

KWAZULU-NATAL PROVINCE

KWAZULU-NATAL PROVINSIE

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PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 28 OF 2018**DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS****NOTICE IN TERMS OF SECTION 14(2)(a) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION OF STANDARD DRAFT BY-LAWS**

I, in my capacity as Member of the KwaZulu-Natal Executive Council responsible for local government, and under powers vested in me by section 14(2)(a) of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000), after having consulted the Minister of Cooperative Governance and Traditional Affairs, Organised Local Government in the Province and Municipalities in the Province, hereby make the standard draft By-laws contained in the Schedule hereto."

Given under my Hand at Durban this 23rd day of March, Two Thousand and Eighteen.

MRS N DUBE-NCUBE, MPL

Member of the Executive Council of the Province of KwaZulu-Natal responsible for Local Government

SCHEDULE

1. Beaches By-law
2. Fire By-law
3. Property encroachment By-law
4. Municipal Buildings By-law
5. Electricity Supply By-law

_____ **MUNICIPALITY: BEACHES BY-LAW, 2018**

Adopted by Council on the:

Promulgated on:

BEACHES BY-LAW, 2018

To provide for measures to manage, control and regulate public access and behaviour at beaches and beach areas; to provide for the repeal of laws and savings; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS the Municipality has the competence in terms of Part B of Schedule 5 of the Constitution relating to beaches and amusement facilities, billboards and the display of advertisements in public places, local amenities, and traffic and parking;

AND WHEREAS there is a need to develop legislation to govern the access to and use of beaches and coastal areas within the jurisdiction of the Municipality;

NOW THEREFORE The Municipal Council of the _____ Municipality, acting in terms of section 156(1)(a) read with Schedule 5 (Part B) of the Constitution of the Republic of South Africa, and read with section 11(3)(e) of the Local Government: Municipal Systems Act No. 32 of, 2000, hereby makes the following By-law:

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SCHEDULE 1: LAWS REPEALED

CHAPTER 1 INTERPRETATIONS

Definitions

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

"admiralty reserve" means any strip of land adjoining the inland side of the high-water mark which, when the Act took effect, was state land reserved or designated on an official plan, deed of grant, title deed or other document evidencing title or land-use rights as "admiralty reserve", "government reserve", "beach reserve", "coastal reserve" or other similar reserve;

"authorised official" means a person authorised to implement the provisions of this By-law, including but not limited to –

- (a) peace officers as contemplated in section 334 of the Criminal Procedure Act, No. 51 of 1977;
- (b) municipal or metropolitan Police Officers as contemplated in the South African Police Service Act No. 68 of 1995; and
- (c) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;

"bathing" means swimming or entering the beach bathing area or any swimming pool provided by the Municipality on the beach area for public use, but excludes surf-riding or surfing and paddling;

"beach area" means the beach, the beach bathing area and any part of the coastal area and its immediate surroundings, including any open space, park, road, lane, parking space, pathway, or any municipal property or public amenity located in such area within the jurisdiction of the municipality;

"beach bathing area" means any portion of the seashore which is demarcated as a bathing area and which may be protected from sharks by whatsoever means and under supervision of lifeguards, and includes the sea for a distance of two hundred metres seaward;

"coastal area" means the sea-shore and the sea for a distance of two hundred metres seaward and one hundred metres inland, but excluding any privately owned land and including all Admiralty Reserve and Public Roads as defined in the Road Traffic Act No. 93 of 1996;

"coastal zone" means the area comprising coastal public property, the coastal protection zone, coastal access land and coastal protected areas, the seashore, coastal waters and the exclusive economic zone and includes any aspect of the environment on, in, under and above such area, as contemplated by the Act;

"craft" means any boat, jet-ski, ski-boat or motorised vessel, and includes a surf-craft or windsurfer;

"fish" means the marine living resources of the sea and the seashore, including any aquatic plant or animal whether piscine or not, and any mollusc, crustacean, coral, sponge, holothurian or other echinoderm, reptile and marine mammal, and includes their eggs and larvae at all juvenile stages, but does not include sea birds and seals;

"fishing" means—

- (a) searching for, catching, taking or harvesting fish or an attempt to engage in any such activity;
- (b) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish; placing, searching for or recovering any fish aggregating device or associated gear, including radio beacons;
- (c) any operation in support of or in preparation for any activity described in this definition; or
- (d) the use of a vessel or aircraft in relation to any activity described in this definition;

"groyne" means a protective structure of stone or concrete or similar material that extends from shore into the water which is meant for coastal stability purposes and to prevent a beach from washing away;

"motor-vehicle" means any self-propelled vehicle having an engine or motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such engine or motor for the purposes of transportation on the road or on water of one or more persons or any material, item, substance or object, and includes a trailer, motor-bike, quad-bike, personal watercraft or earth-moving or earth-working vehicle, but excludes any vehicle which is controlled by a pedestrian, or any vehicle with a mass not exceeding 230 kilograms

which is specially designed and constructed solely for mobility of any person suffering from some physical defect or disability or a vessel;

“municipal council” or “council” means the _____ municipal council, a municipal council referred to in section 157(1) of the Constitution;

“Municipality” means the _____ Municipality, a category _____ municipality as envisaged in terms of section 155(1) of the Constitution of the Republic of South Africa and established in terms of _____;

“municipal manager” means a person appointed in terms of section 54A of the Local Government: Municipal Systems Act No. 32 of 2000 as amended, as the head of administration of the municipal council;

“nuisance” means any conduct or behaviour by any person or the use, keeping, producing, by-producing, harbouring or conveying, as the case may be, of any item, substance, matter, material, equipment, tool, vegetation or animal or causing or creating any situation or condition in or on private property or in a public place or anywhere in the Municipality which causes damage, annoyance, inconvenience or discomfort to the public or to any person, in the exercise of rights common to all or of any person;

“official lifeguard” or “lifeguard” includes any professional lifeguard or member of a voluntary lifesaving association or club or a member of the Surf Lifesaving Association of South Africa, employed as a lifeguard on the Municipality's beaches;

“pier” means any constructed pier situated at any of the beaches in the area of jurisdiction of the _____ Municipality;

“sea-shore” or “beach” means the area between the low-water mark and the high-water mark, or as may be determined or adjusted from time to time in respect of the coastal zone boundaries by a competent national or provincial authority in terms of the Act;

“seine netting” means any means of catching or entrapping fish at sea using a net or similar material or equipment;

“surf-craft” includes a surf board, wave-ski, jet-ski, water-ski, paddle-ski, aquaplane or other similar device or apparatus and any paddles or oars used with it, except if such is of an inflatable character or wholly constructed of a soft pliable material;

"surf riding" or **"surfing"** means any activity on or in the water with or on a surf-craft or personal watercraft which includes but not limited to the pastimes known as surfing, surf riding or surf-skiing, wind-surfing, para surfing, kite-surfing, boarding, in-board rescue boarding or rubber-ducking or any other pastime, sport or activity or calling involving the riding of the sea waves by a person with any apparatus designed specifically for that purpose, and **"surf"** bears an equivalent meaning;

"the Act" means the National Environmental Management: Integrated Coastal Management Act No. 24 of 2008 as amended;

"vessel" means a waterborne craft of any kind, whether self-propelled or not, but does not include a personal watercraft or any moored floating structure that is not used as a means of transport by water; and

"waste" means any substance, whether or not that substance can be reduced, re-used, recycled and recovered –

- (a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;
- (b) which the generator has no further use of for the purposes of production;
- (c) that must be treated or disposed of; or
- (d) that is identified as a waste by the Minister of Environmental Affairs by notice in a *Gazette*, and includes waste generated by the mining, medical or other sector, provided that, a by- product is not considered waste and any portion of waste, once re-used, recycled and recovered, ceases to be waste.

"watercraft" means waterborne vehicles including ships, boats, hovercraft and submarines which usually have propulsive capability (whether by sail, oar or engine) and **"waterborne craft"** has a corresponding meaning;

Interpretation

2. If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails.

CHAPTER 2 OBJECTS OF BY-LAW

Objects of By-law

3. The objects of this By-law are to –

- (a) create an effective system for the managing and controlling of public access to beaches and beach areas;
- (b) provide measures to regulate conduct on beaches and beach areas and to prohibit certain activities or conduct on beaches and beach areas;
- (c) provide measures to control and regulate access to and the use of public amenities on the beach and beach areas;
- (d) provide penalties for the breach of its provisions; and
- (e) provide for related matters.

CHAPTER 3 APPLICATION

Application of By-law

4. This By-law applies to all beaches located or situated on the coastal area which falls under the jurisdiction of the _____ Municipality and is binding on all persons to the extent applicable.

CHAPTER 4 USE OF BEACHES BY PUBLIC

Areas reserved for specific recreational activities

5.(1) The Municipality must, in the beach area, indicate by means of suitable notices or signage erected at designated access points or other suitable sites, where specific activities may be allowed, limited, controlled or prohibited.

(2) The Municipality may reserve any part of the beach area exclusively for a particular recreational activity.

(3) No person may engage or partake in any recreational activity on any part of the beach area other than that for which that part of the beach has been exclusively reserved by a notice or signage or by any other manner.

(4) No person may engage in any recreational activity in any part of the beach area in contravention of any–

- (a) provision of this By-law or any legislation;

- (b) direction or prohibition conveyed by any notice or signage displayed on any part of the beach area; or
- (c) instruction, direction or warning given by an authorised official in respect of any part of the beach area.

Prohibition of bathing within certain areas

- 6.(1) The Municipality may by a displayed notice or signage or in any other manner, permanently or temporarily prohibit bathing in any part of the beach.
- (2) An authorised official may prohibit bathing in any part of the beach at any time for as long as the conditions of the sea appear in his or her discretion to be unsafe.
- (3) Any permanent or temporary prohibition under this section must be indicated by means of a notice or signage erected and displayed at both ends of the prohibited area.
- (4) No person may bathe in any part of the beach where bathing is prohibited in terms of this section.
- (5) No person may, while such a life-saving appliance or device is in use, perform an act which impairs or impedes or is likely in any manner to impair or impede its efficient operation.

Motor-vehicles

- 7.(1) No person may enter onto the beach area using a motor-vehicle or bring or drive a motor-vehicle on any part thereof in contravention of any legislation or Regulations made in terms of any applicable legislation .
- (2) The provisions of subsection (1) do not apply to any—
- (a) motor-vehicle used by an authorised official in the course of his or her duties; (b) authorised emergency or rescue motor-vehicle;
 - (c) motor-vehicle driven by a person authorised to implement the provisions of any legislation;
 - (d) ordinary motor-vehicle involved in a *bona fide* emergency situation; (e) off-road vehicles used in terms of relevant legislation; or
 - (f) motor-vehicle authorised by the Municipality or any other sphere of government in terms of any law.
- (3) No person may in any part of the beach area—
- (a) drive a motor-vehicle recklessly or dangerously or in such a manner as to endanger the safety of any person;
 - (b) race a motor-vehicle, or drive a motor-vehicle at a speed in excess of the limit imposed by the Municipality in any part of the beach except during a *bona fide* emergency situation or if authorised to do so in terms of any law;

- (c) drive a motor-vehicle whilst under the influence of alcohol, drugs or any dependence producing substance;
- (d) drive a motor-vehicle without a valid driver's licence; (e) drive or park a motor-vehicle in a prohibited area;
- (f) drive a motor-vehicle in contravention of a notice or signage erected on the beach or any instruction or direction given by an authorised official;
- (g) tow objects or persons behind a motor-vehicle; or
- (h) repair or wash a motor-vehicle.

Boats

8.(1) No person may, at or on the beach—

- (a) launch, land, keep, use, let or hire a boat, surf-ski or craft of whatever kind, except at places set aside for that purpose by the Municipality, unless authorised or required to do so at any other place in terms of any law;
- (b) use or operate a boat, surf-ski or craft of whatever kind in such a manner as to cause danger or annoyance to any person;
- (c) use or operate a boat, surf-ski or craft at a speed in excess of the limit imposed by the Municipality in any part of the beach, except when a vessel is used in an emergency or for life-saving operations;
- (d) repair any boat, or watercraft; or
- (e) drive a power boat at a speed in excess of 20 km/h within 20 m of the shore.

(2) At all times power boats must give way to sail boats and shall keep at least 20 m clear of any stationary craft.

(3) All power boats must have a robust steering mechanism, properly secured seating, properly secured fuel tanks, properly secured engine mountings and properly secured batteries.

Surf-riding or surfing

9.(1) No person may without the authorisation of the Municipality engage in surf-riding or surfing within any part of the beach which is designated as a swimming area, unless it is an inboard rescue boat.

(2) An authorised official may permanently or temporarily prohibit surf-riding or surfing on the grounds that it is unsafe or is likely to cause discomfort or injury to other users of the beach.

Nuisances and prohibited, indecent or offensive behaviour

10.(1) No person may while on the beach area –

- (a) remain, bathe or sun-bathe in any part of the beach if in the nude or while clad indecently or improperly;

- (b) hang onto, sit upon or cause to sink safety ropes provided for the protection of bathers or in any way tamper or interfere with those safety ropes or other appliances provided for the assistance of bathers;
- (c) enter or remain in any part of the beach contrary to a prohibition by an authorised official, or any notice or signage to that effect or otherwise fail to observe the terms of notices or signage displayed by the Municipality on any part of the beach;
- (d) swim in any part of the beach where no official lifeguards are present or contrary to the times designated for swimming or remaining in any part of the beach, or bathe at night;
- (e) throw, deposit, dump, leave or discharge any litter or waste or any material of any kind whatsoever, other than in receptacles provided for that purpose by the Municipality, or do so in any manner that causes a nuisance or detracts from the cleanliness or attractiveness of the beach;
- (f) leave charcoal, ashes, firewood, bones, pieces of meat, or other foodstuff on the beach other than in receptacles provided by the Municipality for waste and litter;
- (g) leave or dump any unused or excess fishing equipment or other items such as but not limited to bait, fish hooks and fishing nets, other than in receptacles provided by the Municipality for waste and litter.
- (h) use obscene, offensive, indecent or foul language or otherwise behave in an offensive, improper or disorderly manner;
- (i) wilfully or negligently do anything which may cause danger, discomfort or inconvenience to any person or in any way cause a nuisance in any part of the beach;
- (j) obstruct or interfere with any authorised official in the execution of his or her duties;
- (k) interfere with, misuse or damage any building, structure, item, facility or any amenity provided for use by the public, or any property of the Municipality, or otherwise disregard or contravene directions as to the use to which any public amenity may be put;
- (l) other than any authorised official, except in an emergency, handle, touch or in any way make use of, or tamper or fiddle with, a lifeline, a lifebuoy, torpedo buoy or any other life-saving appliance or device installed or placed in any part of the beach or beach area, or perform an act which impairs or impedes or is likely in any manner to impair or impede its efficient operation;
- (m) move, deface or otherwise interfere with any notice board, notice, signage or marker erected, posted or placed on the beach;
- (n) jump or leap from any pier, groyne or structure erected for the protection of the beach or attempt to enter upon a pier or groyne from the water;
- (o) play any game or indulge in any pastime which is likely to cause nuisance, annoyance, injury or discomfort to any person in any part of the beach;

- (p) offer for sale, market or hawk any illegal goods or services in contravention of the Municipality's relevant By-laws or any other applicable legislation;
 - (q) display any advertisement or notice without the written permission of the Municipality;
 - (r) enter or be in or on the beach and coastal area for the purpose of sleeping or so sleep therein;
 - (s) beg or introduce others to beg for money or goods on his or her behalf;
 - (t) hold, convene or organise any entertainment, display, performance, procession, public meeting, recreation, or event on the beach without the permission of the Municipality or do so in contravention of any condition attached to any such authorisation;
 - (u) address any gathering of persons or seek by any means and for any purpose to attract or convene a gathering of persons on the beach without the permission of the Municipality;
 - (v) consume any alcohol except on licenced premises or where temporary authorisation has been granted by the Municipality;
 - (w) use or consume any dependence producing drug or substance or smoke or inhale any substance using a hubbly bubbly or tobacco water pipe or similar apparatus;
 - (x) swim or enter the bathing area or any part of the beach while under the influence of alcohol, drugs or any other dependence producing substance;
 - (y) use roller skates or a board or any similar device to which rollers or wheels are attached, except where permitted by a notice displayed by the Municipality;
 - (z) discharge fireworks or flares, or start or keep any fire unless for the purposes of making a braai in an area where such activity is permitted, unless that person is authorised to discharge such fireworks or flares or to make and keep such fire by the Municipality or in terms of any law;
 - (aa) urinate or defecate anywhere other than in a toilet provided by the Municipality for public use;
 - (bb) remove, destroy or damage any sign, navigation structure or aid, or any lifebuoy or lifesaving apparatus erected or maintained on the beach or on any wharf, jetty or landing place thereon; or
 - (cc) remove or cause to be removed fish, corral and any other marine life from tidal pools.
- (2) No person may bathe in any part of the beach area whilst suffering from any cutaneous condition which is infectious or contagious.
- (3) The municipality may close off access to any beach or any portion thereof, when required for health and safety purposes.

Animals

- 11.(1) No person may bring any animal onto any part of the beach area except—

- (a) with the written permission of the Municipality;
 - (b) where a notice is displayed allowing such animal to be on such part of the beach area;
 - (c) where a person is authorised by the Municipality to bring such animal for the purposes of ritual slaughter; or
 - (d) any person who suffers from a visual impairment and requires the assistance of a guide dog.
- (2) The following persons are exempted from the application of subsection (1): Provided that they are acting within the course and scope of their employment–
- (a) an authorised member of the South African Police Service;
 - (b) an authorised member of the Metropolitan Police Office;
 - (c) an authorised member of the South African National Defence Force;
 - (d) authorised and registered security officer; or
 - (e) any other person permitted by the Municipality or in terms of any law.
- (3) The provisions of subsection (1) do not apply to any animal that is kept inside a motor- vehicle or other suitable enclosure, and is not released therefrom.
- (4) Any animal that is permitted to be brought in or on the beach area must be brought, handled or controlled in such a manner as not to cause a nuisance, discomfort or danger to any person in accordance with any relevant By-law of the Municipality.
- (5) Any animal, which is not under the control or apparently not under the control of any person may, if found on any part of the beach area, be impounded by an authorised official and thereafter be dealt with in accordance with any relevant By-law of the Municipality.
- (6) The person in control of a dog must pick up all excrement of such dog made on the beach area as contemplated in any relevant By-law of the Municipality.

Firearms

- 12.**(1) No person may possess or discharge a firearm in any part of the beach area in contravention of any applicable law.
- (2) Subsection (1) does not apply in the case of the firing of blank cartridges during competitions organised by lifeguards or other authorised persons during approved sports meetings or events taking place in any part of the beach area.

Camping

- 13.** No person may stay, sleep or camp overnight in any part of the beach area or erect a tent or structure for the purpose of staying overnight other than in a designated area.

CHAPTER 5 NATURAL ENVIRONMENT

Protection of the natural environment

14.(1) The Municipality may take all reasonable measures within its powers, and to the extent allowed by law, to protect the natural environment of the coastal area within its jurisdiction.

(2) No person may—

- (a) wilfully or negligently pollute the sea, coastal area, or surrounding terrain with fuels, oils, offal, bilge water, sewage, waste, wastewater, refuse, rubble or any objectionable or unlawful discharge of any substance whatsoever;
- (b) pick, uproot, fell or damage or attempt to pick, uproot, fell or damage a plant growing in the coastal area;
- (c) break, damage, destroy or remove an egg from a nest; or disturb or attempt to disturb a bird or the nesting site of a bird, or disturb, harvest, remove or in any way interfere with the fauna and flora in the coastal area;
- (d) injure, disturb or kill or attempt to injure, disturb or kill a wild animal unless that action is authorised by means of a permit, or unless the health and welfare of the public is endangered by that animal;
- (e) collect, harvest or take any fish species, mussels, or any other species whatsoever from the sea or any part of the beach without being authorised to do so;
- (f) without the prior written authorisation of the Municipality, remove any material or thing which is the property of or under the control of the Municipality, or excavate, or tunnel in the sand or cause any substantial movement of sand,: Provided that the reasonable digging of holes by children or beachgoers in the use and enjoyment of the beach is not prohibited;
- (g) except in places and where amenities are provided by the Municipality for such purpose, start a fire in the coastal area without the prior written permission of the Municipality, which permission may be subject to the conditions which the Municipality may deem fit to impose;
- (h) bring or erect any structure or thing other than that which is of a portable and temporary nature and which is ancillary to the use and enjoyment of the beach and coastal area, and which does not interfere with the use and enjoyment of the beach and coastal area by other persons; or
- (i) otherwise do anything which detrimentally affects the natural environment of the coastal area.

Fishing

15.(1) No person may—

- (a) engage in fishing at the beach from any pier, groyne or storm water outfall; or

(b) have in his or her possession or control on any pier, groyne or outfall any fishing tackle or equipment or any other thing designed or intended for use for the purpose of fishing, including bait,

unless fishing from such pier, groyne or outfall or portion thereof is permitted as indicated by a notice or signage erected by the Municipality or in terms of any other law.

(2) Any fishing which is permitted as contemplated in subsection (1) may only take place between such hours as may be specified in a notice or signage erected by the Municipality or other authorisation to that effect, and in accordance with such conditions as may be conveyed thereby.

(3) No person may, while fishing, or while on the beach use or permit the use of fishing equipment, including any rod, net, trap or other device in such manner as to cause danger or annoyance to any other person or in such a way as to cause an obstruction to or to interfere with the comfort or personal privacy of any other person.

(4) No person may place fishing bait, fish or fishing equipment or tackle on or immediately adjacent to any seat provided for the use of the public.

(5) Every person must clear away all bait, refuse and any fishing equipment, other equipment and items before leaving the place where that person had been for the purpose of fishing and take any such bait, refuse, and any fishing equipment and other items with him or her, or place these in a refuse receptacle provided by the Municipality.

(6) No person may do seine netting or fish for commercial purposes in any beach without a written permission issued by the relevant department of government dealing with fisheries or any other empowered statutory entity.

(7) No motor-vehicles may enter any part of beach for the purposes of seine netting or commercial fishing without written permission in terms of, and in compliance with, the Regulations pertaining to Vehicles in the Coastal Zone issued in terms of the National Environmental Management Act No. 107 of 1998 or any other applicable legislation, which written permission must be produced to any authorised official on demand.

CHAPTER 6

OFFENCES AND PENALTIES

Offences

16. (1) A person commits an offence if he or she—

(a) contravenes any provision of this By-law;

(b) contravenes any conditions, restrictions or prohibitions imposed in terms of this By-law;

(c) fails to comply with the terms of any notice or signage displayed in terms of this By-law;

(d) obstructs, hinders, or in any manner interferes with an authorised official who is acting or entitled to act in terms of this By-law; or

(e) fails to obey any lawful instruction or direction given to him or her in terms of this By-law.

(2) A person is guilty of a continuing offence if he or she continues with an offence after notice has been served on him or her in terms of this By-law requiring him or her to cease committing such offence, or after he or she has been convicted of such offence.

Penalties

17.(1) Any person who is convicted of an offence under this By-law is liable to a fine not exceeding R 40 000 or imprisonment not exceeding 2 years.

(2) In the case of a continuing offence, an additional fine of an amount not exceeding R1000 or imprisonment for a period not exceeding 10 days for each day on which such offence continues or both such fine and imprisonment, will be imposed.

CHAPTER 7 MISCELLANEOUS PROVISIONS

Appeals

18.(1) A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may appeal against that decision in terms of the Appeals provision contained in the Local Government: Municipal Systems Act No. 32 of 2000 by giving written notice of the appeal and reasons thereof 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.

(3) The appeal authority must commence with an appeal within 6 weeks and decide the appeal within a reasonable period.

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

(5) The appeal authority must furnish written reasons for its decision on all appeal matters.

(6) All appeals lodged are done so in terms of the Local Government: Municipal Systems Act No. 32 of 2000 and not in terms of this By-law.

(7) Where a conviction has been affirmed by a court of law and the accused wishes to appeal such conviction, the appeal must take place in terms of the court's appeal process and not in terms of subsections (1) to (5).

Delegations

19.(1) Subject to the Constitution and applicable national and provincial laws, any –

- (a) power, excluding a power referred to in section 160(2) of the Constitution;
- (b) function; or
- (c) duty

conferred, in terms of this By-law, upon the Council, or on any of the Municipality's other political structures, political office bearers, councilors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councilor, or staff member, to an entity within, or a staff member employed by, the Municipality.

(2) The delegation in terms of subsection (1) must be effected in accordance with the system of delegation adopted by the Council in accordance with section 59(1) of the Local Government: Municipal Systems Act No. 32 of 2000, subject to the criteria set out in section 59(2) of said Act.

(3) Any delegation contemplated in this section must be recorded in the Register of Delegations, which must contain information on the –

- (a) entity or person issuing the delegation or sub-delegation; (b) recipient of the delegation or sub-delegation; and
- (c) conditions attached to the delegation or sub-delegation.

Repeal of laws

20. The By-laws and Notices listed in the Schedule to this By-law are hereby repealed to the extent mentioned in the third column of the Schedule.

Short title and commencement

21.(1) This By-law is called the Beaches By-law, 2018, and takes effect on the date of publication thereof in the *Provincial Gazette*.

SCHEDULE 1

LAWS REPEALED

(in terms of Section 20 of this By-law)

PART A: BY-LAWS

<i>Number and year of law</i>	<i>Title</i>	<i>Extent of</i>

MUNICIPALITY: FIRE PREVENTION BY-LAW, 2018

Adopted by Council on the:

Promulgated on:

FIRE PREVENTION BY-LAWS, 2018

To provide for the prevention of fire; to regulate fire-fighting services and to provide for matters incidental thereto.

PREAMBLE

WHEREAS the Municipality has the competence in terms of Part B of Schedule 4 of the Constitution relating to Fire-fighting services;

AND WHEREAS there is a need for the Municipality to promote the prevention of uncontrolled fire and to regulate fire-fighting services;

NOW THEREFORE the Municipal Council of the _____ Municipality, acting in terms of section 156(1)(a) read with Schedule 4 Part B of the Constitution of the Republic of South Africa, and read with section 11(3)(e) of the Local Government: Municipal Systems Act No. 32 of 2000, hereby makes the following By-law:

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CHAPTER 1

INTERPRETATIONS

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;

"authorised official" means a person authorised to implement the provisions of this By-law, including but not limited to –

- (a) peace officers as contemplated in section 334 of the Criminal Procedure Act, No. 51 of 1977;
- (b) municipal or metropolitan Police Officers as contemplated in the South African Police Service Act No. 68 of 1995; and
- (c) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard:

Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;

"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 —

- (a) 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;
 - (b) any wall, 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 paragraph (a), (b) or (c);
- or
- (e) 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;

"**cul-de-sac**" means a dead-end street;

"**Municipal Council**" or "**Council**" means the _____ Municipal Council, a municipal council referred to in section 157(1) of the Constitution;

"**Municipality**" means the _____ Municipality, a category _____ municipality as envisaged in terms of section 155(1) of the Constitution of the Republic of South Africa and established in terms of _____;

"**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 No. 88 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 refillable 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 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 vapour 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 desensitised (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 No.15 of 1973;

"Motor vehicle" means any self-propelled vehicle and includes- (a) a trailer; and a vehicle having pedals and an engine or an electric motor as integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor;

"National Building Regulations" means the regulations promulgated in terms section 17(1) of the National Building Regulations and Building Standards Act No. 103 of 1977, and:

- (a) "National Building Regulations (A2)" means the provisions regulating the submission of building plans and particulars to the Municipality;
- (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 No. 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 No. 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) in relation to premises, other than a building, either a natural or juristic person whose identity is determined by operation of law;

(b) in relation to a building, either a natural or juristic person in whose name the land on which such building was or is erected or such land, as the case may be, is registered in the deeds office in question;

(c) in relation to an installation, either a natural or juristic person in whose name a contract is entered into regarding approval, erection and maintenance of the installation; provided that such a person is not the owner mentioned in (b), and

(d) in the event of the Municipality being unable to determine the identity of a person mentioned in (a), (b) and (c), any person who is entitled to the benefit of the use of such premises, building or installation or who enjoys such benefit;

"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 Municipality being unable to determine the identity of a person mentioned in (a), (b) and (c), any person who is in the opinion of the Municipality deemed to be in charge of such premises, building or installation;

"premises" means any building, beach, land, terrain, road, motor vehicle and can include a vessel, train or aircraft;

"SABS" means The South African Bureau of Standards which is a South African statutory body that was established in terms of the Standards Act No. 29 of 1993;

"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 No. 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;

"Supplier" means a legal person who provides flammable substances, goods or services to any legal person;

"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;

Interpretation

2. If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails.
3. 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

4. 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 notify the Municipality of such fire hazard or threatening danger.

Access for emergency vehicles

- 5.(1) When, in the opinion of the Municipality, premises are not readily accessible from public roads it 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 Municipality, 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 Municipality.
- (6) The parking of a motor vehicle in a fire lane or the obstruction of fire lane is prohibited

Division and occupancy separating elements

6. 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

7.(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 reliability, 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 Municipality.

(3) A fire door and assembly may not be rendered less effective through:-

- (a) altering the reliability, 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

8.(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 Municipality.

(3) Where required by the Municipality, 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

9.(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 I.

(3) No person may fill, recharge, recondition, modify, repair, inspect or test a fire extinguisher in terms of SABS 1475: Part I, 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 must 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 Municipality 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 Municipality, a fire extinguisher is unsafe or ineffective either by reason of deterioration, design or construction, the Municipality 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

10.(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 Municipality when the fire protection system, or a component thereof, is rendered inoperable or taken out of service and must notify the Municipality 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 Municipality to provide alternate equipment to maintain the level of safety within the premises.

Interference with fire protection systems and fire extinguishers

11. 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**

12.(1) When the Municipality 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 Municipality may provide, in the interest of public safety and subject to the exigencies of the service, one or more members, a motor 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

13.(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 Municipality 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 (1) 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 Municipality.
- (7) The Municipality 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

14. The escape route plan must be displayed in a visible position in any room within the building.

Barricading of vacant buildings

15. 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 Municipality which will prevent the creation of a fire hazard caused by the entering of an unauthorized person.

CHAPTER 5 HOUSEKEEPING

Combustible waste and refuse

- 16.**(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

- 17.**(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

18. 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

19.(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 Municipality, 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 Municipality 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

20.(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 Municipality 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 and in a public building.

(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

21. No person may cause or permit –

(1) an electrical supply outlet to be overloaded; or

(2) 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

22. 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

23.(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

24.(1) 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) Burning may take place on State land, a farm, a small holding, or land within a proclaimed township that is not utilised for residential purposes provided that the prior approval is obtained from the Municipality.

CHAPTER 7

FLAMMABLE SUBSTANCES

Storage and use of a flammable substance

25.(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 Municipality, 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 Municipality.

(3) Notwithstanding subsection (2), the Municipality 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 Municipality 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 Municipality.

Flammable substance certificate

26.(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 Municipality.

(2) The Municipality 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 Municipality is of the opinion that the non-compliance of the premises can be remedied, the Municipality 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.

(3) 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.

(4) Premises must be used in accordance with any conditions specified in the flammable substances certificate and when in the opinion of the Municipality, 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.

(5) 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 Municipality.

(6) 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.

(7) 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

27.(1) A temporary above ground storage tank other than that at a bulk storage depot is permitted, at the discretion of the Municipality, 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 Municipality for the erection of the tank.
- (2) Notwithstanding section 28(1), 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 Municipality 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 Municipality, 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

28. The installation of underground storage tanks, pumps, dispensers and pipework at service stations and consumer installations must be in accordance with National Building Regulations (T1) read in conjunction with SABS 0400, SABS 089: Part 3 and SABS 0131: Part 3.

Bulk storage depot for flammable substances

29. The handling, storage and distribution of flammable substances at bulk depots must be in accordance with the National Building Regulations (T1), read in conjunction with SABS 089: Part 1.

Small installations for liquefied petroleum gas

30. 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

31. 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 Liquid Petroleum gas operated motor vehicles

32. The fuelling of forklift trucks and other liquid petroleum gas operated vehicles shall be in accordance with SABS 087: Part 8.

The storage and filling of refillable liquid petroleum gas containers

33. 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

34. 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

35.(1) 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 Municipality 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 Municipality 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 Municipality to fill the tank with liquid cement slurry.

Reporting accidents

36. 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 Municipality.

Flammable stores

37.(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 m² 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 Municipality, the flammable store must be ventilated by a mechanical ventilation system approved by the Municipality 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 Municipality, 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-Isitolo Esidayisa Izimpahla Ezithatha Kalula 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 Municipality, 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 Municipality has been notified in terms of the following procedure:

(a) within seven days of the cessation, notify the Municipality 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 Municipality may call for additional requirements to improve the fire safety of a flammable store.

Container handling and storage

38.(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 duly qualified 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 Municipality, 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 m² 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

39. 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

40.(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

41. The Municipality is not liable for damage or loss as a result of, but not limited to, bodily injury, loss of life or loss of or damage to property or 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 in the exercise or performance of a power, function or duty conferred or imposed in terms of this by-law, unless caused by negligence on the part of the Council.

Offences and penalties

42.(1) 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 –

(2) Any person who is convicted of an offence under this By-law is liable to a fine not exceeding R 100 000 or imprisonment not exceeding 2 years.

Enforcement provisions

43. Any authorized official of the Municipality may –

- (1) enter any premises at any reasonable time to inspect the premises for compliance with this by-law;

(2) 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-

- (a) call for the immediate evacuation of the premises;
- (b) order the closure of the premises until such time as the violation has been rectified;
- (c) order the cessation of any activity, and
- (d) order the removal of the immediate threat.

Authority to investigate

44. The Municipality has the authority to investigate the cause, origin and circumstances of any fire or other threatening danger.

Failure to comply with provisions

45.(1) When the Municipality 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 Municipality, municipality 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

46. The Council's existing by-laws are hereby repealed.

Short title and commencement

47. These by-laws shall be called the Fire Fighting Services By-laws, 2018 and shall come takes effect on the date of publication thereof in the *Provincial Gazette*.

**MUNICIPALITY: PROPERTY ENCROACHMENT BY-
LAW, 2018**

Adopted by Council on the:

Promulgated on:

PROPERTY ENCROACHMENT BY-LAW, 2018

To provide for the regulation of encroachment of properties; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS there is a need for the Municipality to regulate the encroachment of property;

NOW THEREFORE the Municipal Council of the _____ Municipality, acting in terms of section 156(1)(a) read with Schedule 5 Part B of the Constitution of the Republic of South Africa, and read with section 11(3)(e) of the Local Government: Municipal Systems Act No. 32 of 2000, hereby makes the following By-law:

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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 No. 103 of 1977 has that meaning and, unless the context otherwise indicates –

“**Building control officer**” means any person appointed or deemed to be appointed as a building control officer by a local authority in terms of section 5 of the National Building Regulations and Building Standards Act No. 103 of 1977;

“**Council**” means the Council of the Municipality;

“**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 wrongly intrudes on Council property;

“**m**” means metres;

“**mm**” means millimetre;

“**Municipality**” means the _____ Municipality, a category _____ municipality as envisaged in terms of section 155(1) of the Constitution of the Republic of South Africa and established in terms of _____;

“municipal council” or “council” means the _____ municipal council, a municipal council referred to in section 157(1) of the Constitution;

“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 in the Council’s Tariff Policy;

“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.

Interpretation

2. If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails.

CHAPTER 2 APPLICATION

Application of By-law

3.(1) This By-law applies to all properties situated within the jurisdiction of the _____ Municipality and is binding on all persons to the extent applicable.

CHAPTER 3 CONSTRUCTION MATTERS

Council permission required

3.(1) No person may, without prior written permission, make or construct any encroachment into, over or under any Council property.

(2) The Council may -

- (a) refuse the permission required in terms of subsection (1); or

(b) grant such permission either unconditionally or upon the conditions and subject to the payment of the prescribed fee annually or the performance of the works or services determined by the Council in each case.

(3) The prescribed fees 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.

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.

(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.

(3) No person may place a twin or double veranda column over any public road or pavement.

(4) Where verandas are supported on columns-

(a) the columns may not have square 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.

(5) Where the form of a column is classic in character, the shaft must have suitable entasis and cap and base in due proportions.

(6) Columns, including cap and base, may not be less than 3 m or more than 3,6 m in height and not more than 4,5 m including plinth.

(7) The minimum height from the footway or sidewalk to the underside of each cantilever or fascia girder is 3 m.

(8) A coping, blocking course or balustrade, if any, may not extend less than 750 mm nor more than 1,05 m above the floor of a balcony.

(9) Nothing in these by-laws prohibits –

- (a) the erection and use of a party column common to two adjoining verandas if the column stands partly on the extended boundary lines of two properties or adjoins the same; or
- (b) in the case of adjoining verandas, the placement of any column upon a plinth if this is necessary for alignment and all the other provisions of these by-laws are observed.

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.(1) Where any encroachment has been erected or constructed in front of any building, the owner must at his, her or its own expense

- (a) pave the whole of the footway or pavement under the encroachment or in front of the building in which the pavement opening is fixed; and
- (b) lay the road kerbing and guttering and paving in front of the building for the full width of the footway or pavement.

Maintenance, removal and tenancy of projections

10.(1) The owner of any encroachment must maintain the encroachment in good order and repair.

(2) Pavement openings, pavement lights, walls thereof and basement walls must be made and kept water-tight by the owner.

(3) The owner of any encroachment on, under or over any public road or pavement, or sign or other fixture on or over any public road, is regarded a tenant in respect of the encroachment, sign or fixture and, if called upon by the Council to remove any or all of them and restore the public road or pavement to its former conditions, and must do so within a reasonable time.

CHAPTER 4 ENCROACHMENT

Encroachments

11.(1) 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-

(a) 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 fee as specified in the relevant municipal policy in addition to any other prescribed fee 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.

CHAPTER 5 TRANSITIONAL MEASURES

Transitional Measures

12.(1) The owner of any existing encroachment must within three months after the date of commencement of these by-laws notify the council the council in writing of-

(a) the existence of the encroachment; and

(b) the horizontal dimensions of every encroachment measured- parallel to a road boundary on or over which the encroachment exists.

(2) the notification must be accompanied by the following details;

(a) personal particulars of the applicant—

- (i) name
- (ii) address
- (iii) telephone number
- (b) encroachment particulars—
 - (i) address of the premises from which encroachment encroaches
 - (ii) property on, onto, over which the encroachment encroaches
 - (iii) dimensions of encroachment(specify size, height, width and length.
 - (iv) reason why the encroachment is necessary.
- (3) The notification must be signed by the applicant or someone acting on behalf of the applicant.
- (4) Upon receipt of the notification, the Council must direct the owner of the existing encroachment to take necessary steps to remedy the encroachment, which may include the removal or modification of the encroachment.

CHAPTER 6

MISCELLANEOUS PROVISIONS

Offences and penalties

13. A person who contravenes any of these by-laws is guilty of an offence and be liable on conviction to a fine not exceeding R 100 000 or imprisonment not exceeding 12 months.

Repeal of existing By-laws

14. The Council's existing by-laws are hereby repealed.

Short title and commencement

15. These by-laws shall be called the Property Encroachment By-laws, 2018, and shall come into operation on publication in an official Provincial Gazette.

_____ MUNICIPALITY: MUNICIPAL PREMISES AND
FACILITIES BY-LAW, 2018

Adopted by Council on the:

Promulgated on:

MUNICIPAL PREMISES AND FACILITIES BY-LAW, 2018

To provide for the use and control of municipal premises and facilities; to provide for the repeal of laws and savings; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS there is a need for the Municipality to regulate the use of municipal premises and facilities;

AND WHEREAS it is necessary for the Municipality to control access to municipal premises and facilities and set out the requirements for the hire and use thereof;

NOW THEREFORE the Municipal Council of the _____ Municipality, acting in terms of section 156(1)(a) read with Schedule 5 Part B of the Constitution of the Republic of South Africa, and read with section 11(3)(e) of the Local Government: Municipal Systems Act No. 32 of 2000, hereby makes the following By-law:

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SCHEDULE LAWS REPEALED

CHAPTER 1 INTERPRETATION

Definitions

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

"art" means any creative act or object of human skill, craft or design in respect of which a municipal premises or facility may be made available for hire and use;

"artist" means any person who is involved in the performance or creation of an art, and **"artistic"** has a corresponding meaning;

"authorised official" means a person authorised to implement the provisions of this By-law, including but not limited to –

- (a) peace officers as contemplated in section 334 of the Criminal Procedure Act, No. 51 of 1977;
- (b) municipal or metropolitan Police Officers as contemplated in the South African Police Service Act No. 68 of 1995; and
- (c) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;

"camping officer" means a person who is designated by the Municipality to be in charge of a camping ground

"camping park" or **"caravan park"** means any area of land which has been set aside by the Municipality for use as a camping park or caravan park, or as both;

"camping site" means a site set aside and designated by a camping officer on a camping ground for camping purposes;

"caravan" means a vehicle or similar movable or towable structure on wheels which is designed to permit human occupation for dwelling or sleeping purposes, and includes a mobile home, trailer or camper van;

"caravan site" means a site set aside and designated by a camping officer on a camping ground for the parking of a caravan, with or without a side tent;

"centre" means any community premises owned or operated by the Municipality which is used or is capable of being used by members of the community for activities of an indoor sporting, cultural or recreational nature;

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"facility" means any facility or structure owned by the Municipality which is or may be available for hire and use by members of the community in terms of this By-law, excluding a shopping centre;

"hire" means entering into a contract with the Municipality upon payment of a prescribed fee for the use of a municipal premises or facility, and **"hirer"** has a corresponding meaning;

"Municipal Council" or **"Council"** means the _____ Municipal Council, a municipal council referred to in section 157(1) of the Constitution;

"Municipality" means the _____ Municipality, a category A municipality as envisaged in terms of section 155(1) of the Constitution of South Africa and established in terms of _____;

"municipal manager" means a person appointed in terms of section 54A of the Systems Act as the head of administration of the municipal council;

"municipal premises", in this By-law, means any community premises owned, vested or controlled by the Municipality which is or may be available for hire and use by members of the community or freely accessible in terms of this By-law for the purpose of conducting artistic, cultural, political, recreational or religious events and excludes shopping complexes;

"Policy" means the tariff policy adopted by the Council in term of section 74 of the

Systems Act;

“**pool**” means a municipal owned or controlled swimming pool or paddling pool provided by the Municipality for the use and enjoyment of the public and includes the premises, buildings and structures on which the pool is situated in;

“**prescribed fee**” means a fee determined by the Council by resolution in accordance with the tariff policy adopted by the Council in terms of section 74 of the Systems Act; and

“**Systems Act**” means Local Government: Municipal Systems Act No. 32 of 2000.

Interpretation of By-law

2. If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails.

Objects of By-law

3. The objects of this By-law are to—

- (a) regulate and control the hiring and use of municipal premises and facilities;
- (b) standardise the fees prescribed for the hiring of municipal premises and facilities;
- and
- (c) provide for matters incidental thereto.

Application of By-law

4. This By-law applies to all premises under the ownership and control of the Municipality, irrespective of the area in which they are situated, excluding –

- (a) any shopping complex which, although owned by the Municipality, is subject to private control and management; or
- (b) any other premises and/or facilities subject to private control and management.

CHAPTER 2

HIRE AND USE OF PREMISES AND FACILITIES

Part 1 : Arts and culture and community centre facilities

Application for hiring of premises

5. (1) Any person wishing to apply for the hiring of municipal premises must—

- (a) submit an application to the authorised official on the form prescribed by the Municipality for that purpose; and
 - (b) make payment to the Municipality or its authorised agent of a prescribed fee for the hiring of the premises concerned before the date on which such premises are required for use by the applicant, unless otherwise permitted by the Municipality.
- (2) The municipality must keep a register which is open to public inspection at all reasonable hours and which contains particulars of:
- a) The application which was made to the municipality for the hiring of the premises or amenities;
 - b) The name and address of the applicant;
 - c) The date of the application;
 - d) The prescribed fee for the hiring of the premises or amenities;
 - e) The decision of the municipality ;and
 - f) If the application was approved, the conditions relating to the use of the premises or amenities.

Municipality's right of refusal or cancellation

6.(1) Notwithstanding the provisions of section 5, the Municipality may refuse to hire out any premises or, if the hiring is already approved, cancel any such approval if—

- (a) the authorised official suspects on reasonable grounds that the premises applied for are to be used for an unlawful purpose or any purpose not suitable for the premises applied for; or
 - (b) the premises applied for are required by the Municipality for its own use during the same time.
- (2) In the event of the approved hiring being cancelled by the Municipality in terms of subsection (1)(b) or for any other reason not attributable to the hirer, the hirer concerned is entitled to a refund of the prescribed fee already paid to the Municipality in respect of the premises applied for: Provided that in any other case the refund of the prescribed fee to a hirer is at the sole discretion of the Municipality.
- (3) In the event of the approved hiring being cancelled by the municipality, reasonable notice must be given by the municipality.

Use of premises

7.(1) The hirer must use the hired premises only for the purpose indicated on the application form and subject to the terms and conditions stipulated by the Municipality, unless prior approval of the authorised official is obtained in writing authorising the use of the hired premises for any other purpose.

(2) If the hirer wishes to use the premises for the purpose of any gathering, the Municipality may refuse to grant its approval thereof unless it is satisfied that such use will not, by reason of any noise or conduct of the attendees, constitute an undue interference with the amenities of the area within which such premises are situated. Furthermore, the premises must not be used in contravention of the Regulation of Gatherings Act No. 205 of 1993 and the Riotous Assemblies Act No. 17 of 1956.

(3) Notwithstanding anything to the contrary contained in this By-law, the Municipality may refuse to grant its approval of an application to hire municipal premises if the authorised official believes on reasonable grounds that the use thereof may result in the contravention of the Municipality's Nuisance By-law, Health By-law or any other relevant legislation.

Payment of the prescribed fee

8. A person who has hired premises is not entitled to the use of such premises, or to gain access thereto for preparation purposes, unless and until the prescribed fee for the hire thereof has been paid in full: Provided that the Municipality may exempt any person or organisation, on good cause shown, from payment of the whole or a portion of the prescribed fee.

Period of hire

9. Notwithstanding any determination made by the Municipality regarding the dates and period for which the premises may be hired, the Municipality may allow the hirer reasonable access to the premises concerned prior to the commencement date of the period of hire in order to enable the hirer to make the necessary preparations and arrangements for the use thereof: Provided that the prescribed fee for the hire of the premises concerned must be paid in full before the hirer thereof may be allowed reasonable access thereto in terms of this section.

Terms and conditions of hire

10. A person who makes an application for the hire of premises in terms of section 5 must, subsequent to the approval of such application by the Municipality, sign a hire agreement obtainable from the municipal department responsible for the premises in question setting out the terms and conditions of such hire.

Public display of terms and conditions of hire

11.(1) The Municipality may display or cause to be displayed conspicuously at or near the entrance to every municipal premises the terms and conditions of hire thereof, which are incorporated by reference as part of this By-law and are deemed to be accepted by every hirer as binding irrespective of the hirer's failure or omission to sign a hire agreement referred to in section 10.

(2) Every hirer of any municipal premises shall be deemed to have acquainted himself or herself fully with and accepted the terms and conditions of hire which are conspicuously displayed on the hired premises in terms of subsection (1).

Sub-letting

12. A hirer must not sub-let the hired premises or any part thereof to any other person, nor may the hirer cede, pledge or renounce in favour of another person any of his or her rights or obligations under this By-law, nor allow any other person to occupy the premises without the prior written approval of the Municipality.

Condition of premises

13.(1) The hirer must inspect the hired premises, including any installation, appliance, fitting, accessory or furniture thereon, before commencing the use thereof.

(2) If the hirer finds that any installation, appliance, fitting, accessory or furniture on the hired premises is damaged, the hirer must record such damage on an inventory list obtainable from the Municipality in respect of the premises concerned and submit such list to the authorised official at least twenty-four hours before commencing the use of the hired premises.

(3) If the hirer fails either to inspect the premises or to report any damage or defects found in terms of subsection (1), it is deemed that upon commencement of occupation by the hirer everything on the premises was fully operational and in a proper state of repair, and the hirer will be held liable to the Municipality for any damage or patent defect found on the leased premises upon termination of the hire period.

Public announcement and advertising

14.(1) A person who has applied for the hire of premises must not publicly announce or advertise any function or event in respect of which an application for the hire of such premises in terms of section 5 has been made before the Municipality has notified that person in writing that the application has been approved.

(2) An approval of the hirer's application in terms of subsection (1) does not absolve the hirer concerned from due compliance with the Municipality's Advertising and Signs By-law as may be applicable to any public announcement or advertisement of the event or function concerned.

(3) Every hirer must, before vacating the hired premises, remove every poster, notice, decoration, flag, emblem, sign and other form of advertisement or direction erected or affixed by or at the instance of such hirer and make good any damage caused by such removal.

Overcrowding

15.(1) The hirer must comply with the Municipality's requirements prescribing the maximum number of persons allowed on the premises during the hirer's use thereof so as to ensure that no overcrowding of the premises occurs at any time during the hirer's function or event.

(2) Without detracting from the generality of the requirements referred to in subsection (1), the hirer may not allow more persons admission to the premises than the number of seats available or, if seating is not provided, the maximum number of persons prescribed by notice on the premises or as stipulated in the hire agreement or in any other applicable law.

(3) The Municipality has the sole discretion to determine the maximum number of persons allowed on any hired municipal premises at any given time, taking into account the Municipality's requirements as set out in the relevant policy documents adopted by the Municipality from time to time, including but not limited to the Events Policy and Waste Management Plan, as well as any other applicable law.

Sale of refreshments

16.(1) Neither the hirer nor any other person is entitled to sell any refreshments or food stuffs on or in the hired premises during any function or event for which the premises have been hired without the prior written approval of the Municipality.

(2) Any person wishing to sell refreshments or foodstuffs in the hired premises during the function or event for which the premises have been hired must apply in writing to the Municipality for a permit authorising such person to do so, and on such terms and conditions as may be determined by the Municipality for that purpose.

(3) If an application for the issuing of a permit in terms of subsection (2) is issued by the Municipality, the Municipality may allocate sufficient accommodation to the approved applicant wherein the goods which are necessarily required by such applicant for trading may be stored.

(4) An application in terms of subsection (2) is not necessary if the supply and sale of refreshments or foodstuffs is an integral part of the function or event or part of the fundraising activities for which the premises are hired.

Municipal services

17.(1) The municipality must take reasonable steps to ensure that the hired premises are in a clean and reasonable condition, subject to the availability of its resources.

(2) The municipality must ensure that lightening conductors are installed in premises or facilities to be hired and where a temporary structure has to be erected, the hirer must ensure that lighting conductors, which must conform to the standards prescribed in the National Building Regulations and Building Standards Act No. 103 of 1977, are installed prior to the event taking place.

(3) The hirer may be held liable for any municipal services used or consumed during the function or event for which such hirer has hired the premises.

(4) The cost of the municipal services referred to in subsection (1) may be recovered by the Municipality from the hirer through the use of any one or more of the following methods:

- (a) by including an estimated amount for services as part of the hire fee;
- (b) by taking a reading of the meter for the service concerned on the hired premises immediately before and immediately after the hire period; or
- (c) by requiring the hirer to install its own meter at its own cost to measure the supply of the municipal service concerned to the hired premises prior to the commencement of the event or function in question.

Operation and maintenance

18.(1) The Municipality may require the hirer to take such steps as the Municipality may deem necessary for the proper maintenance and operation of the hired premises for the duration of the period of hire.

(2) The authorised official is entitled to attend the hirer's function or event for the purpose of ensuring that the Municipality's requirements for the proper maintenance and operation of the hired premises are duly complied with.

(3) A hirer is not entitled to the official services of the authorised official who attends the hirer's function or event in terms of subsection (2).

(4) A hirer is not entitled to receive gratuitous cleaning or other service from the Municipality in connection with the hirer's activities during the preparation for or the duration of the function or event for which the premises are hired.

Cancellation due to damage or destruction of premises

19.(1) The Municipality may, at any stage, cancel the hire of any premises if—

- (a) the premises concerned are destroyed or damaged to such an extent that they are substantially unusable;
- (b) the supply of any necessary municipal service to the hired premises is disturbed or terminated due to the damage in infrastructure to such an extent that, in the opinion of the Municipality, the health or safety of the occupants thereof is likely to be adversely affected; or
- (c) subject to section 6(2), the Municipality, in its discretion, decides not to proceed with the hire of the premises in order to carry out or cause to be carried out the necessary repairs thereto.

(2) A decision taken by the Municipality in terms of subsection (1) must be communicated to the hirer in writing within a reasonable period after the occurrence of any one or more of the events referred to in subsection (1) giving rise to the cancellation.

Cancellation due to breach

20.(1) The Municipality may at any time cancel the hire of premises if—

- (a) the hirer contravenes or fails to comply with any provision of this By-law; or
- (b) the hirer breaches any one or more of the terms and conditions which are stipulated by the Municipality in the hire agreement or notices displayed at the hired premises, and fails to remedy such breach within the period stipulated in a written notice delivered by the Municipality to the hirer to do so.

(2) A cancellation in terms of subsection (1) is without prejudice to any right or claim which the Municipality may have against the hirer under any provision of this By-law or any other applicable law.

Responsibility of the hirer upon termination of the hire period

21.(1) The hirer is directly responsible to the Municipality for the proper use and maintenance of the hired premises and, upon termination of the hire period for any reason, must—

- (a) make good and repair or replace, at his or her own cost, any damage or breakage or missing article or, if required to do so by the Municipality, reimburse the Municipality for the reasonable cost of repairing, making good or replacing any broken, damaged or missing article;
- (b) vacate the hired premises within the period specified in the application form, the hire agreement or the notice of termination;
- (c) return the premises to the Municipality in good order and condition, reasonable wear and tear accepted; and
- (d) comply with any reasonable and lawful instruction of the Municipality or the authorised official in respect of the cleaning of the premises.

(2) A hirer who fails to comply with the provisions of subsection (1) shall be liable to pay a further prescribed fee for the additional period during which he or she remains in occupation of the premises after the termination of the period of hire: Provided that the provisions of this paragraph must not be interpreted to prevent the Municipality from taking lawful steps to procure the eviction of any such hirer from the premises.

(3) If a hirer vacates the hired premises without cleaning them, either at all or to the satisfaction of the authorised official, the authorised official may undertake, or cause to be undertaken, the cleaning of the premises at the cost of the hirer.

Inspection of premises upon termination of the hire period

22.(1) Upon termination of the hire period for any reason, an authorised official and the hirer or their respective nominees must inspect the premises for the purpose of assessing any damage thereto or loss of equipment thereon.

(2) Any damage or loss discovered during an inspection referred to in subsection (1) must be recorded in an inventory list referred to in section 13(2), a final copy of which must be kept by either party.

(3) The hirer is liable for any damage or loss discovered during an inspection of the leased premises referred to in subsection (1), the reasonable cost of which must be paid to the Municipality upon demand, failing which the Municipality may proceed to institute civil proceedings for the recovery thereof.

Insurance

23.(1) A hirer, as specified in the hire agreement, must not at any time bring or allow to be brought or kept on the premises, nor do or undertake nor permit to be done or undertaken in or on the premises, anything which may render void or voidable any insurance policy taken by the Municipality in respect of the premises, or which may result in the increase of premiums payable for any such insurance.

(2) If the premiums for insurance contemplated in subsection (1) are increased as a result of any act or omission contemplated in that subsection, the Municipality may, in its discretion, allow the activity concerned to continue and recover from the hirer the amount due in respect of any additional insurance premiums and the hirer must pay such amount immediately on notification from the Municipality or the insurance company to the effect that such additional premiums have been charged.

(3) The Municipality may at any time in its discretion require the hirer to take up insurance of the premises hired with an insurance company approved by the Municipality against loss or damage by fire or any other cause during or as a result of any function or event for which the premises are hired.

(4) The municipality is not liable for –

(a) Any theft ,or loss of ,or damage to any object whatsoever which the hirer or anyone else kept or deposited on the premises;

(b) Any loss suffered by the hirer or anyone else arising from or a failure or defect of amenities on the premises;

(c) Any loss or damages suffered by shall not compensate the hirer or anyone else as a result of an interruption or insufficient supply of municipal services to the premises, or as a result of any activity by the municipality.

(d) Any consequential loss, arising from whatever cause, suffered by the hirer or anyone else who makes use of the premises or amenities.

Municipality's right of access

24.(1) Subject to the Constitution and any other applicable law, an authorised official or any other person authorised by the Municipality in writing to do so may enter the hired premises at any reasonable time for the purpose of—

- (a) carrying out any repairs, alternations, additions, modifications or improvements thereon;
- (b) ensuring that the conditions of hire of the premises as set out in the hire agreement and this By-law are being complied with; or
- (c) ensuring that the health and safety regulations or any other applicable laws are duly complied with.

(2) A hirer must comply with any lawful instruction issued by the authorised official or other person referred to in subsection (1) to ensure due compliance with the conditions of hire of the hired premises.

Fire and security regulations

25. A hirer must acquaint himself or herself with the Municipality's Fire By-laws and any other applicable legislation which are from time to time in force in respect of the premises concerned, and must act in strict compliance therewith for the duration of the hire period.

Community centres and group activity rooms

26.(1) The hirer of a community centre for a group activity is responsible for the conduct of all members of the relevant group for every time such members and their invitees are in occupation of the hired premises.

(2) Unless permission to do otherwise has been granted by the authorised official in charge of the centre, a group activity may only take place under the supervision of the authorised official.

(3) A group activity may only take place at times allocated for such activity by an authorised official in charge of the centre.

(4) The Municipality reserves the right to stipulate the use to which a centre or any part of the premises thereof may be put, including the times when and the conditions under which any portion of a centre may be set aside for exclusive use by members of any particular group.

Prohibitions

27.(1) A person attending any function or event in or on the hired premises must not—

- (a) conduct himself or herself in an unseemly or obnoxious manner;
- (b) cause a nuisance or annoyance to any other person in or on the hired premises or the neighbouring properties;
- (c) interfere with the amenities of the area within which the hired premises are situated;

(d) dress inappropriately or indecently taking into account the type of function or event for which the premises have been hired; or

(e) engage in any other conduct in contravention of this By-law, the Municipality's Nuisance and Health By-laws or any other applicable law.

(2) An authorised official may, during any function or event of a hirer, instruct the hirer to remove from the premise any person who is in a state of intoxication or who is acting in contravention of subsection (1).

(3) An authorised official may, during any function or event for which the premises have been hired, direct the hirer to prevent the entry on or into the hired premises by any person who is in a state of intoxication or who is acting in contravention of subsection (1).

Part 2 : Camping and caravan parks

Terms and conditions

28.(1) The use and enjoyment of camping and caravan parks by any person are subject to due compliance with the applicable provisions of this By-law, as well as such terms and conditions as may be stipulated by the Municipality for the issuing of a camping or caravan permit in terms of section 29.

(2) The provisions of Part 1 are *mutatis mutandis* applicable to this Part insofar as they are relevant to the use of camping and caravan parks.

Application for a camping or caravan permit

29.(1) Any person who wishes to make use of a camping site or caravan site must apply in writing to the camping officer for the issuing of a permit authorising such person to do so.

(2) A camping or caravan permit issued by the camping officer in terms of subsection (1) is valid for the period specified therein.

(3) A permit holder or any person accompanying such permit holder must at all times comply with the conditions specified in the relevant permit.

Allocation and use of sites

30.(1) A camping or caravan site is allocated at the sole discretion of the camping officer in charge, and may only be used for the purpose specified in the permit issued in respect thereof.

(2) A camping or caravan site may not be used for the construction of any building or any other structure of a permanent nature other than a tent for the *bona fide* use of the permit holder and his or her party.

(3) A caravan parked on a caravan site may only be used to house the permit holder and his or her party.

Extension of permits

31. The period of validity of a permit may be extended at the discretion of a camping officer if the site concerned has not already been allocated to another person for the period in respect of which the extension is required.

Proper use of roads and pathways

32. A permit holder and any member of his or her party must travel to and from a camping site using the established roads and pathways within the camping or caravan park.

Reservation of sites

33.(1) A camping or caravan site may be reserved in advance, and the person making such reservation must make payment of the prescribed fee to the camping officer in charge on or before the first day of the period of reservation, failing which the reservation made by such person may lapse.

(2) A person who fails to take occupation of a reserved camping or caravan site is not entitled to a refund of the prescribed fee paid in advance in respect thereof, irrespective of the reason given by such person for failing to take occupation thereof.

Right of refusal to renew permits

34. A camping officer may refuse to issue or renew a permit to any person whom the camping officer reasonably suspects of having contravened any provision of this By-law.

Cancellation of permits

35. Subject to due process in terms of the Constitution and any other applicable law, the camping officer may cancel the permit of a permit holder if such permit holder or any member of his or her party commits a breach of any provision of this By-law.

Prohibitions

36. A person may not—

- (a) camp or light a fire for the purpose of camping upon any open space or ground owned by or under the control of the Municipality except on a camping site allocated by the camping officer in terms of this By-law;

- (b) occupy a camping site for a period longer than 30 days in any consecutive period of 12 months, unless prior approval of an authorised person is obtained in writing for a further period not exceeding 10 days;
- (c) enter or loiter in or about any camping or caravan park unless such person is a permit holder or a member of a permit holder's party or a *bona fide* guest of a permit holder;
- (d) carry on any trade or business within the precinct of a camping or caravan park without the prior written approval of the Municipality;
- (e) wilfully or negligently damage any vegetation, item, equipment or property belonging to the Municipality on a camping or caravan park;
- (f) bring any firearm within the camping or caravan park, except for a licensed firearm brought for the personal protection of a permit holder and his or her party, and which must be declared and registered with the camping officer immediately upon arrival at the camping or caravan park; or
- (g) shoot, trap or in any way injure or interfere with any animal, bird or fish in the camping or caravan park, except for fishing in a river or dam where a notice permitting fishing is displayed, and only if the person concerned holds a valid fishing licence issued in terms of any applicable law.

Site to be left in a clean and tidy condition

37. A permit holder vacating a camping or caravan site must—

- (a) leave the site in a clean and tidy condition and ensure that all rubbish remaining thereon is deposited in a rubbish bin provided for that purpose; and
- (b) fill in any hole made in the ground by him or her or by any member of his or her party.

Part 3: Sport facilities and swimming pools

Terms and conditions

38.(1) The use and enjoyment of the local sport facilities by members of the local community or any other person are subject to due compliance with the applicable provisions of this By-law, the terms and conditions contained in the hire agreement, if any, as well as such terms and conditions as may be determined by the Municipality in respect thereof.

(2) The provisions of Part 1 are *mutatis mutandis* applicable to this Part insofar as they are relevant to the hiring and use of sport facilities by members of the local community or any other person.

Reservation of sport facilities

39.(1) Due to a limited number of sport facilities in any community, the hiring of a local sport facility must be arranged by prior reservation with an authorised official on a first-come-first-served basis and must be recorded in a register kept by the authorised official for that purpose.

(2) Notwithstanding the provisions of subsection (1), the Municipality may reserve for any period any local sport facility for the holding of any specific sporting event or competition and may during any such period reserve to itself the right of admission to such facility and determine a fee for admission thereto.

Animals

40. No person may bring any animal other than a guide dog into a local sport facility without the prior written approval of the authorised official, unless—

- (a) the bringing of an animal is authorised by a notice displayed in a conspicuous place at the entrance to a local sport facility; or
- (b) the sport facility is designed or has been hired out for an activity that necessarily involves the presence of animals.

Firearms and traditional weapons

41.(1) Firearms or traditional weapons may not be brought into a local sport facility unless, subject to the availability of safes or other appropriate storage facilities at the entrance to the facility, they are surrendered to the authorised official for safe keeping and must be collected from that official upon departure from the sport facility.

(2) Firearms or Traditional weapons may only be brought into a local sport facility if the sport facility is designed or has been hired out for an activity that necessarily involves the presence of firearms or traditional weapons.

Swimming pools operating times

42. (1) The days and times during which a pool will be open to the public must be displayed with the appropriate signage visible to all patrons.

(2) The Municipality reserves the right to alter the operating times of the pool.

(3) Swimming must cease 30 minutes before the closing time and all members of the public must vacate the premises on or before the closing time.

(4) Any member of the public —

- (a) found to be swimming outside the operating times without the consent of the authorised official; or
- (b) who refuses to vacate the pool premises at closing time, will be guilty of an offence.

Admission into the swimming pool premises

43.(1) No person is permitted to enter the pool premises without paying the prescribed fee.

(2) Any person entering the pool premises must provide proof of payment to the authorised official before entering such premises.

(3) The Municipality may refuse entry into the pool premises—

- (a) where it is in the interest of public health and safety;
- (b) where necessary or routine maintenance is being effected; or
- (c) for any other reason the Municipality sees fit to do so.

(4) All children under the age of fourteen must be accompanied by an adult and have some form of identification, which must at least include the child's name and address and a parent's name and contact number.

Exclusive use

44.(1) Upon application and the payment of a prescribed fee an authorised official may grant the exclusive use of the whole or part of the swimming pool to a swimming club, person or body during determined periods: Provided that such use is for the purpose of organised swimming or aquatic sports.

(2) Where an application has been granted in terms of subsection (1), part of the pool or the entire pool may be closed to the public for the duration of such use.

Change room facility

45.(1) A separate change room for each sex must be provided.

(2) A male child over the age of seven is not permitted to enter into the female change room and a female child over the age of seven may not enter into a male change room.

(3) No person may loiter in a change room or use it for any other purpose other than for which it was designed.

Coaching and instruction

46.(1) No person may coach or instruct individuals within the pool area, unless prior written permission has been obtained from an authorised official, which permission may be subject to terms and conditions imposed by the authorised official.

(2) No instructor may instruct more than 5 pupils at a time.

(3) The authorised official may give a coach or instructor 30 days' notice of his intention to withdraw the permission given in terms of subsection (1).

(4) In addition to the conditions imposed in terms of subsection (1) coaches and instructors are obliged to adhere to any other additional rules or requirements imposed by the Municipality.

(5) All instructors and coaches who are required to pay a fee must pay such fee one month in advance and, where such fee has been paid, the parents and students belonging to the particular swimming club will be exempt from paying the regular entry fee on days where they are attending lessons.

(6) In addition to the terms and conditions imposed in subsections (1), (4) and (5), the following terms and conditions will also apply:

- (a) a maximum of 3 lanes may be set aside for each coach for the duration of the lesson;
- (b) coaching will be restricted to the hours of 6am – 9am Monday to Saturday and 5pm - 8pm Monday to Friday;
- (c) permission to use lanes will be granted to not more than 2 coaches in respect of each pool unless permission is granted in terms of section 44;
- (d) where exclusive use has been granted in respect of a pool, no coaching or instructing shall take place and any fee paid in respect of such coaching or instructing will not be refunded;
- (e) if a coach or instructor has not utilised the times booked, no refund will be granted in respect of such time;

Prohibitions relating to swimming pools

47(1) No person may–

- (a) bring or cause to be brought into the swimming pool premises any–
 - (i) ball;
 - (ii) surf board;
 - (iii) water toy or the like; (iv) alcohol;
 - (v) weapons; (vi) glass; or
 - (vii) item that will be offered for sale;
- (b) dive into the pool unless it is off a diving board platform reserved for diving;
- (c) swim in the nude or be dressed in a manner in which his or her private parts are exposed to the public;
- (d) enter into the change room of the opposite sex, subject to section 45; (e) urinate or defecate in the swimming pool;
- (f) eat in the swimming pool;
- (g) engage in any dangerous game or activity; (h) behave in a raucous manner;
- (i) remove, damage or deface any property;
- (j) deposit or discharge anything that may cause a nuisance or pose a danger to others;
- (k) make or light a fire for any purpose;
- (l) fight, argue or use indecent language; (m) smoke;
- (n) engage in any game or activity that may cause a nuisance to other patrons; (o) throw any object or projectile into the pool;
- (p) push or throw another individual into the water;
- (q) use a diving board whilst another person is still on it; (r) wash any article of clothing in the pool;

- (s) act contrary to any sign erected on the pool premises;
- (t) mount, climb upon, sit upon, hang onto or in any way interfere with any building or structure unless it is designed for that purpose;
- (u) leave any object, parcel or thing unattended except in a locker designed for that purpose;
- (v) abandon, drop, spill, deposit, throw or in any other way disposes of any refuse or rubbish or other discarded or waste material or thing whether liquid or solid, except in a receptacle designed for the disposal thereof which is provided by or on behalf of the Municipality;
- (w) hold, convene or organise any entertainment, display, performance, procession, public meeting, recreation or event except with the prior written consent of the Municipality and in accordance with such conditions as may be imposed;
- (x) after using or after quitting any booth, loiter or remain without lawful cause or reasonable excuse in any passage leading to or from any booth;
- (y) enter or attempt to enter any booth which is already occupied by another person without the consent of such person or otherwise wilfully intrude upon the privacy of any other person using or occupying a booth; and
- (z) enter into a pool whilst suffering from any cutaneous disease which is infectious or contagious.

Indemnity

48. The hirer indemnifies and holds harmless the Municipality against and from any claims for damages or otherwise and costs, including costs as between attorney and client, that may be made against it by reason of any harm or loss suffered by any person during or associated with the use of the premises hired or the activities taking place in the hired premises during the period of the hire.

Municipality not liable for loss or damage

49. (1) The Municipality is not liable for any harm, damage or loss suffered by any person arising out of—

- (a) the use of any municipal premises or facility; or
- (b) any bona fide action or decision of an authorised official in terms of this By-law.

(2) The Municipality is not liable for any loss or damage suffered by the hirer in consequence of any accident, failure or defect of any equipment, fixtures or fittings.

CHAPTER 3 MISCELLANEOUS

Offences and penalties

49.(1) A person is guilty of an offence if that person—

- (a) contravenes or fails to comply with any provisions of this By-law;
- (b) fails to comply with any notice issued or displayed in terms of this By-law;
- (c) fails to comply with any lawful instruction given in terms of this By-law; or
- (d) obstructs or hinders any authorised official, other official or representative of the Municipality in the execution of his or her duties under this By-law.

(2) Any person who contravenes any provision of these by-laws is guilty of an offence and may be liable on conviction to a fine or imprisonment not exceeding R 40 000.00 or 12 months respectively.

Delegations

50.(1) Subject to the Constitution and applicable national and provincial laws, any-

- (a) power, excluding a power referred to in section 160(2) of the Constitution;
- (b) function; or
- (c) duty,

conferred, in terms of this By-law, upon the Council, or on any of the Municipality's other political structures, political office bearers, councillors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councillor or staff member, to an entity within, or a staff member employed by, the Municipality.

(2) The delegation in terms of subsection (1) must be effected in accordance with the system of delegation adopted by the Council in accordance with section 59(1) of the Systems Act, subject to the criteria set out in section 50(2) of the said Act.

(3) Any delegation contemplated in this section must be recorded in the Register of Delegations, which must contain information on the—

- (a) entity or person issuing the delegation or sub-delegation;
- (b) recipient of the delegation or sub-delegation; and
- (c) conditions attached to the delegation or sub-delegation.

Appeals

51.(1) A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may appeal against the decision in terms of the Appeals provision contained the Systems Act 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.
- (3) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.
- (4) The appeal authority must confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights which may have accrued as a result of the decision.
- (5) The appeal authority must furnish written reasons for its decision on all appeal matters.
- (6) All appeals lodged are done so in terms of the Systems Act and not in terms of this By-law.
- (7) Where a conviction has been affirmed by a court of law and the accused wishes to appeal such conviction, the appeal must take place in terms of the court's appeal process and not in terms of subsections (1) to (5).

Repeal of laws and savings

- 52.**(1) The laws mentioned in the first and second columns of the Schedule to this By-law are hereby repealed to the extent set out in the third column of the said Schedule.
- (2) Any rights accrued or obligations incurred under any of the By-laws repealed in terms of subsection (1) remain in force as if those By-laws have not been repealed.

Short title and commencement

- 53.** This By-law is called the Municipal Premises and Facilities By-law, 2018, and takes effect on the date of publication thereof in the *Provincial Gazette*.

SCHEDULE LAWS REPEALED (Section 51)

<i>Number and year of law</i>	<i>Title</i>	<i>Extent of repeal</i>

_____ **MUNICIPALITY: ELECTRICITY SUPPLY, 2018**

Adopted by Municipality on the:

Promulgated on:

ELECTRICITY SUPPLY BY-LAWS, 2018

To provide for the regulation of the supply of electricity; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS there is a need for the Municipality to regulate the supply of electricity;

NOW THEREFORE the Municipal Municipality of the _____ Municipality, acting in terms of section 156(1)(a) read with Schedule 4 Part B of the Constitution of the Republic of South Africa, and read with section 11(3)(e) of the Local Government: Municipal Systems Act No. 32 of 2000, hereby makes the following By-law:

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CHAPTER 1 INTERPRETATION

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 No. 85 of 1993 and the regulations made in terms thereof must have the meaning given to it in that Act and -

"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 as defined in these By-laws;

"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 Municipality 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 Municipality 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;

"**embedded generation**" means the process of generating electricity at a specific location and then connecting that supply into the electricity network;

"**engineer**" means the official in charge of the electricity undertaking of the Municipality 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];

"**kV**" means kilovolt;

"**kVA**" means Kilo Volts X Amps;

"**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];

"**meter**" means a device for totalling the variable consumption of electricity energy.

"**motor load, total connected**" means the sum total of the kW input ratings of all the individual motors connected to an installation;

"**motor rating**" means the maximum continuous kW output of a motor as stated on the maker's rating plate;

"**motor starting current**" in relation to alternating current motors means the root-mean-square value of the symmetrical current taken by a motor when energised at its rated voltage with its starter in the

starting position and the rotor locked;

“Municipality” or “Municipality” means the _____ municipal Municipality a municipal Municipality referred to in section 157(1) of the Constitution;

"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 Municipality or the electrical installation of the consumer, as specified by the Engineer; provided that it must 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 Municipality ;

"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;

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

“resale of electricity” means where a person resells electricity supplied by the Municipality .

"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 Municipality 's equipment from overloads or faults occurring on the installation or on the internal service connection;

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

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

"tariff" means the Municipality '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;

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

“wayleave “ means the formal approval to carry out work in the public road reserved or property belonging to the municipality or owner in specific positions and during a specific period.

Interpretations

2. If there is a conflict of interpretation between the English version of these by-laws and a translated version, the English version prevails.

CHAPTER 2

APPLICATION

Application of By-law

3. These by-laws apply to all land or properties falling under the jurisdiction of the _____ Municipality and are binding on all persons to the extent applicable.

CHAPTER 3

GENERAL CONDITIONS OF SUPPLY

Supply by agreement

- 2.(1) No person must use or be entitled to use an electricity supply from the Municipality unless or until such person must have entered into an agreement in writing with the Municipality for such supply.
- (2) The agreement referred to in subsection (1) must, together with the provisions of these by-laws, govern all aspects of electricity supply.
- (3) Any person who uses an electricity supply without entering into an agreement referred to in subsection (1) must be guilty of an offence and must be liable for the cost of electricity used as stated in these by-laws.

Application for supply

- 3.(1) Application for the supply of electricity must be made in writing by the prospective consumer on the prescribed form obtainable at the office of the Municipality, and the estimated load, in kVA, of the installation, must be stated therein.
- (2) The Municipality may permit the bulk supply or retail wheeling of electricity through its electrical grid by another electricity supplier which is licensed to supply electricity in terms of the appropriate Act.
- (3) An application for an electricity supply for a period of less than one year must be regarded as an application for a temporary supply and must be considered at the discretion of the Engineer, who may specify any special conditions to be satisfied in such case.
- (4) Applications for the supply of electricity will be processed and the supply made available within the periods stipulated in the NRS 047.

- (5) The Municipality may permit the embedded generation of electricity to its customers subject to—
 - (a) A Supplemental Contract for Embedded Generation being entered into;
 - (b) Compliance with the relevant requirements of the Municipality pertaining to the generation of electricity and the safety thereof; and
 - (c) Registration at the Municipality of all fixed installations where electricity is generated and compliance with the Municipality's safety and quality requirements.
- (6) The municipality may determine and publish norms, standards and guidelines which prescribe appropriate measures to save energy or to reduce the use of electricity and such norms, standards and guidelines must be kept in the form of an operational manual.
- (7) The norms, standards and guidelines contemplated in (6) above may differentiate between communities, geographical areas and different kinds of premises.
- (8) The surplus generation of electricity may be prohibited and the Municipality may determine conditions for such surplus generation pertaining to timing and quantity.

Wayleave

4.(1) The Municipality may refuse to lay or erect a service connection or supply mains above or below ground on any thoroughfare not vested in the Municipality or on any private property, unless and until the prospective consumer must have obtained and submitted with the Municipality written permission granted by the owner of the said private property or by the person in whom is vested the legal title to the land 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 prospective consumer must inform the municipality of such withdrawal within seven days of the withdrawal of the permission, and 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, must be borne by the consumer to whose premises the supply is required to be continued.

Electricity tariffs and fees

5.(1) The consumer must be liable for all charges for all electricity supplied to his or her premises at the prescribed tariff rates.

(2) The Municipality must 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 must be deemed to be payable when issued by the Municipality.

(4) An error or omission in any account or failure to render an account must not relieve the consumer of his obligation to pay the correct amount due for electricity supplied to the premises and the onus must 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 Municipality 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 Municipality .

(2) The deposit referred to in subsection (1) must not be regarded as being in payment or part payment of any accounts due for the supply of electricity for the purpose of obtaining any discount provided for in the electricity tariff referred to in these by-laws.

(3) On cessation of the supply of electricity, the amount of such deposit, free of any interest, less any payments due to the Municipality must be refunded to the consumer.

Availability charges

7.(1) Availability charges as determined from time to time by the Municipality are payable to the Municipality by the owner of immovable property, with or without improvements, which is not connected to the electricity distribution system of the Municipality , if access to an electricity connection is available to such property.

(2) The provisions of subsection (1) are not applicable to-

- (a) (a) immovable property which belongs to the Municipality; and
- (b) immovable property in respect of which the Municipality has granted written exemption or partial exemption of payment of the availability charges; provided that the Municipality may at any time withdraw any such exemption.

Interest on overdue accounts

8.(1) The Municipality may charge interest on overdue accounts at a rate of interest which is one percent higher than the rate of interest payable by the Municipality to its bank in respect of an overdraft.

(2) The date on which the payment of interest on arrear accounts will come into effect must 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 must 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 unless the leakage is a result of the negligence of the municipality.

Right to disconnect supply

10.(1) The Municipality must have the right to disconnect electricity supply to any premises if the consumer fails to pay any amount due to the Municipality in connection with such supply, or, where any of the provisions of these by-laws has been contravened, after 14 days' 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 these by-laws, the prescribed fees and any amounts due for electricity consumed must be paid before reconnection is made.

(3) The Municipality is not be liable for any loss or damage, direct or consequentially suffered or sustained by a consumer as a result of or arising from the cessation, interruption or discontinuation of the supply of electricity, unless caused by negligence on the part of the Municipality.

Failure of supply

11.(1) The Municipality does not undertake to attend to any failure of supply within a specified time, but must 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 Municipality must have the right to charge the consumer the fee as prescribed by the Municipality 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 must, 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 Municipality 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 must waive payment of the fee hereinbefore referred to.

(3) The Engineer must give 14 days' 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 must be a condition of the giving of any temporary supply, as defined in these by-laws, that, if such supply is found to interfere with the efficient and economical supply of electricity to other consumers, the Engineer must have the right, with notice, or under exceptional circumstances without notice, to terminate such temporary supply at any time and neither the Municipality nor its employees or contractors must be liable for any loss or damage occasioned by the consumer by such termination.

Resale of electricity

14 (1) Unless otherwise authorised by the Engineer, no person must sell or supply electricity, supplied to his or her premises under an agreement with the municipality, to any other person or persons for use on any other premises, or permit or suffer such resale or supply to take place. If electricity is resold for use upon the same premises, such resale must be subject to the conditions laid down in the Electricity Act No. 41 of 1987.

(2) Where a person resells electricity supplied by the municipality—

- (a) such electricity must, in respect of each purchaser, be metered through a submeter approved by the Municipality;
- (b) the Municipality must not be held liable for any inaccuracy or other defect in any submeter whether or not the Municipality has approved such submeter or the installation thereof, unless the approved submeter was supplied by the Municipality;
- (c) the charge made by such seller must not exceed the tariff which would have been payable had the purchaser been a consumer of the Municipality. With the understanding that the reseller may

divide his total units purchased into his total account received from Municipality to arrive at a cent per kWh unit charge. The reseller can then use this c/unit charge to bill his customers; and

(d) the conditions of resale must not be less favourable to the purchaser than the terms on which the Municipality supplies electricity. The reseller may however recover the administrative cost incurred in metering and billing, from the person so supplied with electricity, provided that at the request of such person, the reseller must furnish such person with such information as may be necessary to enable him to determine whether the administration costs are fair and reasonable and every such purchaser must be entitled to require the seller to furnish him with all such accounts.

Temporary work

15 Electrical installations requiring a temporary supply must 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 must 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

16.1) 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 Municipality, 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 Municipality nor its employees or contractors must be liable for any loss or damage directly or consequentially due to or arising from such interruption and discontinuance of the electricity supply.

(2) The Municipality may install upon the premises of 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 Municipality may at any reasonable time enter any premises for the purpose of installing, inspecting, testing adjusting and/or changing such apparatus and equipment.

(3) Notwithstanding the provisions of sub-section (2), the consumer or the owner, as the case may be, must, 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

17.1.(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 must, unless otherwise approved, be paid for by the consumer.

(2) In the case of a medium voltage supply, all such equipment must be approved by the Engineer and installed by or under the supervision of the Engineer.

(3) No person must 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 must be approved by the Engineer and all earthing and testing of medium voltage equipment linked to the Municipality's network must be conducted by or under the supervision of the Engineer.

(5) In the case of an low voltage supply, the consumer must provide and install an approved low voltage main switch and/or any other equipment required by the Engineer.

Transformer substation accommodation

18.(1) The Engineer may, on such conditions as may be deemed fit, require the owner to provide and maintain approved accommodation which must constitute a substation and which must 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 must 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 Municipality reserves the right to supply its own networks from its own equipment installed in such accommodation, and if additional accommodation is required by the Municipality, such additional accommodation must be provided by the applicant at the cost of the Municipality.

Wiring diagram and specification

19.1 When more than one electrical installation or electricity supply from a common main or more than one distribution board or meter is required for any building or block of buildings, the wiring diagram of the circuits starting from the main switch and a specification must 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 Municipality through mains separate from the general distribution system, a complete specification and drawings for the plant to be installed by the consumer must, if so required, be forwarded to the Engineer for his approval before any material in connection therewith is ordered.

Standby supply

20. No consumer must be entitled to a standby supply from the Municipality 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

21.1 No emergency standby equipment provided by a consumer in terms of any by-laws must 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), must be made in writing and must include a full specification of the equipment and a wiring diagram.

Installation circular letters

22. 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 Municipality regarding matters not specifically covered in these by-laws but which are necessary for the safe, efficient operation and management of the supply of electricity.

CHAPTER 3 SPECIFIC CONDITIONS OF SUPPLY

Service connection

23. The consumer must bear the cost of the service connection, as determined by the Municipality.

- (2) Notwithstanding the fact that the consumer bears the cost of the service connection, ownership of the service connection, laid or erected by the Municipality, must vest in the Municipality.
- (3) The Municipality must be responsible for the maintenance of the service connection up to the point of supply.
- (4) A service connection must be laid underground, whether the supply mains are laid underground or erected overhead, unless an overhead service connection is specifically required by the Engineer.
- (5) The consumer must 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 must have a cross-sectional area of not less than 10 mm² and must be of copper or copper equivalent, and all conductors must have the same cross-sectional area, unless otherwise approved by the Engineer.
- (7) Unless otherwise approved, the Municipality must 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 must be made to accept the seals of the Municipality.
- (9) Within the meter box, the service conductor or cable, as the case may be, must terminate in an unobscured position and the conductors must 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 must 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 must be clearly identified (tied together every 1,5 m) throughout their length.

Metering accommodation

24.(1) The consumer must provide –

- (a) approved accommodation in an approved position;
- (b) the meter board; and
- (c) adequate conductors for the Municipality 's metering equipment, service apparatus and protective devices.

(2) The accommodation and protection referred to in subsection (1) must be provided and maintained, to the satisfaction of the Engineer, at the cost of the consumer or the owner, as the circumstances may demand, and must 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 must be afforded for the inspection of prepayment meters.

(4) Where submetering equipment is installed, accommodation separate from the Municipality's metering equipment must be provided.

(5) The consumer or, in the case of a common meter position, the owner of the premises must provide adequate electric lighting in the space set aside for accommodating the metering equipment and service apparatus.

(6) Where in the opinion of the 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 must remove it to a new position, and the cost of such removal, which must be carried out with reasonable dispatch, must be borne by the consumer.

(7) The accommodation for the Municipality's metering equipment and protective devices may, if approved, include the consumer's main switch and main protective devices. No apparatus other than that used in connection with the supply and use of electricity must be installed or stored in such accommodation unless approved.

CHAPTER 4

RESPONSIBILITIES OF CONSUMERS

Consumer to erect and maintain electrical installation

25.(1) 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, must be provided and erected and maintained and kept in good order by the consumer at the consumer's own expense and in accordance with these by-laws.

(2) Owners with premises composing of thatched roofs must ensure that lightening conductors, which must conform to the standards prescribed in the National Building Regulations and Building Standards Act No. 103 of 1977, are installed in the premises.

Fault in electrical installation

26.(1) If any fault develops in the electrical installation, which constitutes a hazard to persons, livestock or property, the consumer must immediately disconnect the electricity supply. The consumer must without

delay give notice thereof to the Municipality and must immediately take steps to remedy the fault.

(2) The Engineer may require the consumer to reimburse the Municipality for any expense to which it may be put in connection with a fault in the electrical installation.

Discontinuance of use of supply

27. In the event of a consumer desiring to discontinue using the electricity supply, he must give at least two full working days' notice in writing of such intended discontinuance to the Municipality, failing which the consumer must 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

28.(1) In the case of a change of occupier, the consumer must give the Municipality 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 must remain liable for such supply.

(2) If the new consumer desires to continue using the electricity supply, the new consumer must make application in accordance with the provisions of section 3 of these by-laws. If the new occupier fails to make application for an electricity supply within ten working days of taking occupation of the premises, the supply must be disconnected, and the new occupier must be liable to the Municipality for the electricity supply from the date of occupation till such time as the supply is so disconnected.

Service apparatus

29.(1) The consumer must be liable for all costs to the Municipality arising from damage to or loss of any metering equipment, service protective device, service connection or other apparatus on the premises, unless such damage or loss is shown to have been occasioned by an Act of God or an act or omission of an employee of the Municipality or caused by an abnormality in the supply of electricity to the premises.

(2) If, during a period of disconnection of an installation from the supply mains, the service main, metering equipment or any other service apparatus, being the property of the Municipality and having been previously used, have been removed without its permission or have been damaged so as to render reconnection dangerous, the owner or occupier of the premises, as the case may be, during such period must bear the cost of overhauling and/or replacing them.

(3) Where there is a common metering position, the owner of the premises must be liable on the basis set out in subsection (1).

CHAPTER 5

UNAUTHORISED ACTIONS

Tampering with service connection or supply mains

30.(1) No person must 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 Municipality, housed on the property of the consumer.

(2) Where prima facie evidence of tampering exists, or where metering equipment has been by-passed, the Municipality must have the right to disconnect the supply immediately and without prior notice to the consumer.

(3) The consumer must be liable for all fees and charges levied by the Municipality 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 Municipality must have the right to recover from the consumer the full cost of estimated consumption.

(5) No electricity generation equipment provided by a consumer in terms of any Regulations or for his own operational requirements shall be connected to any installation—

(a) without the prior written consent of the Electrical Engineer;

(b) Application for such consent shall be made in writing and shall include a full specification of the equipment and a wiring diagram;

(c) The electricity generation equipment shall be so designed and installed that it is impossible for the Service Provider's supply mains to be energized by means of a back-feed from such equipment;

(d) The position of the installed generating equipment shall not interfere with the supply mains the generating equipment must be installed entirely on the consumer's premises.

(f) The consumer shall be responsible for providing and installing all such protective equipment and for obtaining a Certificate of Compliance issued in terms of the Regulations for the work carried out.

(g) Whereby special agreement with the Service Provider, the consumer's electricity generation equipment is permitted to be electrically coupled to, and run in parallel with the Service Provider's supply mains, the consumer shall be responsible for providing, installing and maintaining all the necessary synchronizing and protective equipment required for such safe parallel operation, to the

satisfaction of the Electrical Engineer.

(h) Under normal operating conditions, any export of surplus energy from the consumer to the Service Provider's network shall be subject to special agreement with the Service Provider.

(i) In the event of a general power failure on the service provider's network protection equipment shall be installed by the consumer, subject to the Electrical Engineer's approval, so as to ensure that the consumer's installation is isolated from the Service Providers network until normal operating conditions are restored, the cost of any specialized metering equipment will be for the consumer's account.

Removal of seals

31. The meter, service protective devices and all apparatus belonging to the Municipality must be sealed or locked by a duly authorized official of the Municipality, and no person not being an official of the Municipality duly authorised thereto must 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

32. 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 must either supply and install the necessary protection or pay the costs thereof where such protection is supplied by the Municipality .

Unauthorised connections

33. No unauthorized person must directly or indirectly connect, attempt to connect or cause or permit to be connected any electrical installation or part thereof to the supply mains or service connection.

Unauthorised reconnections

34.(1) No unauthorized person must reconnect, attempt to reconnect or cause or permit to be reconnected to the supply mains or service connection any electrical installation or installations which has or have been disconnected by the Municipality.

(2) Where the supply that has previously been disconnected is found to have been reconnected, the consumer using the supply must 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

accordance with the prescribed tariff.

(3) The Municipality reserves the right to remove part or all of the supply equipment until such time as payment has been received in full. The consumer will be responsible for all the costs associated with the reinstatement of such supply equipment.

Improper use

35.(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 Municipality may, with or without notice, disconnect the electricity supply but such supply must be restored as soon as the cause for the disconnection has been permanently remedied or removed.

(2) The fee as prescribed by the Municipality for the disconnection and reconnection must be paid by the consumer before the electricity supply is restored, unless it can be shown 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

36.(1) No person must, 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 must limit the height of trees or length of projecting branches in the proximity of overhead lines or provide a means of protection which in the opinion of the 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 Municipality must 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 must be entitled to enter the property for this purpose;

(f) The Municipality may, subject to obtaining an order of court demolish, alter or otherwise deal with any building, structure or other object constructed, erected or laid in contravention with these by-laws.

(g) The municipality may in the case of an emergency or disaster remove anything damaging, obstructing or endangering or likely to damage, obstruct, endanger or destroy any part of the electrical distribution system.

(h) the cost of any such work carried out by the Municipality which was necessary due to the contravention of these by-laws, must be to the account of the person who acted in contravention of these by-laws.

(2) The Engineer may-

(a) demolish, alter or otherwise deal with any building, structure or other object constructed, erected or laid in contravention with these by-laws;

(b) fill in and make good any ground excavated or removed in contravention with these by-laws;

(c) repair and make good any damage done in contravention of these by-laws or resulting from a contravention of these by-laws; 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

37. Alternating current supplies must 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

38.(1) Where the estimated load, calculated in terms of the safety standard, does not exceed 15 kVA, the electrical installation must be arranged for a two-wire single-phase supply, unless otherwise approved by the Engineer.

(2) Where a three-phase four-wire supply is provided, the load must be approximately balanced over the three phases but the maximum out-of-balance load must 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 must be connected to the electrical installation without the prior approval of the Engineer.

Interference with other consumers

39.(1) No consumer must operate electrical equipment having load characteristics which, singly or collectively, give rise to voltage variations, harmonic currents or voltages, or unbalanced phase currents which fall outside the standards determined by the Engineer.

(2) The assessment of interference with other consumers must be carried out by means of measurement taken at the point of common coupling.

Supplies to motors

40. The following limitations are given as a guide in order to comply with section 50:

(1) Limited size for LOW VOLTAGE motors

The rating of an LOW VOLTAGE single-phase motor must be limited to 2 kW and/or the starting current must not exceed 70 A. All motors exceeding these limits must 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 must be related to the capacity of the consumer's service connection, as follows:

Insulated service cable, size in mm ² , equiva- lent mm ²	Maximum permissible starting current A	Suggested maximum motor rating in kW I
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Direct on Star/Delta Other means

	line (6x full-load current) kW	(2,5 x full-load current) kW	(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 must be limited to 1,5 times the rated full-load current of the transformer supplying such a motor.

Power factor

41.(1) If required by the Engineer, the power factor of any load must be maintained within the limits 0,85 lagging and 0,9 leading.

(2) Where, for the purpose of complying with subsection (1), it is necessary to install power factor corrective devices, such corrective devices must be connected to the individual appliance terminals unless the correction of the power factor is automatically controlled.

Protection

42. Electrical protective devices for motors must be of such a design as effectively to prevent sustained overcurrent and single phasing, where applicable.

CHAPTER 7 MEASUREMENT OF ELECTRICITY

Metering

43.(1) The Municipality must, 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 must be ascertained by the reading of the appropriate meter or meters supplied and installed by the Municipality and read at the end of such period except where the metering equipment is found to be defective, in which case the consumption for the period must be estimated.

(3) Where the electricity used by a consumer is charged at different tariff rates, the consumption must 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 must be made on the supply side of the point of metering unless specifically approved in writing by the Engineer.

Accuracy of metering

44 (1) A meter must 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 Municipality must have the right to test its metering equipment. If it is established by test or otherwise that such metering equipment is defective, the Municipality must—

- (a) in the case of a conventional meter, adjust the account rendered;
- (b) in the case of prepayment meters—

- (i) render an account where the meter has been under-registering, or
- (ii) issue a free token where the meter has been over-registering, in accordance with the provisions of subsection (6).

(3) The consumer must be entitled to have the metering equipment tested by the Municipality on payment of the prescribed fee. If the metering equipment is found not to comply with the system accuracy requirements laid down in NRS 057 Part 2, an adjustment in accordance with the provisions of subsections (2) and (6) must be made and the aforesaid fee must be refunded.

(4) In case of a dispute, the consumer must 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 must be final and binding on both parties.

(5) Meters must 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 must 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 must 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(1) to the extent that the Municipality deems it necessary to alter or replace its metering equipment to match the load, the costs of such alteration or replacement must be borne by the consumer.

(9)(a) Prior to the Municipality making any upward adjustment to an account in terms of sub-section (6), the Engineer must-

- (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 must consider any reasons provided by the consumer in terms of subsection (9)(a) and must, if satisfied that a case has been made out therefore, 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 Municipality must be entitled to adjust the account as notified in terms of subsection (9)(a)(i).

Reading of conventional meters

45(1) Unless otherwise prescribed, conventional meters must normally be read at intervals of one month and the fixed or minimum charges due in terms of the tariff must be assessed accordingly. The Municipality must not be obliged to effect any adjustments to such charges.

(2) If for any reason the conventional meter cannot be read, the Municipality may render an estimated account. The energy consumption must 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 must be corrected in subsequent accounts. Any such correction must only apply in respect of accounts for a period of three years preceding the date on which the error in the accounts was discovered, must be free of interest up to the date on which the correction is found to be necessary, and must be based on the actual tariffs applicable during the period.

Prepayment metering

46. (1) No refund of the amount tendered for the purchase of electricity credit must be given at the point of sale after initiation of the process by which the prepayment meter token is produced.

(2) Copies of previously issued tokens for the transfer of credit to the prepayment meter may be issued at the request of the consumer.

(3) When a consumer vacates any premises where a prepayment meter is installed, no refund for the credit remaining in the meter must be made to the consumer.

(4) The Municipality must not be liable for the reinstatement of credit in a prepayment meter lost due to tampering with, or the incorrect use or the abuse of, prepayment meters and/or tokens.

(5) Where a consumer is indebted to the Municipality for electricity consumed or to the 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 Municipality 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 Municipality may, at its discretion, appoint vendors for the sale of credit for prepayment meters and must not guarantee the continued operation of any vendor.

CHAPTER 8

ELECTRICAL CONTRACTORS

In addition to the requirements of the By-laws the following requirements must apply:

47. (1) Where an application for a new or increased supply of electricity has been made to the Municipality, 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 Municipality in no way relieves the electrical contractor/accredited person or the user or lessor, as the case may be, from his responsibility for any defect in the installation. Such examination, test and inspection must not be taken under any circumstances (even where the electrical installation has been connected to the supply mains) as indicating or guaranteeing in any way that the electrical installation has been carried out efficiently with the most suitable materials for the purpose or that it is in accordance with these by-laws or the safety standard, and the Service Authority nor the Municipality must be held responsible for any defect or fault in such electrical installation.

(3) The Service Authority nor the Municipality must be held responsible for the work done by the electrical contractor/accredited person on a consumer's premises and must 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 -

48. The Engineer or any duly authorised official of the Municipality 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 these by-laws 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 Municipality must not be liable for any damage as a result of such removal but must restore such premises to their former condition should no breach of these by-laws be discovered.

Refusal or failure to give information

49 No person must refuse or fail to give such information as may be reasonably required of him by any duly authorised official of the Municipality or render any false information to any such official regarding any electrical installation work completed or contemplated.

Hindering officials

50. No person must wilfully hinder, obstruct, interfere with or refuse admittance to the Engineer or any duly authorised official of the Municipality in the performance of his duty under these by-laws or of any duty connected therewith or relating thereto.

**CHAPTER 9
PENALTIES**

51. (1) Any person who contravenes any of the provisions of sections 4, 6, 12, 13, 20, 25, 26, 27, 29 and 30 of these by-laws must be guilty of an offence and liable upon conviction to the penalties prescribed in the Municipal Systems Act No. 32 of 2000.

(2) Every person committing a breach of the provisions of these by-laws must be liable to recompense the Service Authority or the Municipality 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 1 of these by-laws, must be guilty of a contravention under section 26 unless he proves the contrary on a balance of probability.

CHAPTER 10

GENERAL

Arbitration

52. If at any time any difference or question arises between the Municipality and the consumer as to the construction, meaning or effect of these by-laws 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 must be referred to the National Electricity Regulator for a decision, failing which must be determined by arbitration in terms of the provisions of the Arbitration Act No. 42 of 1965, as amended.

Indemnity

53. The Municipality must 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 Municipality .

Offences

54. 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 –

is guilty of an offence and must be liable on conviction to imprisonment or a fine not exceeding a period of 2 years or R 40 000.00 respectively.

Repeal of existing By-laws

55. The Municipality's existing by-laws are hereby repealed.

Short title and commencement

56. These by-laws must be called the Electricity Supply By-laws, 20__, and must come into operation on publication in an official Provincial *Gazette*.