

KWAZULU-NATAL PROVINCE

KWAZULU-NATAL PROVINSIE

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IMPORTANT NOTICE OF OFFICE RELOCATION**government
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REPUBLIC OF SOUTH AFRICAPrivate Bag X85, PRETORIA, 0001 149 Bosman Street, PRETORIA
Tel: 012 748 6197, Website: www.gpwonline.co.za**URGENT NOTICE TO OUR VALUED CUSTOMERS: PUBLICATIONS
OFFICE'S RELOCATION HAS BEEN TEMPORARILY SUSPENDED.**

Please be advised that the GPW Publications office will no longer move to 88 Visagie Street as indicated in the previous notices.

The move has been suspended due to the fact that the new building in 88 Visagie Street is not ready for occupation yet.

We will later on issue another notice informing you of the new date of relocation.

We are doing everything possible to ensure that our service to you is not disrupted.

As things stand, we will continue providing you with our normal service from the current location at 196 Paul Kruger Street, Masada building.

Customers who seek further information and or have any questions or concerns are free to contact us through telephone 012 748 6066 or email Ms Maureen Toka at Maureen.Toka@gpw.gov.za or cell phone at 082 859 4910.

Please note that you will still be able to download gazettes free of charge from our website www.gpwonline.co.za.

We apologies for any inconvenience this might have caused.

Issued by GPW Communications

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GENERAL NOTICES • ALGEMENE KENNISGEWINGS

NOTICE 1 OF 2020**DEPARTMENT OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS****NOTICE IN TERMS OF SECTION 14(2)(b)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL
SYSTEMS ACT, 2000 (ACT NO. 32 OF 2000)**

1. The Member of the KwaZulu-Natal Executive Council responsible for local government, under the powers vested in her by section 14(2) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000, proposes to publish the following notice:

"In my capacity as Member of the KwaZulu-Natal Executive Council responsible for local government, under powers vested in me by section 14(2) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000, after having consulted the Minister of the Co-operative 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."

2. Municipalities, the public and interested parties are invited to submit comments in writing on the standard draft by-law, by not later than thirty days after the publication hereof, by-

- (a) post to the Head of Department, Co-operative Governance & Traditional Affairs, Pietermaritzburg, Private Bag X 9123, 3200 for the attention of Mr Zakhele Majozi;
- (b) hand delivered to the 7th floor, Southern Life Plaza, 271 Church Street, Pietermaritzburg, 3200, for the attention of Mr Zakhele Majozi;
- (c) facsimile to 033 355 6559; or
- (d) email to zakhele.majozi@kzncogta.gov.za

SCHEDULE

- 1. Cemeteries, Crematoria and Undertakers By-law
- 2. Credit Control and Debt Collection By-law
- 3. Sewage Disposal By-law
- 4. Parks and Recreational Grounds By-law
- 5. Environmental Health By-law

MUNICIPALITY: CEMETERIES AND CREMATORIA BY-LAW, 2020

Adopted by Council on the:

CEMETERIES AND CREMATORIA BY-LAW, 2020

To provide for the establishment, control and maintenance of public and private cemeteries and crematoria within the area of jurisdiction of the _____ Municipality; to regulate the use and management of cemeteries and crematoria within the Municipality's area of jurisdiction; 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 control and regulate the establishment and use of cemeteries and crematoria within its area of jurisdiction;

WHEREAS the Municipality is the cemetery authority within the definition of section 1 of the KwaZulu-Natal Cemeteries and Crematoria Act, 1996 (Act No. 12 of 1996) and, as such, is empowered to establish and to operate cemeteries and crematoria, as well as to issue valid certificates of registration in respect of private cemeteries and crematoria within its area of jurisdiction;

AND WHEREAS the Municipality must strive to strike a balance between the protection of cultural rights and the protection of the environment in the operation of cemeteries and crematoria within its area of jurisdiction;

NOW THEREFORE the Municipal Council of the _____ Municipality, acting in terms of section 156 read with Schedule 5 (Part B) of the Constitution of the Republic of South Africa, 1996 and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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CHAPTER 1
INTERPRETATION

Definitions

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

"Act" means the KwaZulu-Natal Cemeteries and Crematoria Act, 1996 (Act No. 12 of 1996");

"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, 1977 (Act No. 51 of 1977);

(b) municipal or metropolitan police officers as contemplated in the South African Police Services Act, 1995 (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;

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

"burial" means burial in earth or any other environmentally friendly method of disposal of human remains, and **"disposal"** has a corresponding meaning;

"burial order" means a burial order as contemplated in section 26 of the Births and Death registration Act, 1993 (Act no 51 of 1992);

"burial place" means any public, private or other place which is used for a burial;

"cemetery" means any place—

(a) where human remains are buried in an orderly, systematic and pre-planned manner in identifiable burial plots; and

(b) which is intended to be permanently set aside for and used only for the purposes of the burial of human remains;

"cemetery authority" means the _____

Municipality;

"competent officer of the law" means a judicial officer who is authorised by law to issue an order for the exhumation of a corpse;

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

"cremate" means to reduce any human remains to ashes and **"cremation"** has a corresponding meaning;

"crematorium" means any building or structure in respect of which authority has been granted for human remains to be cremated therein or thereon;

"exhumation" means the removal of human remains from the grave in which they are placed for burial;

"grantee" means a person to whom the right to use a private grave site for a determinate or indeterminate period has been granted or such person's heir or successor in title;

"grave" means an excavation in which human remains have been intentionally placed for the purpose of burial, but excludes any such excavation where all human remains have been removed;

"Head" means the Head of Parks, Recreation and Culture of the Municipality, and includes any person—

(a) acting in that position; or

(b) to whom the Head has delegated or sub-delegated a power, function or duty in accordance with the system of delegation developed by the Municipal Manager in terms of section 59 of the Local Government: Municipal Systems Act, 2003 (Act No. 32 of 2000);

"Head of Health" means the person lawfully acting in the capacity of Head in the department responsible for Health in the _____ Municipality or a duly authorised representative;

"human remains" means any human corpse or any tissue or bone which is identifiable as having formed part of a human corpse, but does not include the ashes remaining after a human corpse has been cremated;

"landscaped cemetery" means a park-like cemetery in which the erection of upright headstones is not permitted;

“lawned area” means an area set aside by the Head from time to time in any portion of a cemetery as determined by the Head where no memorial work of any nature whatsoever is permitted on a single grave site or plot other than a headstone;

“leased grave” means any piece of land within a public cemetery laid out or demarcated as a single grave, in respect of which any person has purchased the exclusive right to use over a stipulated period, for burial purposes in terms of this By- law;

“lessee” means the person, who has purchased the exclusive right to use a specified gravesite or plot for the period of the lease;

“memorial work” means any tombstone, railing, fence, monument, tablet, memorial inscription, kerbing or other work erected or which may be erected on any grave or plot;

“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 and established in terms of PN343 of 2000 (KZN);

“municipal manager” means a person appointed as Municipal Manager in terms of applicable legislation;

“pauper burial” means the burial of any person by the Municipality through an undertaker contracted by the Municipality for that purpose due to the identity or the next of kin of such person being unknown to the Municipality, and **“pauper”** has a corresponding meaning;

“person” means a natural or juristic person, excluding a local council or tribal authority as defined in section 1 of the Act;

“plot” means any two or more graves for family burials in respect of which any person has purchased the exclusive right over a stated period to use the same for burial purposes in terms of this By-law;

“private cemetery” means a cemetery established or deemed to be established in terms of the Act and which is maintained by or on behalf of any person, either natural or juristic, for –

(a) commercial purposes;

(b) persons of the same religious belief, denomination or sect, principally if not solely, for the burial therein of deceased persons of such belief, denomination or sect; or

(c) burial therein of deceased members of the family or deceased employees of the person who established such cemetery and is responsible for the maintenance thereof;

“proprietor” in relation to a private cemetery, means any person or any association of persons, whether incorporated or not, responsible for the administration and maintenance of a private cemetery, and includes any trustee or trustees acting on behalf of any such person or association of persons;

“public cemetery” means any cemetery owned, established, maintained by or legally vested in the Municipality;

“public grave” means any grave in a public cemetery in respect of which any person has purchased or may purchase the right of having a single body interred without obtaining any exclusive right to such grave;

“Regulations” means the Cemeteries and Crematoria Regulations in terms of Act No. 12 of 1996, published in Proclamation No. 130 of 1997;

“Supervisor” means –

(a) in the case of a cemetery owned and controlled by the Municipality, the person appointed by the Municipality to manage the same under the control and direction of the authorised official; and

(b) in the case of a private cemetery, the person appointed by the proprietor thereof to manage the same and keep the records thereof;

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

“tribal authority” means a tribal authority as defined in section 1 of the Act; and

“undertaker” means any person whose business is to carry out arrangements for the burial of corpses.

Interpretation of the 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 regulate the establishment, control, maintenance And the use of public and private cemeteries and crematoria within the municipality's area of jurisdiction.

**CHAPTER 2
APPLICATION****Application of By-law**

4.(1) This By-law applies to the area of jurisdiction of the Municipality, including any area within the boundaries of the Municipality which falls under the jurisdiction of a tribal authority, in respect of any—

(a) cemetery; and

(b) crematorium,

established by the Municipality or any person in terms of the Act.

(2) Notwithstanding the provisions of subsection (1), the application of this By-law may be extended by consent to any area within the boundaries of the Municipality which falls under the jurisdiction of a tribal authority.

**CHAPTER 3
PRIVATE CEMETERIES AND CREMATORIA****Establishment and use of private cemeteries and crematoria**

5. Subject to the provisions of section 7, a person may, in the manner prescribed in this By-law, establish and operate one or more cemeteries or crematoria.

Certificate of registration of a cemetery or crematorium

6.(1) A cemetery or crematorium established in terms of section 5 may be operated by any person, including such person's employees, servants, agents, contractors or successors in title in whose name a certificate of registration has been issued by the Municipality in terms of section 14 of the Act.

(2) A registration certificate contemplated in subsection (1) may be issued by the Municipality with or without conditions.

(3) Any registration certificate which was validly issued by a competent authority in terms of any other law prior to this By-law taking effect, and which has not been withdrawn or cancelled, shall be deemed to have been issued in terms of this By-law.

(4) Notwithstanding the provisions of subsection (1), a person may cause to be registered an informal cemetery which has been in existence prior to the Act coming into effect and, once registered, the provisions of this By-law will become applicable to the informal cemetery concerned as if it was duly established in terms of this By-law.

Application procedure.

7. An application by a person for approval to establish or extend a cemetery or crematorium must be made in writing addressed to the authorised official, and must be accompanied by—

(a) a locality plan to a scale of not less than 1 in 10 000, showing—

(i) the position of the proposed cemetery or existing cemetery in relation to the boundaries of the land upon which it is proposed to establish it or upon which it is situated, as the case may be;

(ii) the full registered property description of the land upon which the cemetery is to be established or extended, showing all streets, public places and privately- owned property within a distance of 100 metres of the site;

(iii) the name of the registered owner or owners of such property; and

(iv) all public roads, streets, thoroughfare or public places within or adjoining such property;

(b) a block plan of the cemetery and, where applicable, the proposed extension to the cemetery, to a scale of at least 1 in 500 showing the position of external boundaries, internal roads and paths, sub-divisions, grave sites, drainage and any buildings, existing or proposed to be erected;

(c) the full name of the person or body who will operate such cemetery;

(d) a certificate that the establishment or extension of the cemetery will not constitute an actual or potential source of atmospheric or water pollution or any other health hazard: Provided that the authorised official may refuse to accept a certificate which has been given by a person or body who, in his or her opinion, is not sufficiently qualified to issue such a certificate;

- (e) a plan and sections to a scale of at least 1 in 100 of any building existing or proposed to be erected, and which shall in this case conform with the Building and Sewerage By-laws of the _____ Municipality;
- (f) a list of registers or records kept or proposed to be kept with reference to identification of graves, sale or transfer of grave sites and interments;
- (g) the full name and address of the proprietor;
- (h) the nature of the title under which the proprietor will hold or holds the land on which the cemetery is to be established or which is being used as a cemetery, and whether such land is subject to any mortgage or trust; and
- (i) a schedule of the burial fees proposed to be charged or actually in force.

Publication of a notice of application

8. Once an application for approval has been lodged in terms of section 7, the applicant must cause to be published in one or more newspapers circulating in the Municipality's area of jurisdiction a notice stating the nature of the application and specifying the date, being not less than 14 days after the date of publication of such notice, by which objections to the granting of such application may be lodged with the authorised official.

Discretion to grant or refuse an application

9(1) The Municipality may grant or refuse an application for the establishment of a proposed private cemetery or crematorium, or the continued use thereof.

(2) In evaluating an application the Municipality must consider the following—

- (a) any objections received;
 - (b) any disturbance to public amenity or any nuisance or danger to public health which is likely to take place or arise as a result of the establishment of the proposed cemetery or crematorium;
 - (c) Suitability of land in respect of earth surface, hydrological and soil conditions as determined technical studies and authorized by competent authority in terms of the National Environment Management Act, 1998;
 - (d) Compliance with spatial plans of the area;
 - (e) Approval of zoning of the land use for burial purposes;
 - (f) Access and connectivity to municipal services
- and
- (g) any other relevant factors that the Municipality deems necessary for the purposes of evaluating an application.

(3) Such approval may be subject to any variation, amendment or conditions which the Municipality may deem appropriate to impose.

(4) A deviation or departure from the plans as approved in terms of subsection (1) is not permitted without the prior approval of the authorised official.

Duties of proprietors

10. Every proprietor of a private cemetery or crematorium, the establishment or continued use of which has been authorised by the Municipality, must—

- (a) comply with any special conditions prescribed by the Municipality;
- (b) keep or cause to be kept a record or records showing—
 - (i) the number of each grave site and the ownership thereof; and
 - (ii) the number of interments in each grave site and the name, age, sex, race, last known address, date and cause of death in each case;
- (c) comply with the relevant provisions of the Act and any Regulations made thereunder;
- (d) maintain all grounds, fences, gates, roads, paths and drains in good order and condition and clear off weeds and overgrowth;
- (e) provide for the identification of grave sites by subdividing the cemetery into blocks each containing a number of graves or grave sites and each block being demarcated by means of signs showing the number and situation of each block;
- (f) separately number the graves or grave sites in each block by means of durable number plates;
- (g) maintain all signs and number plates in a neat and legible condition;
- (h) allow authorised officials to enter or inspect the cemetery and all records kept in connection there with;
- (i) render a monthly return to the authorised official on or before the 7th day in each month of all burials detailing the name, last known address, age, sex, race, date and cause of death in each case, and the name of the medical practitioner who issued the certificate of death, the authority who issued the burial order, the block and grave site number and the date of burial;
- (j) render an annual return to the authorised official on or before the 31st day of March each year containing a detailed list of the names and addresses of all trustees, committee members or persons controlling the cemetery or cemeteries concerned;
- (k) appoint a Supervisor to manage the cemetery and to keep the records thereof; and (l) notify the authorized official of any new appointment or change in the identity of the Supervisor on the monthly return rendered in terms of paragraph (j).

CHAPTER 4

PUBLIC CEMETERIES AND CREMATORIA

Establishment and use of public cemeteries and crematoria

11. The Municipality may, in the manner prescribed in the Regulations, establish and operate such number of cemeteries and crematoria as it may deem appropriate within or outside its area of jurisdiction.

Operation of a public cemetery or crematorium

12. A cemetery or crematorium established by the Municipality in terms of section 11 may be operated by the Municipality through any one or more of its employees, agents or contractors.

Management and control

13.(1) Every public cemetery or crematorium vesting in, owned or controlled by the Municipality must be managed by a Supervisor under the control and direction of the authorised official in accordance with this By-law.

(2) In the event of a Supervisor having not been appointed or if the appointed Supervisor is unable for any reason to carry out his duties, the authorised official or his duly authorised representative must be the Supervisor in terms of this By-law for the time being.

Duties of the Supervisor

14.(1) In order to ensure proper management and effective control of a public cemetery or crematorium, the Supervisor must—

(a) ensure that the Supervisor's office is open to the public between the office hours as determined by the Municipality from time to time;

(b) keep and maintain an accurate register of all burial and cremations in such cemetery or crematorium, which register must be kept open for inspection by members of the public during office hours; and

(c) keep a plan or diagram of the cemetery, which must be kept open for public inspection during office hours, showing—

(i) the area and situation of all grave sites and plots separately numbered and marked;
and

(ii) each single grave site included in any one plot separately indicated and marked.

(2) In the event of a dispute, the information recorded on the plan or diagram referred to in subsection (1) as to the area, situation, number or identity of any grave or plot shall be conclusive.

(3) The Supervisor may level any grave as and when it is deemed necessary to do so for the purposes of land management.

Admission hours

15.(1) All public cemeteries and crematoria must be open to the public at a time determined by the Municipality.

(2) Subject to subsection (1), a person may not enter or be in a public cemetery or crematorium at any other time unless—

(a) authorised by the Supervisor; or

(b) attending a burial authorised in terms of this By-law to take place outside the official opening hours.

Booking for burial

16.(1) A person who wants to make a booking for a burial must make a request to that effect either in person or through an authorised representative at the nearest Municipal office designated by the authorised official for that purpose.

(2) Subject to subsection (4), a booking for burial must be made at least six business hours prior to the time of the burial, and if the booking is made on the same date as the date on which the burial is supposed to take place, such booking must be made not later than 10:00am on that date;

(3) Notwithstanding the provisions of subsection (2), the authorised official may, in his or her sole discretion, charge—

(a) a late burial fee in respect of any burial which is scheduled to take place and extends beyond the normal operating hours of the cemetery due to any reason; or

(b) a special late burial fee in respect of any booking made after 10:00am on the same date as the date on which the burial concerned is scheduled to take place.

(4) All burials must take place between the hours of 09:00am and 3:00pm daily, unless the authorised official grants approval on good cause shown for burial to take place outside the normal burial hours.

CHAPTER 5

CONTROL AND REGULATION OF BURIALS

Conveyance of human remains to the cemetery

17. Any person conveying human remains or having charge of human remains being conveyed to any cemetery must convey the same in an orderly and proper manner and in a proper coffin or other decent and sufficient covering material.

Interment not permitted without burial order

18. An interment is not permitted in any cemetery except upon producing to the Supervisor a burial order issued in terms of the Regulations, save in cases where otherwise provided for in the Births and Deaths Registration Act.

Exemption from liability

19. The Municipality is not liable to any person for any loss or damage resulting from or arising out of or in any way connected with the use of a cemetery or the condition of the soil or land on which a cemetery is established.

Vaults in cemeteries

20.(1) Except for vaults which existed prior to the promulgation of this By-law, the use and maintenance of which must be carried out as set out in subsection (2), the building of vaults in cemeteries is not allowed.

(2) Subject to subsection (1), any person who in any part of a cemetery has caused a vault to be built for use as a burial place must, at such person's own cost, ensure that such vault remains enclosed with walls constructed of good brick or stone properly bonded and solidly put together with good cement mortar, or other materials approved by the authorised official.

(3) Any person who in any part of a cemetery buries human remains in an existing vault must at such person's own cost open such vault and after the deposit of the coffin containing such remains must, unless the coffin is hermetically sealed immediately, cause the coffin to be wholly and permanently

enclosed in a separate cell or receptacle which must be constructed of good brickwork or other suitable material properly jointed in cement and in such a manner as to prevent, as far as practicable, the escape of noxious gas from the interior of the cell or receptacle which must be left permanently undisturbed.

Depth of graves

21.(1) A grave must not be less than 1.80 m in depth and human remains interred therein must not be nearer than 1.25 m to the surface of the ground.

(2) Notwithstanding the provisions of subsection (1), the authorised official may determine the depth of a grave to be greater than 1.80 m.

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

Number of burials and capacity of cemeteries

22.(1) Notwithstanding anything to the contrary contained in this By-law, the Municipality is entitled to determine the—

(a) number of burials per week in a cemetery; and

(b) burial capacity of a cemetery,

taking into account such factors as the Municipality may, in its discretion, consider relevant and necessary.

Opening and closing of graves

23. The Supervisor must arrange for the opening and closing of all graves and a person may not open, re-open or close a grave or assist in doing so except with the Supervisor's consent and, where practicably possible, under the Supervisor's supervision.

Exhumations

24.(1) Application for the exhumation of any human remains shall be made to the MEC for Local Government in the prescribed form and shall be signed by the next-of-kin or may, with his written approval, be signed by any other person: provided that where the consent of the next-of-kin is not readily obtainable, the applicant shall state the special circumstances of the case and furnish details of the effort made to obtain such consent.

(2) A person may not exhume any human remains without the consent of the authorised official, except where the human remains are to be exhumed for the purpose of any judicial or other enquiry upon an order of a competent officer of the law: Provided that the authorised official must only give his or her consent on the production to him or her of a certificate from the Head of Health that he or she is satisfied that the opening of the grave and the exhumation can be carried out without danger to public health.

(3) During the exhumation the Supervisor must cause the block in which the grave is situated to be closed to the public. Any person who disobeys any sign or instruction erected or given by the Supervisor in terms of this section forbidding entry on the block is guilty of an offence.

(4) The grave from which any human remains are to be removed must be effectively screened from public view during the exhumation and a shell must be kept in readiness at the grave.

(5) Whenever giving his or her consent in terms of subsection (1), the authorised official must stipulate the hours during which such exhumation may take place.

(6) Subject to the provisions of this section, the exhumation must be carried out in accordance with the provisions of Chapter III of the Act and regulations

Fees and charges

25.(1) The fees payable to the Municipality for interments, grave sites and plots, and for other services and facilities supplied by the Municipality are as prescribed by the Municipality in the Tariff By-law.

(2) All such fees and charges, unless previously paid, as may be due must be paid at the time an application for burial is made.

(3) Undertakers and managers or officials of public institutions approved by the Municipality may make special arrangements for payment of such fees and charges monthly. Where any such institution enters into an arrangement to pay such fees and charges monthly, the Municipality's Chief Financial

Officer may require such institution to provide a written guarantee from a registered bank or insurance company, in a form to the satisfaction of the Chief Financial Officer, for an amount equivalent to the estimated value of burial fees which are likely to be incurred over a period of two months.

(4) Notwithstanding the provisions of subsections (1) and (7) of section 26 of this By-law, the rights acquired by any person under a lease with the Municipality and the tariff relating to fees and charges in respect of such lease applicable prior to this By-law coming into effect must be preserved.

(5) Pauper burials and the burial of persons whose immediate families qualify as indigent in terms of the criteria adopted by the Municipality are exempt from payment of any fees or charges referred to in this section.

Sale of right to use private graves

26.(1) The Municipality may, in its discretion, grant to any person for a period of 10 years the exclusive right of such person's next of kin to remain interred in a single grave site. Where such right is granted for a period of 10 years, the lessee or his or her heirs or successors in title are entitled to renew the same in terms of subsection (7) hereof for a further period of 10 years.

(2) Any person desiring to acquire the right to use a private grave as contemplated in subsection (1) must apply in writing to the authorised official and the appropriate charge prescribed in the tariff of charges must accompany the application.

(3) The allotment of a private grave must be recorded in a register and a certificate must be issued in the prescribed form by the Municipality to the applicant. In the event of the said certificate being lost or mislaid, a written confirmation of title to a private grave may be obtained from the authorised official on payment of the appropriate fee prescribed in the tariff of charges. If the application is not granted, the authorised official must return to the applicant the amount deposited. Such private grave must then be held subject to the Cemeteries and Crematoria By-law from time to time in force.

(4) The right to use a private grave must not be transferred without the approval of the authorised official: Provided that any person dissatisfied with any decision of the authorised official may lodge an appeal against such decision to the municipal manager in terms of section 62 of the Systems Act.

(5) An application to transfer an existing right to use a private grave must be made by the holder of the certificate or his or her lawful representative and must be accompanied by the prescribed transfer

fee. The certificate must be attached to the application and the full name and address of the transferee must be shown.

(6) The transfer of an existing right referred to in subsection (5) must be registered by the authorised official, failing which such transfer will not be regarded as valid. In the event of an existing right to use a private grave or plot being transferred back to the Municipality, the original purchase price must be refunded and no transfer fee is payable in respect thereof.

(7) Any lessee desiring to renew any certificate issued in terms of this By-law or its predecessors may do so on expiry of the initial period of 10 years, and on payment of an amount equal to that paid on acquisition of the right to use the grave or plot or such other amount as may be prescribed in the tariff of charges applicable at the time of such renewal. Applications must be made in writing before the expiry of the initial period of 10 years, and the certificate must be produced to the authorised official, who must endorse the renewal thereon.

(8) All private graves must be used and maintained in conformity with the provisions of this By-law as amended from time to time.

(9) In the event of failure by a lessee to renew a certificate in terms of subsection (7) the Municipality may at any time repossess and use the private grave site or plot to which that certificate related.

(10) The Municipality may, at any time after the expiry of 10 years, issue a notice to repossess the right to use a private grave site or plot in perpetuity, where the grantee has failed to comply with the requirements set out in section 35 of this By-law.

(11) Where the whereabouts of the grantee are unknown and cannot, with the exercise of reasonable diligence be ascertained, and before exercising the power to repossess in terms of subsection (10), the Municipality must publish in—

- (a) a newspaper circulating within the Municipality's area of jurisdiction; and
- (b) at least two official languages,

a notice of its intention to repossess such private grave site or plot upon the expiry of three months from the date of such notice.

(12) Where a grave site or plot in any public cemetery is required for public or municipal purposes, the authorised official may allocate another grave site or plot in the same cemetery or in any other public cemetery to the grantee or lessee concerned, in exchange for the grave site or plot required for public or municipal purposes.

Re-opening of private graves and number of bodies in one grave

27.(1) The consent of the person who is the registered holder of a certificate for the use of a private grave or plot or of his lawful representative must be produced to the Supervisor prior to any private grave being reopened for fresh interment.

(2) To avoid undue opening of a grave and the placing of an undesirable number of bodies therein, the Supervisor must decide how many interments may be made in one grave.

Type of coffin permitted

28.(1) A person may not place or cause to be placed in any public grave, private grave or plot in any cemetery a coffin constructed of any material other than biodegradable material which is environmental friendly.

(2) The provisions of subsection (1) must not be interpreted to prevent the use of other burial methods which utilise biodegradable environmentally friendly materials, including but not limited to a cloth and/or a shroud.

Payment of burial fee

29.(1) Any person who desires to have a body interred in a public grave must pay the burial fee prescribed in the tariff of charges. Such fee entitles the person concerned to a single interment only, and the allocation of the grave must be determined by the Supervisor in his or her sole discretion.

(2) The prescribed fee must be paid directly to the municipal account.

(3) Where the prescribed charge for the use of a public grave has been paid by or on behalf of any person, the representatives of such person may be permitted within six months after the date of the burial to acquire such grave as a private grave upon payment of the charge prescribed for the purchase of the right to use a private grave.

(4) Notwithstanding the provisions of subsection (1), no burial fee is payable in respect of any pauper burial or the burial of any person whose family or immediate next of kin qualify as indigent in terms of the applicable criteria adopted by the Municipality from time to time.

(5) The burials referred to in subsection (3) must be undertaken by the funeral undertaker contracted to the Municipality following the normal tendering process of the Municipality.

Standard size of graves

30. The standard size of all single grave sites in a public cemetery is 2.40 m by 1.10 m: Provided that the provisions of this section do not apply to grave sites in any public cemetery which were laid out prior to 1956 and which are shown on the final plan of such cemetery to be of a greater or lesser size than that prescribed by this section.

Funeral ceremonies

31.(1) The person having charge of a funeral must make all arrangements for the carrying out at such funeral of the requisite religious ceremony or rites.

(2) A person may not conduct a religious ceremony or service according to the rites of any denomination in such portion of a cemetery as may be set apart for members of other denominations.

Entrance to and exit from cemetery

32. A person must enter or leave the cemetery only through the gates or entrances constructed and provided by the Municipality for that purpose.

Use of Vehicles in Cemetery

33.(1) A person must not, without the permission of the Supervisor, take into the cemetery any car, cart, carriage or other vehicle, unless such vehicle is required for the conveyance of—

- (a) the human remains;
- (b) mourners and persons concerned with the conduct of a funeral;
- (c) memorial work;
- (d) persons visiting and maintaining grave sites; or
- (e) any other persons or materials which the authorised official may permit.

(2) A person must not take into the cemetery any car, cart, carriage or other vehicle where its gross mass is in excess of 6 000 kg.

(3) All vehicles lawfully within the cemetery must proceed at a speed not exceeding 15 km/h therein, and it is prohibited for any vehicle to pass in close proximity to any point where a funeral service is being conducted.

Tampering with graves prohibited

34. A person must not in any way tamper or interfere with any grave, memorial work, official sign or other erection in a cemetery, save insofar as may be necessary in connection with any work which such person has been authorised to do in terms of this By-law.

Graves and memorial work to be kept clean and in good repair

35.(1) The lessee or grantee of a specified grave or plot must keep such grave or plot—

- (a) free from weeds;
- (b) in proper order;
- (c) clean; and
- (d) in a proper state of repair.

(2) If any such grantee neglects to attend to any grave or memorial work erected thereon, the Municipality may issue a notice calling upon him or her, within a stipulated period, to—

- (a) maintain such grave in proper order; or
- (b) repair, renovate or remove any memorial work which is in a dilapidated, ruinous or unsightly condition.

(3) If the whereabouts of the lessee or grantee are unknown to the Municipality or if the lessee or grantee fails to execute the necessary work, within the period stipulated in the aforesaid notice referred to in subsection (2), the Municipality may itself carry out such maintenance, repair, renovation or removal as it may consider necessary and recover the cost thereof from the lessee or grantee.

(4) Grass, weeds or other material cleaned off a grave must not be deposited or thrown onto an adjoining grave or any other grave or plot or onto any road, path or vacant land, but must be either removed from the cemetery or placed into receptacles or containers provided for that purpose.

(5) The lessee or grantee of a private grave or plot in any public cemetery is deemed in terms of this subsection to have indemnified the Municipality, the authorised official and all municipal employees in respect of any damage howsoever caused to or theft of any memorial work erected or which may be erected on any private grave or plot and to have absolved them from any liability for such damage or theft.

Trees or plants on grave sites

36. A person may not, without the consent of the Supervisor, plant on any gravesite in the cemetery, whether such grave site be occupied or not, any tree or shrub or any species of plant capable of holding water in which insects can breed. The Supervisor may at the lessee's expense

prune, cut down or dig up and remove any shrub, plant or flower at any time if in the authorised official's opinion the same has become unsightly or overgrown or is causing a nuisance, damage to an adjoining grave, or when it is necessary for the purpose of allowing the grave to be used again.

Unsightly objects not allowed

37. A person may not keep or allow to remain on any grave site in the cemetery, whether occupied or unoccupied, any tins, bottles, old crockery or other unsightly objects, and the Supervisor is authorised to remove any such objects, as well as any broken, dilapidated or unsightly wreaths, vases or receptacles.

Memorial work plans to be submitted

38. A person who wishes to erect, alter or add to any memorial work in the cemetery must first submit to the authorised official the plans of such work, together with any inscriptions to be made thereon, and if the authorised official grants his or her approval thereof, he or she must issue written permission in a form prescribed by the Municipality for that purpose, subject to payment by the person concerned of the appropriate fee prescribed in the tariff of charges, and the erection of such memorial work must be carried out under the direction of the authorised official.

Erection of a headstone or tombstone

39.(1) The type of memorial work allowed for erection in a cemetery is a headstone or tombstone, the erection of which must be in accordance with the specifications and guidelines determined by the Municipality from time to time.

(2) Any person desiring to erect a headstone or tombstone at a grave site must make a request in person or through an authorised representative to the booking clerk at the regional centre or designated municipal office nearest to the cemetery in question, and present to the booking clerk such documents as may be required by the Municipality for that purpose, including—

- (a) the applicant's original identity document or passport;
- (b) proof of exclusive right of use for a particular grave, such as a certified copy of receipt or certificate of ownership; and
- (c) a sketch plan for stone work.

(3) Subject to payment of a prescribed fee in respect thereof, a headstone or tombstone must be erected in accordance with the sketch plan submitted by the applicant to the booking clerk in terms of

subsection (2), which must comply with the specifications and guidelines determined by the Municipality in terms of subsection (1).

(4) Any person who erects a headstone or tombstone in contravention of subsection (2) or who, in erecting such stone, encroaches upon a road, path or adjoining ground or grave must, upon being required in writing to do so by the authorised official, comply with subsection (2) or remove such encroachment.

(5) Upon failure to remove such encroachment in the time specified in the notice, the Municipality may remove the whole of the work and claim the total cost incurred from the person concerned.

(6) All memorial work to be erected in the cemetery must as far as possible be brought into the cemetery in a state prepared and ready for fitting.

(7) Under no circumstances must any portion of the cemetery be used for the purpose of manufacturing any headstones or tombstones without the consent of the authorised official, who may in his or her discretion on application grant facilities in unused portions of the cemetery for such purposes.

(8) Any person intending to carry out any such work in terms of subsection (7) in the cemetery must, before commencing work, report his or her intentions to do so to the Supervisor.

(9) A headstone or tombstone or any other fixture of any kind must not be placed on a public grave.

Clearing of sites after completion of work

40. In the erection of memorial work, building or any other work of a similar nature in the cemetery the person engaged in such work must, on the completion thereof, clear up the ground or grave on which he was employed and leave the same clean and tidy.

Removal of memorial work

41. A person may not remove from the cemetery any memorial work, unless such person obtains prior consent of the authorised official in writing upon written application submitted by such person on the form prescribed by the Municipality for that purpose.

Replacement or re-erection of memorial work

42. The grantee or lessee of any private grave site or plot in the cemetery or the accredited representative of the grantee or lessee who requires any memorial work or any other erection to be removed, to permit a burial or for any other purpose, must apply to the authorised official for his or her consent to do so and must, if called upon to do so, cause all such erections so removed to be replaced or re-erected on the site within a period of two months of the date of such removal.

Exclusion of memorial work

43. The authorised official may prohibit the erection of any headstone upon any grave which is of inferior quality or workmanship or which is likely in any way to disfigure the cemetery.

Lawned areas

44.(1) The authorised official may set aside a portion of a cemetery for use as a lawned area.

(2) The maximum dimensions for a headstone shall be—

- (a) restricted to 450 mm in height above ground level;
- (b) 600 mm in width; and
- (c) 200 mm in thickness at the base.

(3) The maximum dimensions of a vase shall be—

- (a) restricted to 225 mm in height above ground level;
- (b) 200 mm in width; and
- (c) 200 mm in thickness at the base.

(4) Where the vase or vases are incorporated into an extension of the base of the headstone, the maximum dimensions of the extended base of the headstone shall be—

- (a) restricted to 125 mm in height above ground level;
- (b) 950 mm in width; and
- (c) 200mm in thickness.

(5) An area not extending further than 400 mm in front of the headstone may be set aside as a garden area.

(6) Once an area is set aside for use as a lawned area, no person is allowed to introduce into that area any memorial work other than a headstone, garden or vase as described above in subsections (2), (3) and (4).

Landscaped cemetery

45. The erection of an upright headstone is not allowed in any cemetery which is designated a landscaped cemetery by the Municipality.

CHAPTER 6

CONTROL AND REGULATION OF CREMATIONS

Booking for cremation

46.(1) Any person who wishes to make a booking for a cremation must make a request in person at his or her closest regional centre, and must present to the regional centre concerned such documents as may be required by the Municipality from time to time as part of the application process.

(2) The request for cremation must be made at least two hours before the time applied for, and not less than two hours before the closing time for the cremation.

(3) If two or more requests are made for cremation at the same time and at the same crematorium, the authorised official must decide the order in which the cremations shall take place.

Hours of cremations

47.(1) Cremations at any crematorium must be carried out on such days of the week and during such times as may be determined by the Municipality from time to time, which must be clearly and conspicuously displayed at the entrance to the crematorium.

(2) The first cremation must be carried out at least one hour after the opening time for the cremation and the last cremation at least two hour before the closing time: Provided that the authorised official may on good cause shown authorise a cremation to take place outside the normal operation hours for the cremation concerned.

Control of funeral services

48.(1) Every service, ceremony or funeral in connection with a cremation is subject to the general control of the authorised official while within the cemetery, and a person attending any such service, ceremony or funeral must not willfully disregard a lawful and reasonable order of the authorised official while within the cemetery.

(2) The authorised official may exclude any person whose presence, in his or her discretion, is likely to cause pain or annoyance to other persons attending the ceremony,

and to remove any person who refuses to comply with any order or direction given in the exercise of the powers granted under this By-law.

Coffin specifications

49.(1) A person presenting a dead body for cremation in terms of this By-law must ensure that such body is enclosed in a coffin constructed in accordance with the specifications stipulated in subsection (2) and in such a way that it is not offensive or objectionable, failing which the authorised official may refuse to authorise the cremation of such body.

(2) The coffin referred to in subsection (1) must comply with such specifications as may be stipulated by the Municipality from time to time, including the following:

(a) it must not exceed 2,2m in length by 0,85m in width and 0,5m in depth, and must be made of some readily combustible wood, such as deal, white pine or three-ply wood, without the use of any metal nails;

(b) it may be polished and may have the usual furniture finish, but the handles and name-plates (if any), unless made of some readily combustible material, must be so fixed as to be easily removed;

(c) pitch and sawdust must not be present in any form;

(d) there must be no cross-pieces or projections of any kind under the sole or on the bottom of the coffin and all wooden pegs on this part of it must be carefully countersunk; and

(e) if necessary, a thick zinc lining may be inserted in a coffin, but no metal other than zinc must be used.

(3) The authorised official is entitled to refuse to proceed with the cremation of any remains where the coffin containing the remains does not comply with the specifications stipulated in subsection (2).

(4) Nothing in this By-law prevents the use of a suitable outer coffin of any material to enclose an inner coffin complying with the requirements specified in this section, provided the consent in writing of an executor, relative or other like person responsible for payment of the funeral expenses of the deceased to such use is deposited with the authorised official, which consent must also state that such person knows that such outer coffin is not to be incinerated and agrees to it being returned to the supplier thereof.

(5) The outer coffin referred to in subsection (4) must be removed from the crematorium premises immediately after the cremation.

Coffin bearers to be provided

50. An adequate number of bearers must be provided by the representative of the deceased for the purpose of carrying the coffin into the chapel and depositing it on the catafalque. An employee of the Municipality is not obliged to perform these functions.

Access to furnace chamber

51. No person other than authorised officials are allowed into the furnace chamber at any time, unless special permission has been granted in writing by the Municipality.

Committal ceremonies

52. Subject to the direction of the authorised official, committal ceremonies may be held in the crematoria, excluding the furnace chambers.

Coffins not to be opened without authority

53. A dead body must not be removed from a coffin for the purpose of incineration and a coffin must not be opened in the crematorium except when required by the authorised official or as permitted in terms of any provision of this By-law.

Deposit and preservation of ashes

54. The Municipality may provide buildings, walls of remembrance, niches or other facilities for the deposit and preservation of the ashes of cremated bodies for definite periods.

Niches and memorial plaques

55.(1) Niches and plaques may only be purchased for immediate use and must be allocated in sequence upon application to the authorised official.

(2) Niches must be purchased for a period not exceeding 10 years, and the matter placed in or on such niches and spaces for memorial plaques and all inscriptions are subject to the approval of the authorised official.

(3) The inscription on a plaque must be arranged by and be to the account of the purchaser, and the use of iron or other metal liable to rust in connection with any niches or memorial is prohibited.

Ashes not to be removed without written consent

56.(1) An urn or casket containing ashes once deposited with the Municipality must not be removed without the prior written consent of the Municipality being obtained.

(2) Any ashes unclaimed within a reasonable period as determined by the authorised official, may be disposed of in such manner or such method as the authorised official considers appropriate, and neither the Municipality nor the authorised official can be held liable for wrongful disposal of such ashes.

Refusal to approve memorial

57. The Municipality reserves the right to refuse to approve any memorial which, in its opinion, is of inferior workmanship or quality or which is likely in any way to disfigure the crematorium or its grounds.

Fees and charges

58. Subject to the provisions of section 59, the fees for cremations and charges relating to memorials must be in accordance with the tariffs and charges published by the Municipality from time to time.

Disposal of paupers by cremation

59. Where a deceased person is reasonably believed by the Municipality or the authorised official to be a pauper by reason of such person's identity or next of kin being unknown, the Municipality may, in its discretion, decide to dispose of such person by cremation, in which case the payment of fees and charges referred to in section 58 must be waived.

**CHAPTER 7
MISCELLANEOUS****Exclusion of liability**

60. Neither the Municipality nor any of its officials or employees can be held liable for any—
- (a) damage which may at any time occur to any memorial from any cause whatsoever;
 - (b) leveling of graves as and when it is deemed necessary by the Municipality for the purposes of land management;
 - (c) wrongful cremation of the corpse of any person who is reasonably believed by the Municipality or the authorised official to be a pauper; or
 - (d) mechanical failure that may occur.

Prohibited acts

61. A person may not—
- (a) in any part of the cemetery or crematorium, willfully or negligently damage, destroy or disfigure any fence, tree, plant, seat, road, grave, tablet, inscription, monument or gravestone;
 - (b) remove from the cemetery or crematorium any soil, sand, artifact or other similar substance or thing without the permission of the Supervisor;
 - (c) play in the cemetery or crematorium any game or throw any stone, stick, or other missile, or discharge any firearm (except when forming part of a firing party at a Military Funeral) or any air-gun, catapult or other similar instrument;
 - (d) take any animal into the cemetery, except a guide dog;
 - (e) distribute any card or pamphlet of any description or solicit orders;

- (f) cause any disturbance in the cemetery or crematorium or commit any unseemly act or nuisance;
- (g) interfere with any person or do any act or thing tending to provoke a breach of the peace or to the hurt or annoyance of persons lawfully using or visiting the cemetery or crematorium; or
- (h) play loud music or cause any disturbance or any other act which may be considered by the authorised official to constitute a nuisance.

Delegations

62.(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

63.(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 in 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).

Offences and penalties

64. (1) Any person who—

- (a) contravenes or fails to comply with any provision of this By-law;
- (b) fails to comply with any lawful order or instruction issued by the Supervisor or authorised official in terms of this By-law; or
- (c) obstructs or hinders the Supervisor or authorised official in the execution of his or her duties under this By-law,

is guilty of an offence and liable on conviction to a fine not exceeding R500.00 in the case of first conviction or, in the case of second or subsequent conviction for the same offence, a fine not exceeding R 2,000.00 or, in default of payment of any fine imposed in either case, to imprisonment for a period not exceeding six (6) months.

Repeal of laws and savings

65. (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

66. This By-law is called the Cemeteries and Crematoria By-law, 2020, and takes effect on the date of publication thereof in the *Provincial Gazette* or as otherwise indicated in the notice thereto.

SCHEDULE LAWS REPEALED

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

**MUNICIPALITY: CREDIT CONTROL AND DEBT COLLECTION
BY-LAW, 2020**

Adopted by Council on the:

CREDIT CONTROL AND DEBT COLLECTION BY-LAW, 2020

To provide for the debt control and the collection of all money due and payable to the Municipality; to provide for the repeal of laws and savings; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS the Municipality is entitled in terms of section 229 of the Constitution of the Republic of South Africa, 1996, to impose rates on property and surcharges on fees for services provided by or on its behalf within its area of jurisdiction;

WHEREAS the Municipality is entitled in terms of section 75A of the Local Government: Municipal Systems Act, No. 32 of 2000 to levy and recover fees, charges or tariffs in respect of any function or service of the Municipality and to recover collection charges and interest on any outstanding amount;

WHEREAS the Municipality is obliged in terms of section 96 of the Systems Act to collect all money that is due and payable to it, subject to the provisions of that Act and any other applicable legislation;

AND WHEREAS the Municipality is obliged in terms of section 98 of the Systems Act to adopt By-laws to give effect to the Municipality's credit control and debt collection policy, its implementation and enforcement;

NOW THEREFORE the municipal council of the _____ Municipality, acting in terms of section 156 read with Schedule 4 (Part B) and Schedule 5 (Part B) of the Constitution, and read with section 98 and 11 of the Systems Act, hereby makes the following By-law:

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SCHEDULE BY-LAW REPEALED

CHAPTER 1 INTERPRETATION

Definitions

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

"account" means written notification in the form of a statement of account in respect of municipal services, rates, sundry and other charges, addressed to a person liable for payment thereof;

"agent" means a person authorised by the customer to act on his or her behalf;

"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, 1977 (Act No. 51 of 1977);

(b) municipal or metropolitan Police Officers as contemplated in the South African Police Services Act, 1995 (Act No. 68 of 1995); and

(c) such employees, agents, delegated nominees, representatives and service providers of the Municipality: 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;

"bulk customer" means a customer who consumes large amounts of electricity for commercial or industrial purposes;

“CFO” means a person employed by the Municipality in terms of section 57 of the Systems Act as the Chief Financial Officer of the Municipality, and includes any person to whom the Chief Financial Officer has delegated or sub-delegated a power, function or duty in accordance with the system of delegation developed by the municipal manager in terms of section 79 of the Municipal Finance Management Act and section 59 of the Systems Act;

“collection charges” means the charges which the Municipality is entitled to recover in terms of section 75A(1) of the Systems Act, and includes the administrative cost–

- (a) of reminding any ratepayer or customer of arrears;
- (b) for the termination, restriction or reinstatement of any municipal service to a defaulting ratepayer or customer;
- (c) of any notice rendered, sent, delivered or published to a ratepayer or customer in terms of this By-law or any other law;
- (d) of any merchant fee; and
- (e) in respect of any other charge which the Municipality is by law entitled to recover;

“Constitution” means the Constitution of the Republic of South Africa, 1996, as amended;

“consolidated account” means a monthly account reflecting municipal service fees, charges, surcharges on fees, property rates, sundry charges and other municipal taxes, levies and duties and all consolidations in terms of section 102 of the Act;

“customer” means any person with whom the Municipality or its authorised agent has entered into an agreement for the provision of any municipal service to the premises of which such person is an owner, including any person who is authorised by the owner to enter into such an agreement with the Municipality in respect of the owner's premises;

“due date” means the date on which a customer's account becomes payable, which in the case of monthly accounts is twenty-one days from the date of the account, and in the case of annual accounts is the 31st of October each year;

“fee” means a prescribed amount charged by the Municipality to a customer for the provision of any municipal service;

“Ingonyama Trust land” means land held in trust by the Ingonyama Trust established in terms of section 2 of the Ingonyama Trust Act, No. 3KZ of 1994;

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

"Municipal Finance Management Act" means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

"Municipality" means the _____ municipality, a category A municipality as envisaged in terms of section 155(1) of the Constitution and established in terms of PN343 of 2000 (KZN);

"municipal manager" means a person appointed in terms of applicable legislation as the head of administration of the municipal council;

"municipal service" means a municipal service as defined in section 1 of the Systems Act and a municipal service rendered in the performance of functions listed in Schedules 4B and 5B of the Constitution of the Republic of South Africa, 1996 and any other service rendered by the Municipality

"occupier" means any person who occupies any premises or part thereof, without regard to the title under which such person occupies the premises concerned;

"owner" –

(a) in relation to a property referred to in paragraph (a) of the definition of **"property"**, means a person in whose name ownership of the property is registered;

(b) in relation to a right referred to in paragraph (b) of the definition of **"property"**, means a person in whose name the right is registered;

(c) in relation to a land tenure right referred to in paragraph (c) of the definition of **"property"**, means a person in whose name the right is registered or to whom it was granted in terms of legislation, excluding permission to occupy;

(d) in relation to public service infrastructure referred to in paragraph (d) of the definition of **"property"**, means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of **"publicly controlled"**; and

(e) includes a person whom the Municipality may for the purpose of this By-law regard as the owner of a property in the following cases:

(i) a trustee, in the case of property in a trust excluding state trust land;

(ii) an executor or administrator, in the case of a property in a deceased estate;

(iii) a trustee or liquidator, in the case of a property in an insolvent estate or the owner of which is in liquidation;

(iv) a judicial manager, in the case of a property in the estate of a person under judicial management;

- (v) a curator, in the case of a person in the estate of a person under curatorship;
- (vi) a person in whose favour a usufruct or other personal servitude is registered, in the case of property that is subject to a usufruct or other personal servitude;
- (vii) a lessee, in the case of a property that is registered in the name of the Municipality and is let by it to such lessee;
- (viii) a buyer, in the case of a property that was sold by the Municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer; or
- (ix) a child or children in charge of the property in the case of child headed households;

"person" means a natural or juristic person, including an organ of state;

"Policy" means the Credit Control and Debt Collection Policy adopted by the council to regulate the matters listed in section_96 of the Municipal Systems act Act no.32 of 2000_____, as amended from time to time;

"premises" means any piece of land, with or without any building or structure thereon where—

(a), the external surface boundaries of which are delineated on—

- (i) a general plan or diagram registered in terms of the Land Survey Act, 1927 (Act No. 9 of 1927), or in terms of the Deeds Registry Act, 1937 (Act No. 47 of 1937; or
- (ii) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986);

(b) there is an official document in respect of rural land or Ingonyama Trust land, which is situated within the area of jurisdiction of the Municipality; or

(c) a municipal service is rendered on land which is not specified on a plan;

"property" means—

- (a) immovable property registered in the name of a person, including, in the case of sectional title scheme, a sectional title unit registered in the name of a person;
- (b) a right registered against immovable property in the name of a person;
- (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation, excluding a permission to occupy; or
- (d) public service infrastructure;

"publicly controlled" means owned by or otherwise under the control of an organ of state, including a—

(a) public entity listed in the Public Finance Management Act, 1999 (Act 1 of 1999);

(b) municipality; or

(c) municipal entity as defined in the Systems Act;

"rates" means a municipal rate on property envisaged in section 229 (1)(a) of the Constitution levied by the Municipality in terms of the Rates Act;

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

"service charges" means fees, charges or tariffs levied by the municipality in respect of a municipal service;

"sundry charge" means an amount charged to a customer which is not directly linked to a property and which includes but is not limited to—

(a) charges arising from damages to municipal property and equipment;

(b) monies awarded to the Municipality through court orders and judgments; and

(c) fines;

"Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and

"tenderer" means a contractor, service provider or supplier who has submitted a tender for the provision of services or the delivery of goods to the Municipality.

Interpretation of By-law

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

(2) This By-law must be read in conjunction with the applicable Policy.

Objects of By-law

3. The objects of this By-law are to—

(a) give effect to the Municipality's Credit Control and Debt Collection Policy, and its implementation and enforcement in terms of section 156(2) of the Constitution read with sections 96 and 98 of the Systems Act;

(b) provide for the collection of monies due and payable to the Municipality; and

(c) provide for matters incidental thereto.

Application of By-law

4. 1. This By-law applies throughout the Municipality's area of jurisdiction in respect of any amounts payable to—

- (a) the Municipality for rates or the provision of any municipal service, including amounts to be paid for prepaid services; or
- (b) any service provider of the Municipality in respect of any municipal service provided by the service provider concerned on behalf of the Municipality.

CHAPTER 2**REQUIREMENTS FOR THE PROVISION OF MUNICIPAL SERVICES****Registration for the provision of municipal services**

5.(1) An applicant for a municipal service must comply with the registration process prescribed by the Municipality in the Policy for the provision of such service, which includes but is not limited to—

- (a) the submission of a written application for the provision of such service on a form prescribed by the Municipality for that purpose;
- (b) furnishing any information or documentation required by the CFO for the purpose of registering for such service;
- (c) entering into a service agreement with the Municipality; and
- (d) the payment of a deposit of an amount prescribed by the CFO to be held by the Municipality as consolidated security in respect of all municipal services provided by the Municipality to the applicant.

(2) If an applicant is an existing customer of the Municipality in respect of any other municipal service on premises in respect of which any amount is in arrears, such applicant must –

- (a) pay the arrears in full; or
- (b) at the discretion of the Municipality, make suitable arrangements with the Municipality for the payment of such arrears, before an application for a new service in terms of this By-law may be considered.

Deposits

6.(1) The payment of a deposit mentioned in paragraph 5(1)(d) is subject to the criteria determined by the CFO in accordance with the Policy and is due and payable at—

- (a) the time of application for municipal services; and
- (b) any other time deemed necessary by the Municipality.

(2) Payment of a deposit must be made in cash unless otherwise provided for in terms of the Policy.

(3) Deposits paid by a customer to the Municipality shall be held as a consolidated deposit and used as security for any or all of the charges or amounts included in the account.

(4) The Municipality may at any time and at its sole discretion require a customer to increase the security furnished in terms of paragraph 5(1)(d).

(5) Interest on cash deposits held by the Municipality as security shall accrue as prescribed in terms of the Policy at a rate determined by Council in terms of section 75A of the Systems Act, and the deposit plus interest accrued must be taken into account upon closure or termination of a customer's account.

Service agreement between the Municipality and a customer

7.(1) The Municipality may not approve an application for the provision of any municipal service, unless the applicant has signed an agreement on a form prescribed by the Municipality for that purpose accepting the terms and conditions for the provision of such service, all of which are deemed to be incorporated into this By-law.

(2) Where the purpose for or extent to which any municipal service used has changed, the onus and obligation rests on the customer to advise the Municipality of such change.

Measurement of consumption

8.(1) The Municipality must conduct or cause to be conducted an accurate measurement of the municipal services consumed by a customer at intervals determined in terms of the water and electricity policies: Provided that nothing in this section prevents the Municipality from making an estimate of the consumption of municipal services for any relevant period if—

- (a) the reading of the meter could not be obtained in respect of the period in question;
- (b) no meter has been installed to measure the consumption on the premises concerned; or
- (c) for any other reason the meter could not be accessed to be read.

(2) Irrespective of the fee payable for the consumption of municipal services being based on measured or estimated consumption, the customer concerned remains liable for the payment of the prescribed fee in respect thereof.

Review of existing service agreements

9.(1) The Municipality may review the terms and conditions of any existing service agreement with a customer to take into account any change in law or the circumstances surrounding the provision of any municipal service by the Municipality, and require such customer to enter into a new service agreement with the Municipality based on the resultant changes in law or circumstances.

(2) Subsections 6(4) and 6(5) apply to any deposit or security payable by a customer in respect of a new service agreement referred to in subsection (1).

Termination of service agreements

10.(1) Subject to sections 17 and 26, an agreement for the provision of any municipal service may be terminated by—

- (a) a customer by giving notice in writing of not less than 14 days to the Municipality of such customer's intention to do so; or
- (b) the Municipality, after due compliance with any applicable law and the rules of natural justice, by giving notice in writing of not less than 14 days to a customer, if the customer concerned has –
 - (i) not used the municipal service during the preceding six months and has not made any request to the Municipality for the retention of the agreement;
 - (ii) in relation to the municipal service concerned, breached or failed to comply with any specific term or condition for the provision of such service, and has failed to remedy such breach or rectify such failure after service on such customer of a notice to do so in terms of section 11;
 - (iii) failed to pay any prescribed fee, collection charge or interest due and payable in respect of the municipal service concerned;
 - (iv) made an arrangement with another service provider to provide the municipal service concerned to the customer; or
 - (v) vacated the premises to which the agreement concerned relates.

(2) If a customer to whom a notice has been given in terms of paragraph (1)(b) makes written representation to the CFO within the period stipulated in that notice as to why the agreement concerned should not be terminated, the agreement must not be terminated until the CFO has responded in writing to the written representation made by the customer concerned.

Notice of compliance

11. If a customer breaches or fails or refuses to comply with any provision of this By-law, a written notice must be served on such customer to comply with the relevant provision of this By-law within a stipulated period in order to avoid the service agreement to which the non-compliance relates being terminated in terms of paragraph 10(1)(b).

CHAPTER 3

ACCOUNT ADMINISTRATION

Accounts

12.(1) The Municipality must maintain proper and accurate accounts which must be rendered and administered by it in accordance with the Policy, this By-law, as well as any other applicable law.

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

(3) The Municipality may, in accordance with the section 102 of the Systems Act—

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

(4) In the event of separate accounts being consolidated as contemplated in subsection (3), the total amount due and payable by a customer shall constitute a consolidated debt, and any payment made by a customer of an amount less than the total amount due will, subject to section 23, be allocated in the reduction of the consolidated debt in the order prescribed by the CFO in his or her sole discretion.

(5) Any amount paid by a customer in excess of an existing debt may be—

- (a) held in credit for the customer in anticipation of future rates and fees for municipal services or for the purposes contemplated in section 20(1)(b), without any interest accruing on such amount;
- (b) refunded either as a whole or a portion thereof to the customer concerned, subject to the right of the Municipality to withhold payment until it is satisfied that payment of such refund is not in contravention of any law; or

(c) refunded to the conveyancing attorney if the property has been transferred.

(6) Any interest accruing on the deposit paid by a customer in terms of this By-law must be credited to the account of such customer.

(7) Should the Municipality become aware that the customer has since vacated the premises supplied as his or her address in terms of this By-law, the Municipality must, after deducting any outstanding amounts due to it from the deposit of such customer, place the balance thereof in an account retained for such customer for a period of time determined in the Policy from the date on which the customer's disappearance became known to the Municipality.

(8) After the expiry of the period mentioned in subsection (7), the balance of the deposit, together with interest thereon, will be forfeited to the Municipality, unless the CFO is not satisfied that this is just and equitable to do so.

Account information

13.(1) Without limiting the amount of information which may be included by the Municipality in a customer's account, any account rendered by the Municipality to a customer must contain at least the following information—

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

Account administration and monitoring

14. The Municipality must, subject to section 7, implement reasonable measures to ensure –

- (a) accurate metering of consumption at fixed intervals;
- (b) limited delay between service connection and the first and subsequent rendering of accounts;
- (c) accurate and up-to-date information contained in accounts rendered to customers;

- (d) accurate monthly accounts with the application of the appropriate and correct prescribed fees, rates and other related amounts due and payable;
- (e) timely dispatch of accounts to correct addresses furnished by customers;
- (f) adequate provision and the efficient operation of facilities for payment throughout the Municipality's area of jurisdiction;
- (g) where necessary, the appointment of agents to accept payments on behalf of the Municipality; and
- (h) appropriate and reasonable hours of business in order to facilitate account payments.

Responsibility for payment of account

15.(1) It is the responsibility of the customer to ensure that his or her account is paid timeously and that such account does not fall into arrears.

(2) Where a customer is a tenant of the property concerned, the owner of the property shall be held jointly and severally liable with the tenant for debts on the property.

(3) Subsection (2) does not apply to the payment of rates, which payment shall be the sole responsibility of the owner or owners of such property.

(4) All debts owing to the Municipality must be collected in accordance with this By-law and the adopted relevant policies

Disputes and enquiries in respect of accounts rendered by the Municipality

16.(1) A customer may lodge a written dispute with the Municipality to challenge the correctness or accuracy of any amount due and payable by such customer reflected in an account rendered by the Municipality in terms of this By-law: Provided that such dispute must be lodged with the Municipality before or on the due date for payment specified in the account concerned.

(2) A customer must, pending resolution of the dispute, continue to make regular monthly payments in respect of rates, if applicable, or in respect of any municipal service, as the case may be, based on the average monthly fees for the preceding three months prior to the dispute arising, plus interest if applicable, until the dispute is resolved.

(3) Where a customer fails to lodge a dispute within the period mentioned in subsection (1), any correspondence received from the customer after such period concerning the correctness or accuracy of an account, will be treated as an enquiry and –

- (a) the account will not be suspended; and
 - (b) such enquiry must be accompanied by the payment of at least an amount equal to the average amount per month that was due and payable in respect of the service concerned during the preceding three months.
- (4) If an objection or appeal is lodged against the value of property in terms of sections 50 and 54 of the Rates Act, on publication of a new or supplementary valuation roll in terms of section 49 of the Rates Act, a customer must still make payment to the Municipality based on the rates payable in respect of the property concerned on the previous valuation roll prior to the lodgement of the objection or appeal.
- (5) Any amount not in dispute must be paid in full by the customer and municipal services may be disconnected or restricted where such amounts remain unpaid.
- (6) An authorised official must register the dispute or enquiry and take reasonable steps to ensure that the dispute or enquiry is addressed within a reasonable period.
- (7) The CFO must –
- (a) investigate or cause the dispute or enquiry to be investigated within 30 days, or as soon as possible after the such dispute or enquiry received; and
 - (b) inform the customer, in writing, of his or her finding as soon as possible after conclusion of the investigation, instructing that either such customer's account will be credited with an amount found to have been overpaid or, alternatively, that any amount found to be due and payable must, subject to section 23, be paid within a reasonable period from the date on which the customer is notified thereof, unless an appeal is lodged within that period in terms of subsection (7).
- (8) Except for instances where the right of appeal is specifically afforded to a customer in terms of any other law, a customer may, subject to section 34, lodge an appeal in writing with the municipal manager in terms of section 62 of the Systems Act against a decision referred to in subsection (6), within 21 days of the date of notification of the decision.
- (9) The Municipality must inform the customer concerned in writing of the decision on the appeal, instructing that any amount found to be overpaid will be credited to such customer's account or, alternatively, that any amount found to be due and payable must be paid within seven days from the date on which the customer is notified thereof.
- (10) The Municipality will only supply records of documents to the customer for the last 5 years.

Failure to pay accounts on due date

17.(1) The Municipality must take the necessary steps to recover payment of any accounts which remain unpaid after the due date for the payment thereof, including interest.

(2) Where—

- (a) a tenant or an occupier occupies a property in respect of which arrears are owing; or
- (b) an agent acts for an owner in respect of whose property arrears are owing, the Municipality may recover from such tenant, occupier or agent such monies as are owing by the tenant, occupier or agent to the owner, as payment of the arrears owed by such owner.

(3) The Municipality may recover the amount in whole or in part despite any contractual obligation to the contrary on the tenant, occupier or agent.

(4) The amount the Municipality may recover from the tenant, occupier or agent is limited to the amount of the rent or other money due and payable, but not yet paid by the tenant, occupier or agent to the owner.

(5) Should the tenant, occupier or agent refuse to pay over any monies to the Municipality in terms of this section, the services of the tenant, occupier or agent may be disconnected.

(6) Before resorting to litigation for the recovery of arrears, the Municipality may send a final demand notice, which may appear on the account addressed to the defaulting customer, calling upon such customer to make payment within a stipulated period, failing which legal steps may be taken for the recovery thereof.

(7) Failure by the Municipality to send a final demand notice does not relieve a customer from paying the arrears.

Rates and municipal service charges upon the property

18. The rates, taxes, levies and duties on property and municipal service charges are a charge upon the property, and the Municipality may take any of the following actions to secure payment thereof:

- (a) terminate or restrict the provision of any municipal service in terms of section 19;
- (b) allocate the whole or a portion of any payment of an account, or the whole or a portion of a pre-payment for future accounts as contemplated in paragraph 12(5)(a), as payment for arrear municipal service fees or rates;
- (c) subject to section 118 (1) of the Systems Act, withhold the issuing of a prescribed rates or revenue clearance certificate until all amounts due in connection with the property concerned for

- municipal service fees, surcharges on fees, rates and other municipal taxes, levies and duties for the period contemplated in paragraph 118(1)(b) of the Systems Act have been fully paid;
- (d) unilaterally disconnect the supply of electricity supplied by way of an electricity dispenser to any premises where such premises are charged with an overdue amount in terms of an applicable consolidated bill, or refuse to supply any person with any card or token for the operation of an electricity dispenser serving any premises charged with an overdue amount in terms of any consolidated bill;
- (e) refuse to register new customers for services on the property until the previous debt is paid; or
- (f) in respect of the consolidated debt, recover arrears from tenants or occupiers of the property in respect of which the consolidated debt is owing, or from the agents as contemplated in sections 28 and 29 of the Rates Act.

Termination or restriction of a municipal service

19.(1) The Municipality must undertake regular maintenance of the relevant municipal infrastructure to ensure continuous and undisturbed supply of municipal services to its customers.

(2) The provisions of subsection (1) must not be interpreted as preventing the Municipality from terminating or restricting the provision of any service in terms of the prescribed termination and restriction procedures set out in the Policy to any premises if the customers, heirs or trustees in respect of the municipal service concerned –

- (a) fails to make full payment of arrears on or before the final date for the payment thereof, and the customer fails to sign an acknowledgement of debt in terms of section 26 in respect of the arrears concerned before termination or restriction;
- (b) fails to pay any instalment payable in terms of an agreement referred to in paragraph (a) before or on the due date;
- (c) fails to comply with any condition of provision imposed by the Municipality in respect of the service concerned;
- (d) obstructs the efficient provision of the service concerned to another customer;
- (e) provides the service concerned to a person who is not entitled thereto or permits such provision to continue;

- (f) causes a situation relating to any service which, in the opinion of the Chief Financial Officer, is dangerous or constitutes a contravention of any applicable law, including the common law;
 - (g) tampers with an electricity or water meter or in any way reinstates without the Municipality's knowledge or consent the provision of a previously terminated or restricted service;
 - (h) is placed under provisional sequestration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, 1936 (Act No. 24 of 1936) or is subject to an administration order granted in terms of section 74 of the Magistrate's Court Act, 1944 (Act No. 32 of 1944), and there is a failure to enter into a new service agreement within 14 days of the Municipality requiring such service agreement in terms of section 9 read with section 18 of this By-law; or
 - (i) fails to notify the Municipality within 30 days from date of death of the customer.
- (3) The Municipality must send a disconnection notice to a customer informing such customer–
- (a) that the provision of the service concerned will be, or has been disconnected on the date specified in such notice; and
 - (b) of the steps which can be taken to have the service reinstated.
- (4) The notice of disconnection may be included on the bill or any other notice issued in terms of this By-law.
- (5) If a customer intends to terminate or transfer an account for municipal services, the customer must provide the Municipality with notice of such intention within the time period provided for in the Policy.

Reinstatement of the supply of a municipal service

20.(1) Where the supply of a municipal service to a customer has been terminated or restricted by the Municipality in terms of section 19, the supply of such service to the customer concerned may not be reinstated either fully or partially until –

- (a) the full amount of arrears, including interest and collection charges, if any, have been paid;
- (b) an agreement for payment of arrears contemplated in paragraph (a) has been entered into in terms of section 26;
- (c) the full amount of arrears in respect of any agreement referred to in paragraph (b), including interest and collection charges, if any, and any increased deposit, where required, have been paid; or

(d) any other condition considered by the CFO to be appropriate, including payment of additional security, has been complied with.

(2) Once all the conditions stipulated in subsection (1) have been met, a reconnection order must be issued by the authorised official to the effect that every applicable condition contemplated in subsection (1) has been complied with and that the municipal service concerned may be reconnected.

Interest charges

21.(1) Subject to the provisions of sections 9 and 55 of the Rates Act, read with paragraph 64 (2) (g) of the Municipal Finance Management Act, all arrears in respect of accounts for rates and municipal services bear interest equivalent to the rate of interest as determined in terms of the Rates Regulations or any other applicable legislation.

(2) Interest calculated on arrears may only be reversed as determined by the Municipality in terms of the Policy.

Administration charges

22. A prescribed administration charge may be levied by the Municipality against the account of a customer in respect of any action taken by or on behalf of the Municipality in terms of this By-law or the Policy.

Municipality's discretion in appropriation of payments received

23.(1) Subject to subsection 12(3), the Municipality may appropriate monies received in respect of any debt contemplated in this By-law at its sole discretion, irrespective of any instruction issued by the customer directing how such monies are to be appropriated.

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

Actions for the recovery of outstanding amounts

24. (1) The Municipality may recover charges, costs and interest on any outstanding amount, which may include but are not limited to—

- (a) costs and administration fees where payments to the Municipality by negotiable instruments are dishonoured by banks when presented for payment;
- (b) legal and administration costs, including attorney-and-client costs and tracing fees incurred in the recovery of debts;
- (c) restriction, disconnection and reconnection fees, where any service has been restricted or disconnected as a result of non-compliance with this by-law;
- (d) any losses the Municipality may suffer as a result of tampering with municipal equipment or meters; and
- (e) any collection commission incurred.

(2) Subject to section 18, if an amount payable to the Municipality in respect of an account for rates or service charges remains outstanding, wholly or in part, after the due date for the payment thereof—

- (a) the defaulting customer may be listed with a credit bureau; and
- (b) may be handed over to a debt collector or an attorney for collection.

(3) In the event of an overdue account being handed over to a debt collector or an attorney for collection, the customer concerned is liable for any interest and collection charges raised in respect thereof.

(4) An action taken in terms of this By-law may not be suspended or withdrawn unless the arrears, any charge, cost, interest thereon, and additional security, if required by the Municipality, have been paid in full.

(5) Subject to Schedule 2 item 10 of the Systems Act, any amount in arrears for a period over three months on an account of a municipal staff member may be deducted by the Municipality from such municipal staff member's salary, as the case may be.

(6) The Municipality may enter into an agreement with any councillor whose account is in arrears to deduct any amount in arrears from the councillors allowance.

(7) Charges, costs and interest recovered in terms of subsection 1 may be levied against the arrear account of the customer.

(8) The amount or manner of calculation of the interest charged or the amount or manner of calculation of collection charges must be passed by the municipal council with a supporting vote of a majority of its members in terms of section 75A of the Systems Act.

Agreement with Employer

25.(1) Subject to section 103 of the Systems Act, the Municipality may, with the consent of the customer, enter into an agreement with the customer's employer to deduct from the salary or wages of the customer—

- (a) any outstanding amount due by that customer to the Municipality; or
- (b) regular monthly amounts as may be agreed upon.

Acknowledgements of debt

26.(1) Any customer who is indebted to the Municipality may be required to sign a written acknowledgement of debt on a form prescribed by the Municipality for that purpose setting out the terms which are agreeable to the Municipality for the payment of such debt.

(2) If the amount payable by a customer in terms of an acknowledgement of debt contemplated in subsection (1) is payable in instalments, any payment received from such customer in an amount less than the total amount due may be allocated in reduction of the consolidated debt of such customer in the order prescribed in the Policy, notwithstanding any instruction to the contrary by the customer concerned.

(3) A customer may be required to arrange a debit order for the payment of arrears in respect of which an acknowledgement of debt contemplated in subsection (1) has been signed by the customer concerned.

(4) Subject to subsection (5), no acknowledgement of debt may provide for payment over a period longer than 24 months.

(5)(a) An acknowledgement of debt providing for payment over a period in excess of 24 months, may be accepted by the Municipality in terms of delegated authority, if special circumstances which the customer could not reasonably have prevented or avoided, prevail and which, in the opinion of the CFO, warrant a longer period of payment; and

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

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

- (a) credit record;
- (b) consumption of services;

- (c) ability to afford the proposed instalments, taking into account the customer's financial situation;
 - (d) level of service;
 - (e) previous breaches of agreements for the payment of arrears in instalments; and
 - (f) any other relevant factors.
- (7) If a customer fails to comply with the terms of an acknowledgement of debt contemplated in subsection (1), the total outstanding amount, including the arrears, any interest thereon, any collection charges, and payment of a higher deposit if required by the Municipality, will immediately become due and payable, and the additional security, if so required, must be provided, without further notice.
- (8) If a customer fails to comply with the terms of an acknowledgement of debt contemplated in subsection (1) that was signed after receipt of a disconnection notice for water or electricity services, or both as the case may be, the municipal service concerned may be disconnected without further notice, in addition to any other action taken against or which may be taken by the Municipality against the customer concerned.
- (9) The Municipality may not accept an acknowledgement of debt by a customer if that customer has failed to honour a previous acknowledgement of debt for the payment of arrears to the Municipality, unless the CFO otherwise decides on good cause shown.
- (10) Once an acknowledgement of debt contemplated in subsection (1) is signed, the amount in arrears must be reflected as a current amount.

CHAPTER 4

ASSISTANCE TO THE POOR AND IRRECOVERABLE DEBTS

Assistance to the poor

- 27.**(1) The Municipality may, in terms of the qualifying criteria set out in the Policy, grant assistance to any person who is regarded by the Municipality as poor based on the qualifying criteria as determined by the Municipality from time to time in the Policy.
- (2) The person who qualifies for assistance in terms of subsection (1) must be prepared to convert to pre-payment metering whenever required by the Municipality to do so.
- (3) The Municipality must conduct regular audits of persons who are receiving assistance in terms of subsection (1) to ensure that they still meet the criteria for such qualification and, if not, take the

necessary steps for the withdrawal of such assistance, subject to due compliance with the Constitution and the rules of natural justice.

(4) A person who intends to receive assistance in terms of the council's policy for the provision of municipal services to indigent persons, must make an application for registration as an indigent person on a prescribed form obtained from the municipality

Irrecoverable debts

28.(1) Where a debt owing to the Municipality is considered irrecoverable in terms of the criteria set out in the Policy, and provided that there is sufficient provision to cover bad debts due to the Municipality, the CFO must write off such debt in accordance with the Policy.

(2) Debt will only be considered as irrecoverable if it complies with one or more of the following criteria:

- (a) all reasonable notifications and cost-effective legal avenues have been exhausted to recover a specific outstanding amount; or
- (b) any amount as determined by Council from time to time, after having followed basic checks, to warrant further endeavours to collect it; or
- (c) the cost to recover the debt does not warrant further action; or
- (d) in relation to insolvency—
 - (i) the amount outstanding is the residue after payment of a dividend in the rand from an insolvent estate; or
 - (ii) there is no dividend that will accrue to creditors; or
 - (iii) There are insufficient funds to cover any preference afforded by section 118 (3) of the Systems Act.
- (e) in relation to a deceased estate—
 - (i) there are no liquid assets to cover the outstanding amount following the final distribution of the estate; or
 - (ii) Where the estate has not been reported to the Master and there are no assets of value to attach.
- (f) If it has been proven that the debt has prescribed;
- (g) the debtor is untraceable or cannot be identified so as to proceed with further action;
- (h) The debtor has emigrated leaving no assets of value to cost-effectively recover Councils claim; or
- (i) it is not possible to prove the outstanding debt; or

- (i) a court has ruled that the claim is not recoverable;
 - (ii) the claim is subject to any order of court;
 - (iii) the claim is subject to an out of court settlement agreement; or
 - (iv) the debt is subject to a settlement in terms of section 109 of the Systems Act; or
 - (v) the outstanding amount is due to an irreconcilable administrative error by the Municipality.
- 3) The CFO must report to the council at its next meeting all amounts that have been written off as irrecoverable in terms of subsection (1), and all such information must also be included in the monthly budget statements which must be rendered by the municipal manager in terms of section 71 of the Municipal Finance Management Act.

CHAPTER 5

MISCELLANEOUS

Municipality's right of access to premises

29.(1) In accordance with the Policy and section 101 of the Systems Act, an authorised official may access any premises at any reasonable time in order to read, inspect, install or repair any meter or service connection, or to disconnect, stop or restrict the provision of any service.

(2) Should access to the premises be unreasonably denied or prevented, a disconnection penalty fee may be raised in the account, over and above any penalty which may be imposed in terms of section 35.

Transmission of documents

30. Where any account, notice or other document issued by the Municipality in terms of this By-law is required to be given or delivered by the Municipality to any person, such communication may be posted by ordinary mail to the last known address of the customer; e-mailed to the customers e-mail account provided; messaged (sms'd) to the customers cell phone number; or be given or delivered in terms of Section 115 of the Systems Act or the Electronic Communications Act, 2005 (Act 36 of 2005).

***Prima facie* evidence of documentation**

31. For the purposes of the recovery of any amount due and payable to the Municipality in terms of this By-law—

- (a) a copy of any relevant account; and
 - (b) an extract from the Municipality's records containing the details of such account and certified by an authorised official as being correct,
- shall constitute *prima facie* evidence of the information contained in such documents.

Update of customer details

32. A customer must furnish the Municipality with updated information details of the customer when a change of such information occurs, which includes but is not limited to—

- (a) contact details of the customer;
- (b) details of executors or administrators of deceased estates;
- (c) deregistration of a company, close corporation or trust if the company, close corporation or trust is the account holder; and
- (d) details of deceased—
 - (i) company directors;
 - (ii) members of close corporations; and
 - (iii) trustees of Trusts.

CHAPTER 6**PROCUREMENT OF GOODS AND SERVICES BY THE MUNICIPALITY****Procurement of goods and services by the Municipality**

33.(1) When submitting a tender for the provision of goods or services to the Municipality, every tenderer must prove to the satisfaction of the Municipality that all accounts for municipal services for which the tenderer and each of its directors, members, owners, partners or trustees are liable, have been paid in accordance with the requirements contained in the Policy and the Municipality's Supply Chain Policy.

(2) the Municipality may at its sole discretion check whether all the municipal accounts of its supplier of goods or services are up to date and if found to be in arrears, any amount payable to the supplier may be set off against the arrear amount.

(3) Where a contractor's place of business is out of the jurisdiction of the Municipality, a Revenue Clearance Certificate from the relevant Municipality must be produced.

(4) Where a contractor, or its directors, members, owners, partners or trustees, is indebted to the Municipality for rates or any service charges and payments are due to that contractor in respect of goods or services provided to the Municipality, or in terms of any contractual arrangement with the Municipality, the arrear amount owing may be set off against such payments.

CHAPTER 7

GENERAL

Appeals

34.(1) A person whose rights are affected by a decision taken by an authorised official in terms of this By-law may appeal against the decision in terms of the Appeals provision contained in Section 62 of 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.

Offences and penalties

35.(1) Any person who contravenes or fails to comply with section 29 of this By-law or a relevant policy enabled by this by-law is guilty of an offence and is liable upon conviction to a fine or imprisonment for a period not exceeding one year.

(2) Any person who fails to furnish the Municipality with updated information details in terms of section 32 may result in the Municipality–

- (a) withholding the provision of services of; or
- (b) imposing a sundry charge on the customer concerned.

(3) Any person who –

- (a) Obstructs or hinders any councillor or official of the Municipality in the execution of his or her duties under this by law or policy;
- (b) unlawfully uses or interferes with Municipal equipment or consumption of services supplied;
- (c) tempers with any municipal equipment or consumption of services supplied;
- (d) fails to comply with a notice served in terms of this by law or policy,

is guilty of an offence and liable on conviction to penalty.

Delegations

36.(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 sub-section (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.

Repeal of laws and savings

37.(1) The By-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 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

38. This By-law is called the Credit Control and Debt Collection By-law, 2020 and takes effect on the date of publication thereof in the *Provincial Gazette* or as otherwise indicated in the notice thereto.

SCHEDULE
BY-LAW REPEALED

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

_____ MUNICIPALITY: SEWAGE DISPOSAL BY-
LAW, 2020

Adopted by Council on the:

SEWAGE DISPOSAL BY-LAW, 2015

To provide for efficient, affordable, economical and sustainable access to sanitation and sewage services; to provide for different mechanisms of sanitation; to provide for the management and regulation of sewage; to provide assistance to those who cannot afford to pay for sanitation and sewage services; to provide offences and penalties; to provide for the repeal of laws and savings; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS the _____ Municipal Council recognises that effective and sustainable sanitation and sewage services are essential to community life, business and the environment;

WHEREAS the Water Services Act establishes the Municipality as a water services authority and the Municipality's Water and Sanitation Unit as a water supply services provider for the Municipality's area of jurisdiction;

WHEREAS the _____ Municipal Council recognises that, as a water services authority, it has a duty to all customers or potential customers in its area of jurisdiction to progressively ensure efficient, affordable, economical and sustainable access to basic sanitation services;

WHEREAS the _____ Municipal Council has competence in terms of Part B of Schedule

4 of the Constitution of the Republic of South Africa, 1996 relating to such matters as sanitation services;

WHEREAS the _____ Municipal Council has competence, in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996 to make and administer By-laws for the effective administration of the matters which it has the right to administer;

AND WHEREAS the _____ Municipality has a duty to make By-laws for the provision of water services in terms of section 21 of the Water Services Act;

NOW THEREFORE the _____ Municipal Council, acting in terms of section 156 read with Part B of Schedule 5 of the Constitution of the Republic of South Africa, 1996 and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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CHAPTER 1

INTERPRETATION

Definitions

1. In this By-law, unless the context indicates otherwise, any word or expression used has the meaning ascribed to it by the National Building Regulations and Standards Act, 1977 (Act No. 103 of 1977), and –

“**approved**” means approved by an authorised official;

“**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, 1977 (Act No. 51 of 1977);

(b) municipal or metropolitan police officers as contemplated in the South African Police Services Act, 1995 (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;

“best practicable environmental option” means the option that provides the most benefit or causes the least damage to the environment as a whole, at a cost deemed to be acceptable to society by the Municipality, in the long term as well as in the short term;

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

“chemical toilet” means a toilet which uses chemicals to deodorize waste instead of storing it in a hole or piping it away to a sewage treatment plant where the effluent is fit to be disposed of at a municipal wastewater treatment works through a discharge point designed at the facility;

“connecting point” means the point at which a drainage installation joins a connecting sewer;

“connecting sewer” means a pipe owned and installed by the Municipality for the purpose of conveying sewage from a drainage installation on a premises to a sewer –

(a) beyond the boundary of those premises;

(b) within a servitude area; or

(c) within an area covered by a wayleave or by agreement;

“conservancy tank” means a sealed tank that contains and stores sewage from premises and is required to be emptied on a regular basis;

“Constitution” means the Constitution of the Republic of South Africa, 1996;

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

“customer” means –

(a) a person who is supplied with water by the Municipality; and

(b) where water is supplied through a single water meter to a number of persons, the person to whom the Municipality has agreed to supply water;

“drain” means that portion of the drainage installation which conveys sewage within any premises;

‘drainage installation’ means a system which is used for, or intended to be used for or in connection with, the reception, storage, treatment or conveyance of sewage on any premises to the connecting point and includes –

- (a) drains;
- (b) fittings;
- (c) appliances;
- (d) septic tanks;
- (e) conservancy tanks;
- (f) pit latrines; and
- (g) private pumping installations forming part of, or ancillary to, such systems;

‘drainage work’ includes any drain, sanitary fitting, water-supplying apparatus, waste or other pipe or any work connected with the discharge of liquid or solid matter into any drain or sewer or otherwise connected with the drainage of any premises;

‘duly qualified sampler’ means a person who has been certified by a suitably competent municipal employee to take samples for analysis from the sewage systems, the stormwater disposal systems and from public waters;

‘dwelling’ means accommodation intended for human habitation which has –

- (a) its own metered electricity supply;
- (b) its own exclusive entrance; and
- (c) a kitchen for the sole use of its residents;

‘environmental cost’ means the full cost of all measures necessary to restore the environment to its condition prior to a damaging incident;

“environmental impact assessment” means the process of identifying and evaluating the effects of development proposals on the environment before decisions and commitments are made toward that development;

‘French drain’ means a trench filled with suitable material which is used for the disposal of –

- (a) liquid effluent from a septic tank; or
- (b) wastewater;

‘high strength sewage’ means sewage with a strength or quality greater than standard domestic effluent;

"industrial effluent" means any liquid, whether or not containing matter in solution or suspension, which is given off in the course of or as a result of any trade, manufacturing, mining, chemical or other industrial process or in any laboratory, or in the course of research, or agricultural activity, and includes any liquid or effluent emanating from the use of water, other than sewage as defined in this by-law.

"metering period" means the time interval between successive meter readings;

"Municipality" means the _____ Municipality, a category A Municipality as envisaged in terms of section 155(1) of the Constitution and established in terms of Provincial Notice No. 43 of 2000 (KZN);

"Municipal Manager" means a person appointed as such in terms of applicable legislation;

"National Building Regulations" means the National Building Regulations made in terms of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);

"National Water Act" means the National Water Act, 1998 (Act 36 of 1998);

"occupier" means –

- (a) any person, including the owner, in actual occupation of premises regardless of the title under which he or she occupies those premises, if any; and
- (b) in the case of premises let to more than one tenant, the person who receives the rent payable by the tenants, whether for his or her own account or as an agent for a person entitled to the rent;

"on-site privately-owned sewage disposal system" means either a septic tank, a conservancy tank system or a low-volume sewage treatment plant owned by the owner of the premises on which it is situated;

"owner" means –

- (a) the person who is the registered owner of the premises in the relevant Deeds Office;
- (b) where the registered owner of the premises is insolvent or dead or is under any form of legal disability whatsoever, the person in whom the administration and control of his or her property is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;

(c) where the Municipality is unable to determine the identity of such person, a person who is entitled to the benefit of the use of the premises or a building or buildings on the premises;

(d) where the premises concerned have been leased for a period of 30 (thirty) years or longer, the lessee of the premises; and

(e) in relation to –

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

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

“person” means any natural person, juristic person, voluntary association or the trustees of any trust;

“premises” means any piece of land, with or without any building or structure thereon where–

(a), the external surface boundaries of which are delineated on–

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

(ii) a sectional plan registered in terms of the Section Titles Act, 1986 (Act No. 95 of 1986); or

(b) there is an official document in respect of rural land or Ingonyama Trust land, which is situated within the area of jurisdiction of the Municipality;

(c) a municipal service is rendered on land which is not specified on a plan; and a portion of such land which is not so delineated but which is connected to the sewage system or is capable of being so connected;

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

“public notice” means notice –

(a) in a newspaper in at least two of the official languages in general use within the area in question; and

(b) where possible, published in a newspaper appearing predominantly in the language utilised in the publication of the notice;

‘public water’ means any river, watercourse, bay, estuary, the sea and any other water which the public has a right to use or to which the public has the right of access;

‘septic tank’ means a tank designed to receive and retain sewage for such a time and in such a manner as to ensure adequate decomposition;

‘sewage’ means any liquid waste or wastewater discharge containing human, animal or vegetable matter in suspension or solution, and includes liquids containing chemicals in solution but does not include industrial effluent and stormwater;

‘sewage disposal system’ means the structures, pipes, valves, pumps, meters or other associated items used in –

(a) conveying sewage through the sewer reticulation system;

(b) treating sewage at the treatment works under the control of the Municipality;

and

(c) the disposal of sewage, including

sea outfalls;

‘sewer’ means any pipe or conduit which is the property of or is vested in the Municipality and which may be used for conveying sewage from the connecting sewer, but excludes any drain;

‘standard domestic effluent’ means domestic effluent which meets strength characteristics relating to chemical oxygen demand and settleable solids as prescribed by the Municipality from time to time as being appropriate to sewage discharges from domestic premises, but excludes trade effluent;

‘stormwater’ means water resulting from natural precipitation or accumulation and includes rainwater, subsoil water or spring water;

‘trade effluent’ means any liquid, whether or not containing matter in solution or suspension, which is given off in the course of or as a result of any industrial, trade, manufacturing, mining or chemical process or any laboratory research or agricultural activity, and includes any liquid other than standard domestic effluent or stormwater;

‘trade premises’ means premises upon which trade effluent is produced;

‘urine diversion toilet’ means a toilet which –

(a) separates urine and faecal matter through the use of a special pedestal and separate urinal to divert urine to soak away in order that only faecal matter collects in the pit; and

(b) which consists of –

- (i) two pits;
- (ii) a cover slab;
- (iii) a superstructure; and
- (iv) a vent pipe to each pit;

"VIP" means a ventilated improved pit latrine;

"Water Services Act" means the Water Services Act, 1997 (Act 108 of 1997);

"wet industry" means an industry which discharges trade effluent;

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

"1 in 50 year flood level" means that level reached by flood waters resulting from a storm of a frequency of one in 50 years; and

"1 in 50 year flood plain" means the area subject to inundation by flood waters from a storm of a frequency of one in 50 years;

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 object of this By-law is to regulate sewage disposal in a manner which –

- (a) progressively ensures efficient, affordable, economical and sustainable access to sanitation and sewage services;
- (b) regulates the duty of customers to pay for sanitation and sewage services;
- (c) provides various measures to assist those who are economically unable to meet normal service charges; and
- (d) complies with the Water Services Act.

Application of By-law

4. This By-law applies to all areas which fall under the jurisdiction of the _____ Municipality and is binding on all persons to the extent applicable.

CHAPTER 2 GENERAL PROVISIONS

Provision of services to trade premises

5. A person who wants to construct or cause to be constructed any building or development must, when undertaking an environmental impact assessment, ensure that provision is made for the treatment and disposal of domestic sewage, trade effluent and stormwater.

Objectionable discharge

- 6.(1) A person may not cause or permit, whether wilfully or negligently, any solid, liquid or gaseous substance other than stormwater to enter any –

- (a) stormwater drain, stormwater sewer or excavated or constructed watercourse;
- (b) river, stream or natural watercourse or any public water, whether ordinarily dry or otherwise, except in accordance with the provisions of the National Water Act, 1998 (Act No. 36 of 1998);
- (c) street; or
- (d) premises.

- (2) The Municipality may prescribe the minimum standards and criteria dealing with the discharge of sewage or any substance into the sewage disposal system.

- (3) A person may not discharge or permit the discharge or entry into the sewage disposal system of any sewage or other substance –

- (a) which does not comply with the standards and criteria prescribed by the Municipality;
- (b) which –
 - (i) is offensive;
 - (ii) has an odour;

(iii) has fats;

(iv) has excessive foam; or

(v) has colour dyes,

and may cause an obstruction or public health nuisance in the inflow of any treatment works

(c) contains any substance in such concentration as will produce or is likely to produce any offensive or otherwise undesirable taste, colour, odour, obstruction or any foam in the final treated effluent –

(i) at any treatment works;

(ii) at any sea outfall discharge point; or

(iii) in any public water;

(d) may prejudice the re-use of treated sewage or adversely affect any of the processes by which sewage is purified for re-use or treated to produce sludge for disposal;

(e) contains any substance or thing which –

(i) is not amenable to treatment to a satisfactory degree at a treatment works; or

(ii) causes or is likely to cause a breakdown, pass-through or inhibition of the treatment processes in use at such works with the exception of an electrical conductivity below 95mS/m at the head of the treatment works;

(f) contains any C.O.D., substance or thing which is of such strength or nature, or which is amenable to treatment only to a limited degree, and will result in effluent from the treatment works or discharge from a sea outfall being unable to comply satisfactorily with any requirements of or under the National Water Act;

(g) may –

(i) cause danger to the health or safety of any person;

(ii) be injurious to the structure or materials of the sewage disposal system; or

(iii) prejudice the use of any ground used by the Municipality for the sewage disposal system,

other than in compliance with any permission issued in terms of this By-law; or

(h) may inhibit the unrestricted conveyance of sewage through the sewage disposal system.

(4) No trade effluent may be allowed to enter a septic tank or a French drain.

(5) A person may not cause or permit any stormwater to enter the sewage disposal system.

(6) An authorised official may, by written notice, order the owner or occupier of any premises to conduct, at his or her own cost, periodic expert inspections of the premises in order to identify

precautionary measures which would ensure compliance with this By-law and to report such findings to an authorised official.

(7) An authorised official may by written notice order the owner or occupier of any premises to execute, at his or her own cost, any precautionary measures required by the Municipality to prevent any contravention of the provisions of this By-law.

(8) An authorised official may, by written notice, order a person who breaches this by-law or condition imposed in terms of this by-law to remedy such breach within a period specified in the notice at the persons own cost.

(9) If any person contravenes any provision of subsection (1) or (3), he or she must within 12 hours advise an authorised official of the details of the contravention and the reasons for it.

CHAPTER 3

USE OF SEWAGE DISPOSAL SYSTEM

Agreement to provide services

7. Subject to any applicable law an authorised official may enter into an agreement with any person on behalf of the Municipality to provide a sewage disposal service.

Application for use of sewage disposal system

8. (1) A person wishing to use the sewage disposal system must make application to the Municipality in the form required, accompanied by such information as the Municipality may require from time to time.

(2) An application for the use of the sewage disposal system which has been granted by the Municipality constitutes an agreement between the Municipality and the customer.

(3) The owner is liable for all the prescribed fees in respect of the use of the sewage disposal system granted to him or her until the agreement between the Municipality and the owner is terminated.

(4) Where premises have been connected to the sewage disposal system, or are reasonably capable of being so connected, it must be deemed for the purpose of this By-law that an agreement in terms of subsection (1) exists.

Special agreements for disposal of sewage

9. (1) The Municipality may enter into a special agreement for the disposal of sewage with a person—

(a) inside the area of jurisdiction of the Municipality, if the disposal necessitates the imposition of conditions not contained in this By-law; or

(b) outside the area of jurisdiction of the Municipality.

(2) A special agreement must be subject to any resolution passed by an authorised official.

(3) If the Municipality, in terms of a special agreement, provides a means of disposal of sewage to a person outside the area of jurisdiction of the Municipality, it may permit him or her to accept sewage for eventual disposal by the Municipality from other persons outside the area of jurisdiction of the Municipality, subject to such conditions as the Municipality deems fit.

Termination of agreement

10. A person may terminate an agreement referred to in section 8 or 9 by giving the Municipality not less than five working days' notice in writing of his or her intention to do so: Provided that the authorised official is satisfied with the manner in which sewage arising from the premises will be disposed of on the termination of the contract.

Provision of connecting sewer

11. (1) In the event that –

(a) an agreement for the use of the sewage disposal system in accordance with section 8 or 9 exists; and

(b) no connecting sewer exists in respect of the premises,

the owner or his or her agent must immediately make application on the prescribed form and pay the prescribed charge for the installation of a connecting sewer.

(2) If an application is made for use of the sewage disposal system for premises which are so situated that it is necessary to extend the sewer in order to connect the sewage disposal system to the premises, an authorised official may agree to the extension subject to such conditions as he or she may impose.

(3) An authorised official may agree, at the request of any person and subject to such conditions as the authorised official may impose, to a connection to a sewer other than that which is most readily available for the drainage of the premises: Provided that the applicant must be responsible for –

(a) any extension of the drainage installation to the connecting point designated by an authorised official; and

(b) obtaining at his or her cost, such servitudes over other premises as may be necessary.

(4) A connecting sewer provided and installed by the Municipality must –

(a) be located in a position determined by an authorised official; (b) terminate –

(i) at a connection point approximately one metre inside the premises from the boundary of the land owned by or vested in the Municipality or over which it has a servitude or other right; or

(ii) when subsection (3) applies, at the connecting point designated in terms of that subsection; and

(c) be of a size determined by an authorised official.

(5) An owner or his or her agent must pay the connection charge prescribed by the Council. (6) Where an owner or his or her agent is required to provide a sewage lift as contemplated in the National Building Regulations, the rate and time of discharge into the sewer are subject to the approval of an authorised official.

Acceptance of sewage delivered by road haulage

12.(1) An authorised official may, and subject to such conditions as he or she may specify, accept sewage for disposal delivered by road haulage to a specified treatment works facility of the Municipality.

(2)(a) A person may not discharge sewage into the facilities of the Municipality by road haulage, except with and in terms of the written permission of an authorised official.

(b) The charges for any sewage delivered for disposal to any Municipal facility must be assessed by an authorised official in accordance with the charges prescribed from time to time in terms of section 28.

(3) When delivery is by road haulage, the –

(a) time of delivery must be arranged with an authorised official; and

(b) nature and composition of the sewage must be established to the satisfaction of an authorised official prior to the discharge thereof:

Provided that a person may not deliver sewage which does not comply with the standards laid down in accordance with this By-law.

(4) An authorised official may withdraw any permission to discharge sewage delivered: Provided that 14 days' written notice is given to the permit holder, if the permit holder –

- (a) fails to ensure that the sewage so delivered conforms to the standards prescribed in Schedule -A or -B, as applicable, or in the permit;
- (b) fails or refuses to comply with any notice lawfully served on him or her in accordance with this By-law or contravenes any provisions of this By-law or any condition imposed on him or her in terms of any permission granted to him or her; or
- (c) fails to pay the assessed charges in respect of any sewage delivered.

CHAPTER 4

LEVELS OF SUPPLY: HOUSEHOLDS AND INFORMAL SETTLEMENTS

Levels of supply of sanitation to households

13.(1) The sanitation provided to domestic households must be in the form of one of the following methods:

- (a) a privately owned urine diversion toilet;
- (b) if a municipal waterborne sewerage reticulation system is available, connection to such system; or
- (c) if a municipal waterborne sewerage reticulation system is not available, an on-site-privately owned sewage disposal system.

(2)(a) The sanitation must match the available water supply to the premises concerned. (b)

Where –

- (i) water supply to a household is limited to 300 litres per day via a ground tank or yard tap, sanitation must be provided in the form of a urine diversion toilet or an alternative approved by an authorised official ; and
- (ii) either a semi-pressure supply or a full pressure water supply is provided by the Municipality, sanitation must be provided in the form of the municipal waterborne sewerage reticulation system or an on-site privately-owned sewage disposal system.

(3)(a) The Municipality may prescribe that a particular sanitation method must be applied in a particular area.

(b) Any form of sanitation other than that prescribed for an area as contemplated in paragraph (a) may be used only with the permission of an authorised official: Provided that the –

- (i) sanitation method matches the level of available water supply; (ii) sanitation method is implemented by the householder; and
- (iii) water supply system is able to sustain the level of water demand.

(4) The following sanitation methods for domestic households are not permitted without an authorised official's consent, which may only be granted under exceptional circumstances:

- (a) night soil pail;
- (b) a simple, unimproved pit latrine; and
- (c) a conventional VIP or chemical toilet.

Sanitation of informal settlements

14. (1) Sanitation to informal settlements must be provided by means of either –

- (a) an ablution block connected to the municipal waterborne sewerage reticulation system; or
- (b) a toilet block where no connection to the municipal waterborne sewerage reticulation system is available: Provided that each toilet must be equipped with its own VIP pit which must be emptied as and when required.

(2) The minimum level of access to sanitation provided in informal settlements must be an ablution block or toilet block within 200 meters of every household.

CHAPTER 5 DRAINAGE INSTALLATION

Drains in streets or public places

15. A person may not, for the purpose of conveying sewage, construct a drain on, in or under a street, public place or other land owned by, vested in, or under the control of the Municipality, except with the prior written permission of an authorised official and subject to such conditions as he or she may deem fit.

Construction by Municipality on private premises

16. (1) The Municipality may, by agreement with the owner of any premises, construct drains on those premises at the cost of the owner.

(2) When agreeing with the owner of premises to construct drains on those premises, a term of the agreement must be that the owner will be liable for the full cost of construction as certified by an authorised official, either in advance or on demand.

Maintenance of drainage installation

17. (1) In the event that the owner or occupier of any premises fails to –

(a) provide a drainage installation and a sewer connection; or

(b) keep the drainage installation on those premises in proper working condition,

the Municipality may itself carry out any necessary work on the premises, and recover the full cost thereof from the owner or occupier.

(2) Any person who requests that a drainage installation be cleared by the Municipality is liable to pay the fee as prescribed.

(3) An authorised official may, on the written application of the owner or occupier of any premises, inspect and test the drainage installation of such premises or any section of the installation and recover from the owner or occupier the cost of such inspection and test, calculated at the rate specified in the prescribed tariff of charges.

Installation of pre-treatment facility

18. An authorised official may, in his or her discretion, require that new premises be provided with a minimum pre-treatment facility of a type specified by him or her prior to such premises being connected to the sewage disposal system.

Protection from ingress of floodwaters

19. Where a premises is situated in the 1 in 50 year flood plain, the top level of manholes, inspection chambers and gullies must be placed above the 1 in 50 year flood level, except, in the case of manholes and inspection chambers, where the cover is secured in place by means approved by an authorised official.

CHAPTER 6 DEVELOPMENTS

Sewage disposal in sectional title developments

20.(1) The developers of a new sectional title development must, at his, her or its own cost, construct an approved sewage reticulation system, including any pump-stations and rising mains, which is adequate to serve each household and any common areas as required.

(2) Where the municipal waterborne sewage reticulation system is available to serve the development, the developer must at his, her or its own cost connect the internal sewage reticulation system to the municipal reticulation system.

(3) Where the municipal waterborne sewage reticulation system is not available to serve the development, the developer must install a suitable on-site privately owned sewage disposal system.

Sewage disposal to mini-sub developments

21.(1) The developer of any new mini-sub development is required to construct, to the specifications of the Municipality, a sewage reticulation system, including any pump-stations and rising mains, to serve each freehold site and any common areas as required.

(2) Where the municipal waterborne sewage reticulation is available to serve the development, the developer must connect the internal sewage reticulation system to the municipal reticulation system.

(3) The Municipality may take over the reticulation, up to the connection point, at no cost to the Municipality once –

(a) the sewage reticulation system has been completed to the satisfaction of the Municipality; and

(b) a complete set of as-built drawings have been received from the developer.

(4) Where the municipal waterborne sewage reticulation is not available to serve the development, the developer may investigate the provision of a suitable on-site privately owned sewage disposal system, subject to the home owner's association fulfilling its obligations as water services provider or water services intermediary.

CHAPTER 7

PRIVATELY-OWNED SEWAGE DISPOSAL SYSTEMS

Septic tanks

22.(1) A septic tank must consist of a tank in which breakdown of the sewage occurs and from where effluent is dispersed into the ground through a soak away or French drain.

(2) The permissible flow to a septic tank is limited to liquid containing domestic sewage.

(3) Septic tanks must be designed by a qualified person or alternatively it should follow the Municipality guideline for the design and approval of on-site disposal of domestic sewage.

Conservancy tanks

23. (1) A conservancy tank may only be installed on premises in areas where there is municipal waterborne sewerage, with the prior permission of an authorised official, which will only be granted in exceptional circumstances.

(2) If permission for a conservancy tank on premises in areas where there is municipal waterborne sewerage is granted, the following conditions apply:

(a) the conservancy tank must –

(i) comply with the requirements set out in the SABS 0400 Code of Practice, as amended, for the Application of the National Building Regulations; and

- (ii) be designed by a professional engineer proficient in planning or designing of on-site wastewater disposal;
- (b) the scale of the proposed development must be limited
- (c) the authorised official must be satisfied that adequate arrangements have been made for the required emptying service; and
- (d) for a –
 - (i) domestic application, the conservancy tank must have a minimum capacity of 7000 litres and have a seven day retention capacity; and
 - (ii) non-residential application, the conservancy tank must have a minimum capacity sufficient to hold four days retention of the potential flow generated.

Privately-owned sewage treatment plant**24. (1) A –**

- (a) privately-owned sewage treatment plant may only be installed on premises; and
- (b) privately-owned low volume domestic sewage treatment plant may only be installed on domestic premises,

with the prior permission of an authorised official, which will only be granted in exceptional circumstances.

(2) If permission for a privately-owned low volume domestic sewage treatment plant on domestic premises is granted, the following conditions apply:

- (a) the plant must comply with the Municipality's guideline document: Package Plants for The Treatment of Domestic Wastewater, as published and amended from time to time;
- (b) the developer must appoint a professional engineer at the commencement of the project and such professional engineer–
 - (i) is responsible for the design and selection of the plant;
 - (ii) must supervise the construction, installation and commissioning of the plant;and
 - (iii) is responsible for the operational control, monitoring and maintenance of the plant for a period of 5 years in terms of a service contract to the satisfaction of an authorised official ;and

- (c) the developer must lodge a financial guarantee with the Municipality in an amount equal to 1,5 (one comma five) times the total cost of the plant for a period of five years.
- (3) The Municipality may prescribe additional requirements for privately-owned low volume domestic sewage treatment plants.
- (4) If the discharge from a privately-owned low volume domestic sewage treatment plant does not comply with the General Limit Values as set by the Department of Water Affairs and Forestry's General Authorisations in terms of Section 39 of the National Water Act, an authorised official may instruct the owner of such plant to discharge into an approved municipal facility on such conditions as an authorised official may prescribe.
- (5) If it becomes apparent that a privately-owned low volume domestic sewage treatment plant does not meet the discharge standards set by the Department of Water Affairs as in subsection (4) above, an authorised official may instruct the owner of the plant to remove and replace the plant at his or her own cost.

CHAPTER 8

TRADE EFFLUENT

Permission to discharge trade effluent

- 25.** (1) A person may not discharge, cause or permit to be discharged into the municipal sewage disposal system any trade effluent, except –
- (a) with and in terms of the written permission of an authorised official; and
 - (b) in accordance with this By-law.
- (2) Any application for permission to discharge trade effluent into the sewage disposal system must be made in accordance with the requirements stipulated by an authorised official and against payment of the prescribed fee.
- (3) An authorised official may grant an applicant permission to discharge trade effluent into the municipal sewage disposal system if, in his or her opinion, there is sufficient capacity in the sewage disposal system to permit the –

- (a) conveyance;
- (b) effective treatment; and
- (c) lawful disposal,

of the additional trade effluent.

(4) The person to whom permission has been granted in terms of this Chapter shall ensure that no trade effluent is discharged into the sewage disposal system unless it complies with the standards and criteria set out in Schedules "A" and "B" hereto.

(5) In granting permission to discharge effluent into the municipal sewage disposal system, an authorised official may –

- (a) specify the duration of the permission;
- (b) impose any conditions in addition to those which may be prescribed by an authorised official; and
- (c) relax or vary the standards set up in Schedules -AII and -BII or any conditions prescribed by an authorised official if he or she is satisfied that any relaxation or variation is the best practicable environmental option taking into account the following factors:
 - (i) whether the applicant's plant is operated and maintained at optimal levels;
 - (ii) whether the technology used by the applicant represents the best available technology to the applicant's industry and, if not, whether the installation of such technology would entail unreasonable cost to the applicant;
 - (iii) whether the applicant is implementing a programme of waste minimisation which complies with waste minimisation or management standards prescribed in terms of applicable legislation;
 - (iv) the cost to the Municipality of granting the relaxation or variation; and
 - (v) the environmental impact, or potential impact, were the relaxation or variation to be granted and in doing so must apply a risk-averse and cautious approach.

(6) Trade effluent may only be discharged into the municipal sewage disposal system in terms of permission granted in accordance with –

- (a) this By-law;
- (b) any conditions relating to the permission granted; and
- (c) any standards and criteria prescribed by an authorised official from time to time.

(7) A duly qualified sampler may take test samples at any time to ascertain whether the trade effluent complies with the provisions of this By-law and any standard or condition prescribed by the permit from time to time.

(8) The authorised official may in the permit or at any time, by written notice, require a permit holder to –

(a) subject trade effluent to any preliminary treatment that, in the opinion of the authorised official, ensures that such effluent conforms with this By-law and any standard or condition prescribed by the authorised officer, and in Schedules -All and -BII before being discharged into the municipal sewage disposal system;

(b) install equalising tanks, valves, pumps, appliances, meters and other equipment as, in the opinion of the authorised official, is necessary to control the rate and time of discharge into the sewage disposal system in accordance with the conditions imposed on the permit holder;

(c) install for the conveyance of his or her trade effluent into the sewage disposal system at a given point, a drainage installation separate from the drainage installation for waste water and standard domestic effluent, and may prohibit such permit holder from disposing of his or her –

(i) trade effluent at any other point; and

(ii) waste water and standard domestic effluent by means other than into a sewage disposal system;

(d) construct on any pipe conveying his or her trade effluent to any sewer, a manhole or stop-valve in such position and of such dimensions and materials as the authorised official may require;

(e) provide all such information as may be required by the authorised official to enable him or her to assess the charges due to the Municipality in accordance with this By-law;

(f) provide adequate facilities to prevent a discharge into the sewage disposal system which is in contravention of the provisions of this By-law, including but not limited to level or overflow detection devices, standby equipment, overflow catchpits or other appropriate means;

(g) cause any meter, gauge or other device installed in terms of this section to be calibrated by an independent authority at the cost of the permit holder at times laid down by the authorised official, and to forward copies of the calibration certificate to him or her; and

(h) cause his or her trade effluent to be analysed as often and in such manner as may be prescribed by the authorised official, and to provide the Municipality with returns of these tests when completed.

(9) The owner or occupier of any premises must at his or her own cost install precautionary measures to prevent the contravention of any provision of this By-law as contemplated in any guidelines set out by the Municipality relating to the approval of building plans, which include but are not limited to the following:

(a) installing an impermeable containing structure or bund around all liquid containers with a volume not less than the volume of the largest liquid container therein; and

(b) ensuring all containing structures are roofed with gutters to ensure that clean stormwater run-off is directed to the stormwater drainage system.

(10) The authorised official may grant a relaxation of the requirements set out in subsection

(9) if the permit holder applies for such relaxation in writing and is able to—

(a) prove that there would be no increased risk to the environment; and

(b) demonstrate what other provisions he or she would put in place to minimise the risk.

(11) In the event of failure or a faulty recording meter or other device, the volume must be assessed by such means as an authorised official may decide.

(12) The cost of any treatment, plant, works or analysis which the permit holder may be required to carry out, construct or install in accordance with subsection (8) must be borne by the permit holder concerned.

(13) A permit holder must obtain the written permission of the authorised official for any proposed changes to the composition of trade effluent discharged into the sewage disposal system.

(14) If a permit holder discharges into the sewage disposal system any trade effluent which does not comply with the permit issued in respect of that process or premises, the permit holder or his or her agent must, within 12 hours of the discharge, notify an authorised official of the incident and the reasons for it.

(15) The authorised official may withdraw any permission to discharge trade effluent into the sewage disposal system if the permit holder –

(a) fails or refuses to comply with any notice lawfully served on him or her in terms of this By-law or contravenes any provisions of this By-law or any condition imposed on him or her in terms of any permission granted to him or her; or

(b) fails to pay the assessed charges in respect of any trade effluent discharged; (c) fails to ensure trade effluent quality complies with Schedules -All and -BII:

Provided that the permit holder must be given 14 days' written notice.

(16) If the authorised official withdraws permission to discharge trade effluent, he or she may

(a) in addition to any steps prescribed in this By-law, and on 14 (fourteen) days' written notice served on the permit holder, authorise the closing or sealing of the connecting sewer of the premises concerned to any sewer for such charge as may be prescribed by the authorised official; and

(b) continue to refuse to accept any further trade effluent from the permit holder until he or she is satisfied that the permit holder concerned has taken adequate steps to ensure that the trade effluent to be discharged conforms with the standards prescribed in this By-law.

(17) If the authorised official authorises the reopening of the connection or seal after it being closed, the permit holder is liable for the charge in terms of the prescribed charges.

(18)(a) If it comes to the attention of the authorised official that a person is discharging trade effluent which has the potential, if allowed to continue, to seriously damage the sewage disposal system or the environment, he or she may immediately authorise the sealing of the sewer connection through which the trade effluent is being discharged.

(b) A person may not permit the opening of the connection contemplated in paragraph (a) until an authorised official is satisfied that the trade effluent will comply with the prescribed standards.

(19) The provisions of this section apply equally to trade effluent discharged into any of the sea outfalls of the Municipality, subject to applicable legislation, and further subject to the following provisions:

(a) where trade effluent is accepted for discharge into a sea outfall, it must be delivered to the point of acceptance approved by the authorised official by means of a pipeline constructed and maintained by the permit holder at his or her own expense;

(b) no trade effluent may be accepted for discharge into a sea outfall unless it complies with the standards and criteria set out in Schedule -B;

(c) trade effluent may not be accepted for discharge into a sea outfall unless it, whether alone or in combination with other substances, can be demonstrated to the satisfaction of the authorised official not to be toxic to marine fauna or flora and not to contain any

–

(i) other constituents in concentrations which –

(aa) can create a nuisance on the beaches or in the sea, or a health hazard; or

(bb) may have an adverse effect on bathing or other recreational areas; (ii) floating material;

- (iii) substance which may be prejudicial or injurious to the sea outfalls of the Municipality and associated sumps, sewers, plant and equipment or to its employees;
- (iv) materials capable of creating a nuisance by frothing; and
- (v) standard domestic effluent;
- (d) subject to the provisions of subsection (c), the authorised official may, in writing in the permission concerned, relax or vary the standards and criteria prescribed by Schedule -BII;
- (e) the delivery pipeline from the premises concerned to the point of acceptance must be maintained in a proper condition and free from all leaks;
- (f) acceptance of the trade effluent must be subject to periodic review: Provided that such review may be made at any time if, in the opinion of the authorised official, special circumstances, which may include but is not limited to, the pollution of the sea or beaches, the killing of fish, or other incidents, arise as a result of the acceptance thereof into a sea outfall;
- (g) a suitable sampling point to the satisfaction of the authorised official must be provided by the permit holder in respect of the trade premises concerned;
- (h) the above mentioned sampling point shall be labeled to the satisfaction of the authorised official;
- (i) the authorised official must be notified of any proposed changes in the process of manufacture or in the quantity or nature of the materials used which is likely to affect the nature, composition or quantity of the trade effluent discharged: Provided that the permission of the authorised official must be obtained for the continued discharge of such effluent.

CHAPTER 9

PAYMENT FOR SERVICES

Payment for use of sewage disposal system

26.(1) Payment for the use of the sewage disposal system must be made –

- (a) in accordance with the prescribed tariff for the disposal of sewage; or
- (b) in terms of a special agreement entered into between the Municipality and a person in terms of section 9; or

(c) in terms of some other means as prescribed by the authorised official. (2)

Payment is due and payable on the due date stipulated in the account.

Trade effluent charge when sewage rates applied

27. When the charge for the use of the sewage disposal system is by means of sewage rates and a person holds a permit for the discharge of trade effluent in excess of the prescribed minimum volume of T' kilolitres per month, the permit holder is liable to charges in addition to that levied by means of sewage rates, calculated in accordance with section 28.

Trade effluent charges

28. The Municipality may prescribe trade effluent charges and amend such charges as it deems necessary.

Sewage disposal charge when tariff rates applied

29. When a charge for the use of the sewage disposal system is by means of prescribed tariff rates, charges for standard domestic effluent become payable by the customer when a premises –

- (a) is connected to the sewage disposal system or is reasonably capable of being so connected;
- or
- (b) receives a supply of water from the Municipality.

Trade effluent charge when tariff rates applied

30.(1) A person who holds a permit for the discharge of trade effluent in excess of the prescribed minimum volume of T' kilolitres per month, is liable for a minimum charge per kilolitre of trade effluent which is equivalent to the charge for the disposal of standard domestic effluent.

(2) In addition to the provisions of subsection (1), a permit holder who discharges a trade effluent with a strength or quality greater than standard domestic effluent is liable for an additional charge in respect of high strength sewage calculated in accordance with the provisions of section 28.

Volume of standard domestic effluent determined for payment purposes

31.(1) The volume of standard domestic effluent must be determined –

(a) by a percentage of water supplied by the Municipality in accordance with any prescribed procedures;

(b) on an assessment made by the authorised official based on criteria such as the number of employees at a premises, the number of shifts worked, number of meals served and the like; or

(c) where premises are supplied with water from a source in addition to the water supply system of the Municipality, by river abstraction or partially or wholly by a borehole, on an assessment made by the authorised official based on such criteria as he or she deems relevant.

(2) Notwithstanding the provisions of subsection (1)(a), where the authorised official is of the opinion that the percentage applicable in respect of specific premises is excessive, having regard to the purposes for which water is consumed on those premises, he or she may reduce the percentage applicable to those premises to a figure which, in his or her opinion and in the light of information then available, more realistically reflects the proportion between the likely volume of sewage discharged from the premises and the quantity of water supplied thereto

Volume of trade effluent determined for payment purposes

32. The volume of trade effluent discharged into the sewage disposal system or to sea outfalls must be determined in the following ways:

(a) where direct measurements of the volume of trade effluent discharged from a premises are made, such volume must be used for the purposes of calculating the amount payable;

(b) where no direct measurement of the volume of trade effluent discharged from the premises are made, then the volume must be determined as a percentage of water supplied by the Municipality in accordance with procedures prescribed by the Municipality;

(c) where premises are supplied with water from a source in addition to the Municipality's water supply system, by river abstraction or partially or wholly by a borehole, the volume must be assessed by the authorised official based on such criteria as he or she may deem relevant; and

(d) where a portion of the water supplied to a permit holder forms part of the end product of any manufacturing process or is lost by reaction or evaporation during the manufacturing process or for any other reason, the authorised official may, in his or her sole discretion, on application by the permit holder, reduce the assessed volume of trade effluent.

Other charges

33.(1) Notwithstanding anything to the contrary contained in this By-law, the authorised official may prescribe and levy the following charges:

- (a) a charge payable by any person in respect of a minimum volume of sewage;
 - (b) a charge payable by any person in the form of a general surcharge on the prescribed charges for use of the sewage disposal system in the event that there is any prohibition or restriction in the consumption or use of water;
 - (c) a charge for the recovery of costs incurred by the Municipality for trade effluent control and monitoring of permit holders who dispose of trade effluent into the sewage disposal system;
 - (d) a charge payable by a person who disposes of an objectionable discharge as referred to in section 6 for the recovery of full costs incurred by the Municipality in tracing the source of such objectionable discharge and in remedying the effects thereof: Provided that such full cost must include the environmental cost;
 - (e) a charge payable by any person at –
 - (i) the applicable prescribed tariff rate; or
 - (ii) if no tariff has been prescribed, the full cost for any other service rendered or goods sold;
 - (f) the Municipality may raise additional charges for any charges relating to water quality that may be levied by the national government;
 - (g) a charge must be payable by any person who exceeds the discharge limits as set out in Schedules -All and -BII; and
 - (h) the owner of any premises where storm water infiltration into the sewerage reticulation has been found must be charged in respect of the estimated volume of storm water discharged to sewer: Provided that the volume storm water entering the sewer system must be estimated by the authorised official.
- (2) No person must establish or operate an industry or a commercial undertaking, producing waste or water containing waste in an area zoned for residential purposes.

Payment of deposit

34.(1) The authorised official may require any person to deposit with the Municipality a sum of money representing the cost of sewage disposal charges which in his or her opinion would be incurred by the person during a period specified by the Municipality.

(2) A deposit contemplated in subsection (1) must accompany the application submitted in accordance with section 8 or subsection (1).

(3) A deposit paid in accordance with subsection (1) may not be regarded as being in payment or part payment of a current account due for the disposal of sewage.

(4) Subject to the applicable By-laws, the Municipality may, by notice in writing, require the person concerned to increase the deposit by an amount specified in such notice.

(5) Subject to the applicable By-laws, the Municipality may of its own accord, or at the request of a customer, reduce the amount of a deposit or a guarantee required by him or her if the Municipality is satisfied that the reduction is justified by –

- (a) the present level of sewage disposal charges to the customer; or
- (b) a change in the circumstances pertaining to the assessment of the original amount of the deposit or guarantee.

Reduction of amount payable if water wasted or leakage undetected

35.(1) A person is entitled to a reduction of the amount payable for the disposal of sewage in the event that the water meter readings upon which the charge is calculated include any period during which –

- (a) water was wasted; or
- (b) a leakage was undetected:

Provided that the customer demonstrates to the satisfaction of the authorised official that the water was not discharged into the sewage disposal system.

(2) An owner is not entitled to a reduction of the amount payable for water wasted or lost in a water installation due to visible leaks.

(3) Rebates will only be granted in terms of underground leaks, and where the repair of such leak was visually confirmed by an official of the municipality.

(4) The amount payable for the disposal of sewage may be reduced by an amount based on the volume of standard domestic effluent calculated from the volume of potable water lost through leakage or wastage during the leak period.

(5)(a) The leak period must be either the metering period immediately prior to the date of repair of the leak or the metering period during which the leak is repaired, whichever results in the greater reduction of the amount payable.

(6)(a) The volume of lost water must be calculated as the consumption for the leak period less an average consumption, based on the preceding three months, for the same length of time.

(b) If –

(i) there is no previous consumption history existing; or

(ii) the average consumption is not considered representative by the authorised official, the average water consumption is that amount determined by him or her, after due consideration of all relevant information.

(c) There may be no reduction of the amount payable as a result of a loss of water directly or indirectly caused by or resulting from –

(i) subsidence or landslip;

(ii) refilling of swimming or other pools or ponds, whether following leakage or otherwise;

(iii) the deliberate act of the person who has suffered such loss or any person acting on his or her behalf if such act results in loss of water; or

(iv) water installations that do not conform to any installation guidelines of the Municipality.

Amendments to amount payable

36. If, for any reason, a person liable under this By-law is –

(a) not charged at all; or

(b) charged for sewage at a rate lower than that for which he or she is liable,

he or she may not be absolved from payment, and must on demand remit all sums due to the Municipality, calculated in accordance with the provisions of this By-law.

Amendments to prescribed charges

37. Where amendments to the prescribed tariff rates for disposal of sewage become operative on a date between meter readings, the customer must pay charges calculated on the same quantity of sewage as was disposed of in each period of 24 (twenty four) hours during the interval between meter readings.

CHAPTER 10**PROTECTION OF SEWAGE DISPOSAL SYSTEM****Trespassing on the sewage disposal system**

38. Except with the prior authority of the authorised official, a person may not enter –

- (a) upon an area used for the purpose of the sewage disposal system which is enclosed by a fence or where entry is prohibited by notice boards; or
- (b) a structure used by the Municipality in connection with its sewage disposal system.

Interference with sewage disposal system

39. Except with the prior authority of the authorised official, a person may not –

- (a) interfere or tamper with the sewage disposal system except under the provisions of section 43;
- (b) make a connection to the sewage disposal system except under the provisions of section 11;
- or
- (c) construct a building or raise or lower the ground level within an area that is subject to a sewer servitude.

Damage to sewage disposal system

40. (1) A person may not damage or endanger the sewage disposal system, or cause or permit it to be damaged or endangered.

(2) A person who intends performing work which may cause damage to the sewage disposal system on land owned by or vested in the Municipality or over which it has a servitude or other right must, prior

to commencement of such work, ascertain from the Municipality whether any part of the sewage disposal system is situated on the land.

(3) If work, which in the opinion of the authorised official could damage or endanger the sewage disposal system, is to be performed or is being performed on land contemplated in subsection (2), or on land adjacent thereto, he or she may by notice in writing require the person concerned not to commence, or to cease performing, the work until such time as he or she has complied with the conditions specified in the notice.

Consequential maintenance of sewers

41. Whenever a sewer is damaged or becomes obstructed or in need of repair as a result of the act or omission of any person, whether by reason of the failure of such person to comply with the requirements of this By-law or otherwise, the authorised official may –

- (a) carry out such work, maintenance or repair as the authorised official considers necessary;
- or
- (b) remove the obstruction,

at the expense of such person and recover from that person the full cost of doing so.

Obstruction of access to sewage disposal system

42. (1) A person may not prevent or restrict access of authorised officials of the municipality to the sewage disposal system.

(2) In the event that a person contravenes the provisions of subsection (1), the authorised official may –

- (a) by written notice require the person to restore access at his or her own cost within a specified period; or
- (b) if he or she is of the opinion that the situation is a matter of urgency, without prior notice restore access and recover the full cost of doing so from the person.

Work by private persons

43.(1) The authorised person or its agents must lay all sewers and connecting sewers unless it elects not to do so, in which case the work shall be executed in accordance with the Municipality's conditions of contract applicable to the work and the provisions contemplated in subsection (2).

(2) If the authorised official elects to allow another person to lay a sewer or connecting sewer, the work must be done in accordance with the standards and procedures approved by the Municipality for such work, including the following provisions;

(a) any person carrying out work must, prior to commencement of such work, lodge with the authorised official a written indemnity to the satisfaction of the authorised official, indemnifying the Municipality against all liability in respect of any accident or injury to persons or loss or damage to property which may occur as the direct or indirect result of the execution of such works;

(b) where a connection is to be made with any sewer, it must be made at a point indicated by the authorised official;

(c) whenever the surface of any street or road has been disturbed in the course of work, the restoration of the surface of the street or road must be undertaken solely by the Municipality at the expense of the person carrying out such work; and

(d) before disturbing the surface of any street or road, a deposit must be made with the Municipality which in the opinion of the authorised official is sufficient to cover the estimated cost of restoration:

Provided that when the actual cost is greater or less than the amount deposited, any –

(i) excess must be recoverable from such person; or

(ii) balance must be refunded to him or her.

(2) All work must be carried out in accordance with the requirements, and to the satisfaction of, the authorised official.

CHAPTER 11 ENFORCEMENT

Entry by authorised official

44.(1) An authorised official may for any purpose connected with the implementation or enforcement of this By-law, at all reasonable times or in an emergency at any time –

- (i) enter premises;
- (ii) request information;
- (iii) take samples; and
- (iv) make such inspection, examination and enquiry and carry out work,

as he or she may deem necessary, and for those purposes operate any component of the drainage installation.

(2) If an authorised official considers it necessary that work be performed to enable him or her to properly and effectively implement a function contemplated in subsection (1), he or she may –

- (a) by written notice require the owner or occupier of the premises at his or her own cost to do specified work within a specified period; or
- (b) if in his or her opinion the situation is a matter of urgency, without prior notice do such work or cause it to be done, the cost of which must be recovered from the owner or occupier.

(3) If the work contemplated in subsection (2) is carried out for the sole purpose of establishing whether a contravention of this By-law has been committed and no such contravention is proved, the Municipality must bear the expense connected therewith together with that of restoring the premises to its former condition: Provided that in all other circumstances, the owner of the premises must bear such expense.

(4) All health and safety and access control policies and procedures in place at a premises must be amended to prevent any delays in the carrying out of a person's responsibilities in terms of this By-law.

(5) A person may not refuse access to, interfere with, hinder or obstruct an authorised official in the exercise of his or her powers in terms of the provisions of this By-law.

(6) An authorised official must, when entering any premises, produce a valid identification document issued to him or her by the Municipality, to the owner or occupier.

Powers of authorised officials

45. An authorised official may, when entering any premises –

- (a) inspect, monitor or investigate any part of those premises relating to the water system, sewage disposal system or other drainage system as well as where chemicals of any nature are handled, stored or disposed of;
- (b) question the owner or any occupier of the building; (c) take photos of the premises;
- (d) take samples;
- (e) seize pertinent evidence relating to water quality; or
- (f) do anything necessary to implement the provisions of this By-law.

Service of notices

46.(1) Whenever a compliance notice is required to be served on a person in terms of the provisions of this By-law, it is deemed to have been effectively and sufficiently served on that person –

- (a) when it has been delivered to him or her personally;
- (b) when it has been left at his or her place of residence, employment or business in the Republic of South Africa with a person apparently over the age of 16 years;
- (c) when it has been posted by registered or certified mail to his or her last known residential or business address in the Republic of South Africa and an acknowledgement of the posting thereof is produced;
- (d) if his or her address in the Republic of South Africa is unknown, when it has been served on his or her agent or representative in the Republic of South Africa in the manner contemplated in paragraphs (a), (b) or (c); or
- (e) if his or her address and agent in the Republic of South Africa are unknown, when it has been affixed to a door, gate or in any other conspicuous place on the building.

(2) When a compliance notice is required to be served on a person by reason of his or her being or having been the owner or holding some other right in respect of immovable property–

- (a) it is not necessary to name him or her; and

(b) he or she may be described as the owner or holder of such premises or other right, as the case may be.

Indemnity

47. The Municipality and any authorised official are not liable to any third party for any damage caused by anything lawfully done or omitted by the Municipality or any authorised official in carrying out any function or duty in terms of this By-law.

Lawful instructions

48. Failure to comply with a lawful request of an authorised official constitutes a contravention of this By-law.

Recovery of costs

49. If a person –

- (a) contravenes the provisions of this By-law or of any other By-law; or
- (b) fails or refuses to comply with a compliance notice issued in accordance with this By-law; or
- (c) fails to rehabilitate a damaged area after being requested to do so,

such person is guilty of an offence and the Municipality may take any steps required in the compliance notice itself and recover the costs from such person: Provided that such liability is in addition to any fine which may be imposed on such person.

Offences

50. A person who –

- (a) contravenes any provision of this By-law;
- (b) fails or refuses to comply with a compliance notice issued to him or her;
- (c) fails to comply with any lawful instruction given in accordance with this By-law;
- (d) contravenes any conditions imposed in the granting of any application, consent, approval, concession, relaxation, permit or authority in terms of this By-law

- (e) threatens, resists, interferes with or obstructs any authorised official in the performance of official duties or functions in terms of or under this By-law; or
- (f) deliberately furnishes false or misleading information to an authorised official, is guilty of an offence.

Penalties

51. (1) Any person who commits an offence in terms of this By-law shall be liable, upon conviction, to a fine or imprisonment as determined in Council's adopted Schedule of Fines.

CHAPTER 12 MISCELLANEOUS PROVISIONS

Delegations

52.(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 accordance with 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, 2000 (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.

Appeals

53.(1) A person whose rights are affected by a decision taken by an authorised official in terms of this By-law may appeal against that decision in terms of the appeals provision contained in Section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) 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 section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and not in terms of this By-law.

Repeal of laws and savings

54.(1) The laws mentioned in the first and second columns of Schedule C to this By-law are hereby repealed to the extent set out in the third column of the said Schedule.

(2) All notices published under the Sewage Disposal By-laws of 1999 remain in full force and effect as if the said By-law has not been repealed as contemplated in subsection (1).

(3) Any rights accrued or obligations incurred as contemplated in the laws referred to in subsection (2) remain in force, as if those laws have not been repealed.

Short title and commencement

55. This By-law are called the Sewage Disposal By-law, 2020 and takes effect on the date on which it is published in the *Provincial Gazette* of KwaZulu-Natal.

SCHEDULE A
ACCEPTANCE OF TRADE EFFLUENT FOR DISCHARGE INTO THE SEWAGE DISPOSAL
SYSTEM

No trade effluent shall be accepted for discharge into the sewage disposal system unless it complies with the following conditions.

All analyses must be undertaken by a laboratory accredited by an authority recognised by the Municipality using methods applicable for the given matrix, suitable detection limits and ranges.

The effluent shall not contain concentrations of substances in excess of those stated below— Large Works' general quality limits are applicable when an industry's effluent discharges in a catchment leading to a sewage works of greater than 25 Ml/d capacity. Small Works' quality limits apply for catchments leading to sewage works with less than 25 Ml/d capacity.

| GENERAL QUALITY LIMITS | | LARGE WORKS | SMALL WORKS | UNITS |
|-------------------------------|--|------------------------|------------------------|--------------|
| 1. | Temperature (°C) | < 44°C | < 44°C | Degrees |
| 2. | pH | 6 < pH < 10 | 6,5 < pH < 10 | pH units |
| 3. | Oils, greases, waxes of mineral origin | 50 | 50 | mg/l |
| 4. | Vegetable oils, greases, waxes | 250 | 250 | mg/l |
| 5. | Total sugar and starch (as glucose) | 1 000 | 500 | mg/l |
| 6. | Sulphates in solution (as 2.4) | 250 | 250 | mg/l |

| | | | | |
|---------------------------|--|--------|--------|------|
| 7. | Sulphides, hydrosulphides | 1 | 1 | mg/l |
| 8. | Chlorides (as Cl ⁻) | 1 000 | 500 | mg/l |
| 9. | Flouride (as F ⁻) | 5 | 5 | mg/l |
| 10. | Phenols (as phenol) | 10 | 5 | mg/l |
| 11. | Cyanides (as CN ⁻) | 20 | 10 | mg/l |
| 12. | Settleable solids | Charge | Charge | mg/l |
| 13. | Suspended solids | 2 000 | 1 000 | mg/l |
| 14. | Electrical Conductivity | 400 | 400 | mS/m |
| 15. | Anionic Surfactants | — | 500 | mg/l |
| 16. | C.O.D. | Charge | Charge | mg/l |
| Heavy Metal Limits | | | | |
| 17. | Copper (as Cu) | 50 | 5 | mg/l |
| 18. | Nickel (Ni) | 50 | 5 | mg/l |
| 19. | Zinc (Zn) | 50 | 5 | mg/l |
| 20. | Iron (Fe) | 50 | 5 | mg/l |
| 21. | Boron (B) | 50 | 5 | mg/l |
| 22. | Selenium (Se) | 50 | 5 | mg/l |
| 23. | Manganese (Mn) | 50 | 5 | mg/l |
| 24. | Lead (Pb) | 20 | 5 | mg/l |
| 25. | Cadmium (Cd) | 20 | 5 | mg/l |
| 26. | Mercury (Hg) | 1 | 1 | mg/l |
| 27. | Total chrome (Cr) | 20 | 5 | mg/l |
| 28. | Arsenic (As) | 20 | 5 | mg/l |
| 29. | Titanium (Ti) | 20 | 5 | mg/l |
| 30. | Cobalt (Co) | 20 | 5 | mg/l |
| 31. | Colour as measured by American Dye | 450 | 450 | ADMI |
| 32. | Benzene, Toluene, Ethyl Benzene and Xylene | 4 | 4 | mg/l |

SPECIAL LIMITATIONS

- 1 No calcium carbide, radio active waste or isotopes
- 2 No yeast & yeast wastes, molasses spent or unspent
- 3 No cyanides or related compounds capable of liberating HCN gas or cyanogen
- 4 No degreasing solvents, petroleum spirit, volatile flammable solvents or any substance which yields a flammable vapour at 21°C.
- 5 No substance discharged at a flow rate and concentration that will cause interference with any Treatment Works.

SCHEDULE B**ACCEPTANCE OF TRADE EFFLUENT FOR DISCHARGE EITHER DIRECTLY OR
INDIRECTLY INTO SEA OUTFALLS**

No trade effluent shall be accepted for discharge into the sea outfall unless it complies with the following conditions. The effluent shall not contain concentrations of substances in excess of those stated below—

| SEA OUTFALL QUALITY LIMIT | | | UNIT |
|----------------------------------|--|----------------|-------------|
| 1. | Temperature | 44 | °C |
| 2. | pH | 5,5 < pH < 9,5 | |
| 3. | Settleable solids | 2 | mg/l |
| 4. | Oils, greases and waxes of mineral | 50 | mg/l |
| 5. | Arsenic (expressed as As) | 5 | mg/l |
| 6. | Cadmium (expressed as Cd) | 1,5 | mg/l |
| 7. | Total chromium (expressed as Cr) | 3 | mg/l |
| 8. | Copper (expressed as Cu) | 3 | mg/l |
| 9. | Lead (expressed as Pb) | 5 | mg/l |
| 10. | Mercury (expressed as Hg) | 0,05 | mg/l |
| 11. | Cyanides (expressed as CN) | 10 | mg/l |
| 12. | Nickel (expressed as Ni) | 10 | mg/l |
| 13. | Zinc (expressed as Zn) | 20 | mg/l |
| 14. | Sulphide (expressed as S ²⁻) | 1 | mg/l |
| 15. | Sulphates in solution (expressed as | 250 | mg/l |
| 16. | Toxicity as Minimum Acceptable | 200 | Number of |
| 17. | Benzene, Toluene, Ethyl Benzene | 4 | mg/l |

SCHEDULE C LAWS REPEALED**PART A: BY-LAWS**

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

_____ MUNICIPALITY: MUNICIPAL PARKS AND RECREATIONAL GROUNDS BY-LAW,

2020

Adopted by Council on the:

CONTINUES ON PAGE 130 - PART 2

KWAZULU-NATAL PROVINCE

KWAZULU-NATAL PROVINSIE

ISIFUNDAZWE SA KWAZULU-NATALI

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PART 2 OF 2

MUNICIPAL PARKS AND RECREATIONAL GROUNDS BY-LAW, 2020

To provide for the control, operation, preservation and maintenance of the municipal parks and recreational grounds as well as the use and enjoyment thereof by members of the public; to provide for the repeal of laws and savings; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS the _____ Municipality has legislative and executive competence relating to local amenities and municipal parks and recreation within its area of jurisdiction;

WHEREAS the municipal parks and recreational grounds are available for use and enjoyment by members of the public;

AND WHEREAS the Municipality wishes to adopt such measures as may be necessary to protect and preserve the natural vegetation and equipment on the municipal parks and recreational grounds and to control the use and enjoyment thereof by members of the public;

NOW THEREFORE the Municipal Council of the _____ Municipality, acting in terms of section 156 read with Schedule 5 Part B of the Constitution of the Republic of South Africa, and read with section 11 of the Local Government: Municipal Systems Act, 2000 (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 –

“**animal**” means any mammal, fish, bird, reptile, insect, amphibian or invertebrate;

“**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, 1977 (Act No. 51 of 1977);

(b) municipal or metropolitan police officers as contemplated in the South African Police Service Act, 1995 (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;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

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

“**Firearm**” means a device manufactured designed to propel a bullet through cylinder by means of burning propellant at a muzzle energy.

“**Municipality**” means the _____ Municipality, a category A municipality as envisaged in terms of section 155(1) of the Constitution and established in terms of PN343 of 2000 (KZN);

“**Municipal Manager**” means the official of the Municipality appointed in terms of applicable legislation;

“**notice**” means a written notification issued or pictogram displayed in terms of this By-law which is prominently and legibly displayed in any part of a park;

“park” means any park, recreational ground, open space, square, reserve, bird sanctuary, botanic or other garden which is under the control or ownership of the Municipality, and includes all buildings, facilities, equipment, trees and natural vegetation within such park;

“person” means a natural or juristic person;

“Policy” means the tariff policy adopted by the Council in term of section 74 of the Systems Act;

“prescribed fee” means a fee determined by the Council by resolution in accordance with the Policy;

“reservation” means a written application to the Municipality for the use of a park or any part thereof for the purpose of a private event or function, and **“reserve”** has a corresponding meaning;

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

“tree preservation order” means an order issued by the Municipality for the protection of specific trees or a group of trees from deliberate damage or destruction; and

“vehicle” means any self-propelled vehicle and includes—

(a) a trailer; and

(b) a vehicle having pedals and an engine or an electric motor as an 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.

Interpretation of By-law

2. In the event that 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) protect and preserve parks for the benefit of the public;

(b) regulate proper use and enjoyment of parks by members of the public;

(c) standardise the fees prescribed for the reservation of parks for private events and functions; and

(d) provide for matters incidental thereto.

Application of By-law**4. This By-law applies to –**

- (a) all parks under the ownership or control of the Municipality; and
- (b) any park which is lawfully controlled and managed by a person other than the Municipality in terms of an agreement concluded between such person and the Municipality.

CHAPTER 2 PUBLIC ACCESS

Terms and conditions

5.(1) The Municipality reserves the right to determine the terms and conditions for access into a park.

(2) A person who is allowed access into a park must –

- (a) observe and comply with all the notices displayed at any area of the park, including the entrance thereto; and
- (b) obey any lawful instruction given to him or her by an authorised official.

Entrance into a park

6. A person may only enter a park through the gates provided for that purpose as indicated on a notice displayed at or near the entrance to the park.

Maximum number of persons

7. The Municipality reserves the right to determine the maximum number of persons who may be present in a park at any one time: Provided that an authorised official may vary the maximum number of persons allowed in a park where permission is granted for a park to be used for either a different purpose or a private event or function as contemplated in section 11.

Entrance fees

8.(1) The Municipality may prescribe an entrance fee which is payable upon entry into the park.

(2) The prescribed fee must be in accordance with the Tarrif By-Law and shall be made known by means of a notice.

(3) Any person in a park who is required to pay an entrance fee must, upon request by an authorised official, produce proof of payment of such fee.

(4) The Municipality may, subject to subsection (1), suspend the payment of an entrance fee in respect of any park on any specific day or days and for such period as it may deem appropriate.

Closure or restriction of access

9.(1) The Municipality may close or restrict public access to any park or part thereof for any purpose not inconsistent with the provisions of this By-law, including maintenance, safety and restoration or protection of trees and natural vegetation.

(2) In the event of closure of or restriction of access to a park in accordance with subsection (1), a notice must be posted at or near the entrance to the park concerned indicating the actual period of such closure or restriction of access.

Exclusion or removal from a park

10.(1) An authorised official may exclude or remove from a park any person who –

(a) is in a state of intoxication or under the influence of narcotics;

(b) behaves in a manner which is disorderly, unseemly or disruptive to other persons visiting the park; or

(c) commits, or is reasonably suspected by an authorised official to have committed, an offence or any other act which is in contravention of any provision of this By-law.

(2) Failure or refusal by a person referred to in subsection (1) to leave a park upon being ordered by the authorised official to do so is an offence in terms of this By-law.

CHAPTER 3

PRIVATE EVENTS AND FUNCTIONS

Reservation of park for private event or function

11. Any person who wishes to apply for the reservation of a park or part thereof for a private event or function must –

- (a) submit an application to the authorised official on the form prescribed by the Municipality for that purpose
- (b) make payment to the Municipality or its authorised agent of a prescribed fee for the private use of the park before the date applied for, unless payment of the prescribed fee is exempted by the Municipality in writing.

Municipality's right of refusal or cancellation

12.(1) The Municipality may –

- (a) refuse to grant an application for the private event or function; or
- (b) cancel any approval if such application is already approved,

if an authorised official suspects on reasonable grounds that the event or function applied for is either unlawful or is likely to result in public disturbance or contravenes this by law or any other by law of the municipality.

(2) In the event of the approved private use of a park being cancelled by the Municipality in accordance with subsection (1) or for any other reason not attributable to the applicant, the applicant concerned is entitled to a refund of the prescribed fee paid to the Municipality in accordance with section 11(b).

Terms and conditions of private use of park

13.(1) Where an application for the private use of a park or part thereof is granted by the Municipality in terms of section 11, such park or part thereof may only be used –

- (a) for the purpose indicated on the application form; and
- (b) subject to the terms and conditions stipulated by the Municipality in an agreement designed for that purpose unless prior approval of the authorised official is obtained in writing authorising it to be used for a different purpose.

(2) A person who applies for the private use of a park must, subsequent to the approval of such application by the Municipality, sign an agreement obtainable from the municipal department responsible for the park in question setting out the terms and conditions of the private use thereof.

Public announcement and advertising

14.(1) A person who has applied for the use of a park for a private event or function may not publicly announce or advertise the use of such park for the event or function concerned before the Municipality has notified that person in writing that the application has been approved.

(2) An approval of an application for the use of a park for a private event or function does not absolve the applicant from due compliance with the Municipality's Advertising and Signs By-law in respect of the private event or function concerned.

(3) An applicant referred to in subsection (1) must, before vacating the park at the end of the private event or function concerned, 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 person and make good any damage caused by such removal.

CHAPTER 4 GENERAL PROVISIONS

Food and alcoholic beverages

15.(1) Subject to the provisions of subsection (2), the preparation and cooking of food in a park is restricted to the place or places set aside by notice for such purpose and must be done under clean and hygienic conditions.

(2) The slaughtering or skinning of an animal for any purpose whatsoever is not allowed in a park.

(3) Unless authorised by the Municipality in writing to do so, a person may not –

(a) sell or display for sale any items, goods or services; or

(b) bring into, consume or sell any alcoholic beverage or other intoxicating substance, in a park.

Starting of a fire

16.(1) A person may only start a fire in a park in a place as may be designated by the Municipality for that purpose.

(2) Where a person has started a fire in a place designated for that purpose as contemplated in subsection (1), such person may not leave the fire unattended or depart from the place where the fire is burning or smouldering without first ensuring that such fire is completely extinguished.

(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.

Vehicles

17.(1) access of vehicles of any kind is prohibited in a park, unless specifically authorised by the Municipality through the use of relevant signage displayed at the entrance to a park,

(2) Where vehicular access is allowed in a park, an authorised official is empowered to control and regulate the use thereof within the park concerned, including the –

(a) adoption of traffic signage and rules;

(b) demarcation of parking bays and the levying of tariffs for the use thereof, if any; and

(c) charging of fines for non-compliance with the traffic signage and rules within the park, as well as the recovery thereof.

Facilities reserved for children

18.(1) Where a facility or equipment in a park is reserved for children, the use of such facility or equipment must be restricted to persons not older than 12 years of age.

(2) An authorised official may require any person to produce documentary proof of age of any person intending to use a facility or equipment referred to in subsection (1), failing which such person may be refused access to the facility or equipment concerned.

Animals

19.(1) Except for a guide dog which is being used by a blind person, the Municipality reserves the right to prohibit or restrict the access of any animal into a park through a notice to that effect displayed at or near the entrance to such park.

(2) Where animal access into a park is not prohibited in terms of subsection (1), any person who brings an animal into a park must keep it under proper control and ensure that any excrement by such animal is

immediately removed and disposed of in a waste bin or other receptacle provided by the Municipality for that purpose.

(3) An animal which disturbs or disturbed the comfort or safety of other persons using the park or causes or might reasonably cause damage may be removed from the park.

Tree preservation orders

20.(1) If, in the opinion of the Municipality, any tree or group of trees in a park requires legal protection, the Municipality may issue a tree preservation order in respect of the tree or group of trees concerned.

(2) A copy of the tree preservation order must be displayed prominently within three metres of the tree or group of trees to which the order relates.

(3) Any person who cuts, uproots or causes any damage whatsoever to a tree or group of trees to which a tree preservation order relates, commits an offence.

Prohibited conduct

21.(1) A person entering or visiting a park must at all times act in strict compliance with the provisions of this By-law, as well as such lawful instructions and orders as may be issued or given by an authorised official.

(2) Subject to the provisions of subsection (1), a person entering or visiting a park may not

(a) conduct himself or herself in a manner which is inappropriate, improper or indecent; (b) cause a nuisance, annoyance or disturbance to any other person visiting the park; (c) destroy or remove any tree, flower or plant growing in any part of the park;

(d) deposit or throw any rubbish, paper or other waste matter or thing anywhere other than in a receptacle provided by the Municipality for such purpose;

(e) shoot or injure any bird or animal or throw a stick, stone or other object with the intent to injure any bird or animal or interfere with any fish in a fountain;

(f) bathe or wash any dog or other animal in any pond or fountain;

(g) drive, ride or park any vehicle or cause or permit any vehicle to be within the area of any park, except insofar as is permitted by a notice displayed in the park;

(h) damage, tamper with or destroy any equipment, amenity or structure;

- (i) lie on a bench or seating place or use it in such a manner that it prevents others from using it;
- (j) use any park facility or water resources, including a fish pond, fountain, stream, dam or pond to swim, bathe, walk, or place or wash clothes or other things;
- (k) skate on roller skates or on a skateboard or similar device except where permitted by a notice displayed in the park;
- (l) build, erect, place, create, remove or modify any structure, amenity, pathway, trail, jump or ramp;
- (m) play or conduct any game of any nature that will cause –
 - (i) disturbance or potentially disturb; or
 - (ii) injury to,
other park users, except at places set aside for such purpose by a notice displayed in the park and in accordance with the direction of an authorised official, if any;
- (n) sell, offer or display for sale or hire any commodity or article or distribute any pamphlet, book, handbill, or other printed or written matter without prior written consent of the Municipality;
- (o) carry, possess or discharge within a park a –
 - (i) firearm or airgun unless it is in accordance with any applicable law; or
 - (ii) slingshot, bow and arrow, dart device, or other device designed for high-speed missile projection, except where permitted by the Municipality to do so;
- (p) engage in any other conduct in contravention of this By-law, the Municipality's Nuisance and Health By-laws or any other applicable law; and
- (q) sleep over or camp in the park.

Indemnity

22. 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

- 23.** (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 5 ENFORCEMENT

Offences and penalties

22.(1) A person who –

(a) contravenes, refuses or fails to comply with any provision of this By-law;

(b) refuses or fails to comply with any –

(i) notice issued; or

(ii) lawful instruction given, in
accordance with this By-law; or

(c) obstructs or hinders any authorised official of the Municipality in the execution of his or her duties under this By-law,

is guilty of an offence.

(2) Any person who is convicted of an offence under this By-law shall be liable to a fine or imprisonment as determined in Council's adopted Schedule of Fines.

CHAPTER 6 MISCELLANEOUS

Delegations

23.(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) A delegation in accordance with 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

24.(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

25.(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 By-law repealed in terms of subsection (1) remain in force as if that By-law has not been repealed.

Short title and commencement

26. This By-law is called the Parks and Recreational Grounds By-law, 2020, and takes effect on the date of the publication thereof in the *Provincial Gazette*.

**SCHEDULE LAWS
REPEALED**

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

_____ **MUNICIPALITY: ENVIRONMENTAL HEALTH BY-LAW, 2020**

Adopted by Council on the:

ENVIRONMENTAL HEALTH BY-LAW, 2015

To provide for the regulation of environmental health; protect and promote long term health and wellbeing of people in the municipal area; the provision of applicable permits; and the appointment of Environmental Health Officers.

PREAMBLE

WHEREAS there is a need to develop legislation to deal with municipal environmental health issues and matters incidental thereto; and

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

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CHAPTER 1

DEFINITIONS

Definitions

1. In these by-laws, unless the context indicates otherwise –

"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, 1977 (Act No. 51 of 1977);
- (b) municipal or metropolitan Police Officers as contemplated in the South African Police Services Act, 1995 (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;

"compliance notice" means a notice issued in terms of section 19 to comply with these by-laws or with a permit issued in terms of these by-laws;

"Council" means the Council of the Municipality;

"environment" means the surroundings within which humans exist and that are made up of–

- (i) the land, water and atmosphere of the earth;
- (ii) micro-organisms, plant and animal life;
- (iii) any part or combination of (i) and (ii) and the interrelationships among and between them; and
- (iv) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

"environmental health officer" means an official appointed by the Council, and who is duly registered as an environmental health officer or environmental health practitioner with the Health Professions Council of South Africa

"environmental assessment practitioner" means the individual responsible for the planning, management, coordination or review of environmental impact assessments, strategic environmental

assessments, environmental management programmes or any other appropriate environmental instruments introduced through regulations;

“municipal manager” means a person appointed in terms of the applicable legislation Municipal Systems Act as the head of administration of the municipal council;

“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” means –

- (a) the person who is the registered owner of the premises in the relevant Deeds Office;
- (b) where the registered owner of the premises is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of his or her property is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) where the Municipality is unable to determine the identity of such person, a person who is entitled to the benefit of the use of the premises or a building or buildings on the premises;
- (d) where such premises have been leased for a period of 30 years or longer, the lessee of the premises; or
- (e) in relation to –
 - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986) as common property, the developer or the body corporate in respect of the common property; or
 - (ii) a section as defined in the Sectional Titles Act, 1986 (Act No. 95 of 1986), the person in whose name such section is registered under a sectional title deed, and includes the lawfully appointed agent of such a person;

“permit” means a public health permit granted by the Council in terms of the section 13;

“person” means a natural person or a juristic person, and includes an organ of state;

“pest” means any animal that may create a public health hazard or public health nuisance if it is

present in significant numbers and without limitation, includes rats, mice, flies, mosquitoes and cockroaches;

"premises" means -

- (a) any land without any buildings or other structures on it;
- (b) any building or other structure and the land on which it is situated; or
- (c) any vessel, vehicle or movable structure that is used for a scheduled use;

"prescribed fee" means a fee determined by the Council by resolution;

"prohibition notice" means a notice issued in terms of section 20;

"public health" means the mental and physical health and well-being of people in the Council's area;

"public health hazard" means any actual threat to public health, and without limitation, includes –

- (a) the circumstances referred to in section 3(3);
- (b) unsanitary conditions;
- (c) circumstances that make it easier for a communicable disease to spread;
- (d) circumstances that make food or drink, including water for domestic consumption, unhygienic or unsafe to eat or drink; and
- (e) circumstances that allow pests to infest any place where they may affect public health;

"public health nuisance" means the use of any premises or place in a manner that creates conditions that significantly increase the risk of a public health hazard occurring or that compromises any aspect of the public health to an extent that is more than trivial or insignificant, and without limitation, includes those circumstances in which a public health nuisance is considered to exist in terms of section 7; and

"public place" means any road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, footpath, sidewalk, lane square, open space, garden park, path, bus or taxi rank, servitude or enclosed space vested in a Council and includes any road, place or thoroughfare which is in the undisturbed use of the public or which the public have the right to use.

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.

3. Object of By Law

The purpose of this by law is to enable the council to protect and promote long term health and wellbeing of people in the municipal area by;

(a) providing, in conjunction with any other applicable law, an effective legal and administrative framework within which the Council may-

(i) manage and regulate activities that have the potential to impact adversely on public health;
and

(ii) require premises to be properly maintained and managed.

(b) defining the rights and obligations of the council and the public relation to this purpose.

Application

4. This By-law applies to the area of jurisdiction of the Municipality, excluding any area within the boundaries of the Municipality which falls under the jurisdiction of a tribal authority

CHAPTER 2 PUBLIC HEALTH HAZARDS

Prohibition on causing a public health hazard

5.(1) No person may create a public health hazard anywhere in the municipal area

(2) Every owner or occupier of premises must ensure that a public health hazard does not occur on the premises.

(3) An owner or occupier of premises creates a public health hazard if –

- (a) the premises are infested with pests or pests are breeding in significant numbers on the premises;
- (b) there are conditions on the premises that are conducive to the spread of a communicable disease;
- (c) there are unsanitary conditions in any part of the premises; or
- (d) any water supply for domestic consumption on the premises is unsafe for human consumption.

(4) Any person that contravenes or fails to comply with subsections (1) or (2) commits an offence.

Duty to report

4.(1) The owner or occupier of premises who knows of a public health hazard on the premises must within

24 hours of becoming aware of its existence –

(a) eliminate the public health hazard; or

(b) if the owner or occupier is unable to comply with subsection (a), take reasonable steps to reduce the risk to public health and report the existence of the public health hazard to the Council.

(2) An owner or occupier who does not comply with subsection (1) commits an offence.

CHAPTER 3

PUBLIC HEALTH NUISANCES

Prohibition on causing a public health nuisance

5.(1) No person may cause a public health nuisance.

(2) Every owner or occupier of premises must ensure that a public health nuisance does not arise on the premises.

(3) An owner or occupier of premises creates a public hazard if-

(a) the premises are infested with pests or pests are breeding on the premises;

(b) there are conditions on the premises which are conducive to the spread of a communicable disease or which may cause a non-communicable disease;

(c) there is any unsanitary condition in any part of the premises; or

(d) any water supply for domestic consumption on the premises is unsafe for human consumption.

General nuisances

6. An owner or occupier of premises creates a public health nuisance where –

(1) any stream, pool, marsh, ditch, gutter, watercourse, cistern, urinal, drain, sewer, septic tank, long drop, slop tank, ash heap, street or dung heap is so foul or in such a state or so situated or constructed as to be offensive or to be injurious or dangerous to the public health;

(2) any stable, kraal, shed, run or other structure used for the keeping of animals or birds is so constructed, situated, used or kept as to be offensive or to be injurious or dangerous to health;

- (3) any accumulation of refuse, offal, manure or other matter is offensive or is injurious or dangerous to health;
- (4) any factory, industrial or business premises is so overcrowded, inadequately lit or ventilated as to be injurious or dangerous to the health of those employed therein or thereon; and
- (5) any factory, industrial or business premises causes or gives rise to smells or effluvia which are offensive or which are injurious or dangerous to health.

Pest control

7. An owner or occupier of premises creates a public health nuisance where -

- (1) waste or other material is left or kept in a manner that attracts rodents or other pests to the premises; or
- (2) flies or mosquitoes are attracted to, or breeding , in significant numbers on the premises;
- (3) insufficiently rotted manure or any other organic material is being kept or used.
- (4) tanks, barrels and similar containers in which mosquitoes can breed are not fitted with mosquito-proof covers or mosquito wire gauze screens in a manner that prevents mosquitoes gaining access to water contained in them;
- (5) approved measures have not been taken to prevent mosquitoes breeding in ponds, excavations, wells, swimming pools or any other stagnant water source on the premises.
- (6) gutters and down pipes are sagging or clogged so that stagnant water can accumulate in them; or
- (7) containers in which mosquitoes can breed, such as tyres, bottles, crockery, and tins, have been left or are kept on the premises;

CHAPTER 4

POTENTIALLY HAZARDOUS USES OF PREMISES

Duty to list potentially hazardous uses

8. The Council may list any use of premises, in a schedule to these by-laws, which has caused, or is likely to cause, a public health hazard or to create a public health nuisance unless reasonable measures are taken to avoid the risk or to reduce it to an acceptable level and Council must prescribe measures that must

be taken to avoid the risk or reduce it to a level acceptable to the Council.

Scheduled uses

9. Any person who uses premises in a manner or for a purpose listed in the Schedule to these by-laws must

–

(1) comply with each of the provisions set out in the Schedule relating to that use unless that person has been granted an exemption under section 12 from complying with any provision; and

(2) obtain a permit under section 10 before commencing the use and must comply with the terms and conditions of the permit.

Exemption certificate

10. (1) Any person who wishes to use premises in a manner or for a purpose listed in the Schedule to these by-laws, but who wishes to be exempted from complying with one or more of the requirements of the Schedule, may apply to the Council for an exemption certificate.

(2) The Council may grant an exemption certificate, with or without conditions, if an environmental health officer is satisfied that –

(a) the measures taken to avoid or reduce the risk to public health arising from the scheduled use are equivalent to or better than the measures required by the relevant schedule; and

(b) the scheduled use for which the exemption is required is not likely to cause a public health hazard or a public health nuisance.

Public health permits

11.(1) Any person who wishes to use premises in a manner or for a purpose listed in the Schedule to these by-laws, must apply in writing to the Council in accordance with section 13 for a public health permit.

(2) The Council may issue a public health permit to the owner or occupier of any premises if an environmental health officer is satisfied that the use for which the permit is required is not likely to cause a public health hazard or a public health nuisance.

(3) A public health permit –

(a) must be issued subject to conditions aimed at reducing the risk to public health created by the scheduled use, to a level acceptable to the Council; and

(b) may exempt the permit holder for complying with one or more of the provisions of the relevant schedule, if the person authorised to issue the permit reasonably believes that the permit requires the permit holder to take measures to avoid or reduce the risk to public health arising from the activity that are equivalent to, or better than, the measures required by the relevant schedule.

Application procedure

12.(1) Any person that wants to obtain a permit or an exemption certificate must apply to the Council in writing in a form stipulated by the Council, prior to undertaking the relevant scheduled use.

(2) When the Council receives an application for a permit or an exemption certificate it must ensure that the relevant premises are inspected by an environmental health officer as soon as reasonably possible.

(3) Before deciding whether or not to approve an application referred to in subsection (1), the Council –

- (a) must ensure that any persons in the vicinity of the premises whose health or wellbeing may be affected if the premises are used for a scheduled use, have been consulted and have had an opportunity to make representations; and
- (b) may request the applicant to provide any further information which the Council considers relevant to enable him or her to make a properly informed decision.

General terms applicable to permits and certificates

13.(1) A permit or an exemption certificate –

- (a) is not transferable from one person to another; and
- (b) applies only to the premises specified in the permit or certificate.

(2) Every permit or exemption certificate –

- (a) must specify the address and other relevant details regarding the location of the premises concerned;
- (b) must describe the premises concerned;
- (c) must describe the activity concerned;
- (d) may specify terms and conditions; and
- (e) must indicate when it expires.

(3) The Council may charge applicants a prescribed fee for considering and granting the permit or exemption certificate.

(4) The Council may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and until the prescribed fee (if any) has been paid.

Suspension, cancellation and amendment of permits and of exemption certificates

14.(1) An environmental health officer may by written notice to the holder of a permit or exemption certificate, suspend, amend or cancel the permit or certificate.

(2) An environmental health officer may suspend or cancel a permit or exemption certificate with immediate effect if –

(a) the environmental health officer reasonably believes that it is urgently necessary to do so to eliminate or to reduce a significant risk to public health posed by a public health hazard or a public health nuisance; and

(b) the holder of the permit or certificate has failed to comply with a compliance notice that states that the permit or certificate may be suspended or cancelled without further notice if the holder fails to comply with the compliance notice.

(3) An environmental health officer may amend a permit or exemption certificate by endorsing the permit or certificate or by written notice to the holder, if the environmental health officer reasonably believes that it is necessary to do so to protect public health or to take account of changed circumstances since the permit or exemption certificate was issued.

(4) An environmental health practitioner may suspend or cancel an exemption certificate or permit after having given the holder thereof, by written notice, a reasonable opportunity of making representations as to why the permit or exemption certificate should not be suspended or cancelled, if –

(a) the environmental health practitioner reasonably believes that it is desirable to do so to eliminate or reduce the risk to public health posed by a public health hazard or a public health nuisance; or

(b) the holder of such certificate or permit contravenes or fails to comply with any relevant provision of these Bylaws.

CHAPTER 5

IMPLEMENTATION AND ENFORCEMENT

Appointment and identification of environmental health officers

15.(1) The Council must issue an identity card to each environmental health officer.

(2) The identity card must –

- (a) contain a recent photograph of the environmental health officer;
- (b) be signed by the environmental health officer; and
- (c) identify the person as an environmental health officer.

(3) The environmental health officer must display his or her identity card so that it is clearly visible or produce it at the request of any person in relation to whom the environmental health officer is exercising a power under these by-laws.

General powers of an environmental health officer

16.(1) An environmental health officer may, for the purposes of implementing or administering any power or duty under these by-laws –

- (a) exercise any power afforded to such officer in terms of these by-laws or any other applicable legislation;
- (b) issue a compliance notice in terms of section 19 requiring any person to comply with the provisions of these by-laws;
- (c) issue a prohibition notice in terms of section 20 prohibiting any person from conducting an activity;
- (d) undertake measures in terms of section 19 to remove, reduce and/or minimise any public health nuisance;
- (e) cancel, suspend or amend any permit or exemption certificate in terms of section 14 or
- (f) enter and inspect premises and for this purpose may-
 - (i) question any person on the premises;
 - (ii) take any sample that the environmental health officer considers necessary for examination or analysis;
 - (iii) monitor and take readings or make measurements; and

- (iv) take photos or make audio-visual recordings of anything or any person, process, action or condition on or regarding any premises.
- (2) An environmental health officer who removes anything from any premises being inspected must –
 - (a) issue a receipt for it to the owner, occupier or person apparently in control of the premises; and
 - (b) return it as soon as practicable after achieving the purpose for which it was removed.
- (3) An inspection conducted or work undertaken in terms of this section, must be conducted with strict regard to decency and order, a person's right to respect for and protection of his or her dignity, and a person's right to freedom and security and personal privacy.

Compliance notices

- 17.(1)** If an environmental health officer, after inspecting premises, reasonably believes that a public health hazard or public health nuisance exists on the premises or that the premises are being used in a manner or for a purpose listed in the Schedule to these by-laws without a permit, the environmental health officer may serve a compliance notice to one or more of the following persons:
- (a) the owner of the premises;
 - (b) the occupier of the premises; or
 - (c) any person apparently in charge of the premises.
- (2) A compliance notice must state –
- (a) Reasons for serving the notice. ;
 - (b) the measures that must be taken –
 - (i) to ensure compliance with these by-laws; or
 - (ii) to eliminate or minimise any public health nuisance;
 - (c) the time period within which the measures must be taken;
 - (d) the possible consequences of failing to comply with the notice; and
 - (e) how to appeal against the notice.
- (3) If a person fails to comply with a compliance notice that requires a particular action be taken, the Council may –
- (a) take the required action specified in the compliance notice; and
 - (b) recover, as a debt, from the person to whom the notice was given, the costs and expenses reasonably incurred in taking the required action.

Prohibition notice

18.(1) An environmental health officer may, after inspecting premises, serve a prohibition notice prohibiting the premises from being used for specified purposes and requiring measures to be taken to ensure that this occurs, on one or more of the following persons:

- (a) the owner of the premises;
- (b) the occupier of the premises; or any person apparently in charge of the premises if the environmental health officer reasonably believes that that person has not complied with the terms of a compliance notice.

(2) The environmental health officer must give the person on whom he or she intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice unless the environmental health officer reasonably believes that the delay in doing so would significantly compromise public health, in which case the person on whom a prohibition notice is served must be given reasonable opportunity to make representations why it should be withdrawn.

(3) A prohibition notice must state –

- (a) the reasons for serving the notice;
- (b) whether or not the Council will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;
- (c) the possible consequences of failing to comply with the notice; and
- (d) how to appeal against the notice.

(4) The environmental health officer must as soon as possible affix a copy of the notice in a conspicuous position on the premises.

Withdrawal of prohibition notice

19.(1) An environmental health officer must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a prohibition notice, carry out an investigation of the premises.

(2) After completing the investigation the environmental health officer must inform the person on whom the prohibition notice was served or that person's agent in writing, whether or not the prohibition has been removed or the prohibition order withdrawn.

(3) The Council may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection (1), a prescribed fee for undertaking the investigation.

Municipal remedial work

20. The Council may enter any premises and do anything on the premises that it reasonably considers necessary –

- (a) to ensure compliance with these by-laws or with any compliance notice or prohibition notice;
- (b) to reduce, remove or minimise any public health hazard and public health nuisance;

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

21.(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, 2000 (Act No. 32 of 2000) by giving written notice of the appeal and reasons thereof to the municipal manager within 21 (twenty one) 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 (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 Local Government: Municipal Systems Act, 2000 (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).

CHAPTER 7

GENERAL

Offences

22. Any person who -

- (a) contravenes or fails to comply with any provisions of these by-laws;
- (b) fails to comply with any notice issued in terms of these by-laws;
- (c) fails to comply with any lawful instruction given in terms of these by-laws; or
- (d) obstructs or hinders any authorised official in the execution of his or her duties under these by-laws –

shall be guilty of an offence and shall be liable on conviction to a fine or imprisonment as determined in Council's adopted Schedule of Fines.

Repeal of existing By-laws

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

Short title and commencement

24 These by-laws shall be called the Environmental Health By-laws, 20.., and shall come into operation on the date of publication thereof in the *Provincial Gazette* or as otherwise indicated in the notice thereto.

SCHEDULE

SCHEDULED USES

The uses of premises defined as scheduled businesses in this Schedule are considered to pose an unacceptable risk to public health unless the measures specified are taken to avoid the risk or to reduce it to a level acceptable to the Council.

1 Definitions

In this Schedule, unless the context indicates otherwise -

“effluent” means any waste water which may arise as a result of undertaking any scheduled use;

“scheduled uses” means any business listed below or that involves an activity listed below –

- (a) panel beating or spray painting;
- (b) operating a waste recycling plant;
- (c) scrap yard;
- (d) tanning, glue or size making;
- (e) charcoal burning, brick burning or lime burning;
- (f) manure or compost making or storing;
- (g) manufacturing malt and yeast;
- (h) cement works, coke-ovens or salt glazing works;
- (i) sintering of sulphurous materials;
- (j) viscose works;
- (k) ore and mineral smelting, calcining, puddling and rolling of iron and other metals, conversion of pig iron into cast iron, reheating, tempering, hardening, forging, conversion and compounding of carbon with iron and other metals;
- (l) works for the production of carbon bisulphide, cellulose lacquer, cyan or its compounds, hot pitch or bitumen, pulverized fuel, peridine, liquid or gaseous sulphur dioxide or sulphur chlorides;
- (m) works for the production of amyl acetate, aromatic ethers, butyric acid, caramel, enameled wire, glass, hexamine, lampblack, B-naphthol, resin products, salicylic acid, sulphated organic compounds, sulphurous paints, ultramarine, zinc chloride and zinc oxide; or
- (n) the refining or processing of petrol, oil or their products; and

“scheduled business person” means any person who owns, conducts or carries on a business which is listed as a scheduled use or which includes an activity listed as a scheduled use.

2 Permit requirement

No person may conduct a scheduled business in or on any premises, except in terms of a valid permit.

3 Requirements for premises

No person may undertake a scheduled use of any premises unless –

- (a) the floors of the premises are constructed of cement concrete or a similar impervious material, brought to a smooth finish;
- (b) the floors of the premises are adequately graded and drained for the disposal of effluent to an approved disposal system;
- (c) the inside walls, except where glazed or glass brick or glazed tiles are used, are plastered, brought to a smooth finish and painted with a light-coloured, washable paint;
- (d) the surface of any backyard or open space is paved with concrete or similar impervious material, brought to a smooth finish;
- (e) the premises are provided with adequate light and ventilation as prescribed in National Building Regulations and Building Standards Act, 1977 (Act No.103 of 1977), as amended;
- (f) an adequate supply of running potable water is provided;
- (g) an adequate number of portable containers constructed of iron or another non-absorbent material, equipped with closely fitting lids, are provided for the removal of all waste and waste water from the premises;
- (h) adequate means are provided for the disposal of all effluents arising from the manufacturing process performed on the premises;
- (i) adequate accommodation is provided for the storage of all finished products or articles or materials which are used in the manufacturing process and which may-
 - (i) discharge offensive or injurious effluent or liquids; or
 - (ii) decompose in the course of the work or trade;
- (j) adequate means are provided to control the discharge in the open air of any noxious, injurious or offensive gases, fumes, vapours or dust produced during any handling, preparation, drying, melting, rendering, boiling, grinding process or storage of material;
- (k) adequate toilet facilities are provided as prescribed in the National Building Regulations and Building Standards Act, 1977 (Act No.103 of 1977), as amended;
- (l) a perimeter wall or fence with a minimum height of 2 metres is constructed around the premises;
- (m) all gates to the premises are of solid construction with a minimum height of 2 metres;
- (n) all perimeter walls and gates adequately screen activities from public view; and

(o) all materials are stacked or stored on the premises below the height of the perimeter screening.

4 Duties of a scheduled business person

A scheduled business person must –

- (a) maintain the premises in a clean, hygienic and good condition at all times;
- (b) maintain all walls and floors of the premises in a manner and condition that prevents the absorption of any waste or waste water;
- (c) maintain all machinery, plant, apparatus, furniture, fittings, tools, implements, vessels, containers, receptacles and vehicles in a clean, hygienic and good condition at all times; and
- (d) prevent the emission of noxious, injurious or offensive gases, fumes, vapours or dust generated during any handling, preparation, drying, melting, rendering, boiling, grinding process or storage of any material on the premises.