted for processing, this includes Adobe forms which have been completed by hand.
2. Notices can only be submitted in Adobe electronic form format to the email submission address [submit.egazette@gpw.gov.za](mailto:submit.egazette@gpw.gov.za). This means that any notice submissions not on an Adobe electronic form that are submitted to this mailbox will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
3. Notices brought into GPW by "walk-in" customers on electronic media can only be submitted in Adobe electronic form format. This means that any notice submissions not on an Adobe electronic form that are submitted by the customer on electronic media will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
4. All customers who walk in to GPW that wish to submit a notice that is not on an electronic Adobe form will be routed to the Contact Centre where the customer will be taken through the completion of the form by a GPW representative. Where a customer walks into GPW with a stack of hard copy notices delivered by a messenger on behalf of a newspaper the messenger must be referred back to the sender as the submission does not adhere to the submission rules.
5. All notice submissions that do not comply with point 2 will be charged full price for the notice submission.
6. The current cut-off of all Gazette's remains unchanged for all channels. (Refer to the GPW website for submission deadlines – [www.gpwonline.co.za](http://www.gpwonline.co.za))
7. Incorrectly completed forms and notices submitted in the wrong format will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za))
8. All re-submissions by customers will be subject to the above cut-off times.
9. All submissions and re-submissions that miss the cut-off will be rejected to the customer to be submitted with a new publication date.
10. Information on forms will be taken as the primary source of the notice to be published. Any instructions that are on the email body or covering letter that contradicts the notice form content will be ignored.

You are therefore advised that effective from **Monday, 18 May 2015** should you not comply with our new rules of engagement, all notice requests will be rejected by our new system.

Furthermore, the fax number **012- 748 6030** will also be **discontinued** from this date and customers will only be able to submit notice requests through the email address [submit.egazette@gpw.gov.za](mailto:submit.egazette@gpw.gov.za).

