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## LOCAL AUTHORITY NOTICES

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### LOCAL AUTHORITY NOTICE 463

### MAFIKENG LOCAL MUNICIPALITY

### RATES BY-LAW

Whereas Section 6 of the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004) requires a municipality to adopt by-laws to give effect to the implementation of its rates policy.

Now therefore the Mafikeng Local Municipality approves and adopts the following rates by-law.

#### 1. Definitions

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

“**act**” means the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004).

“**municipality**” means Mafikeng Local Municipality.

#### 2. Rating of property

In terms of section 2(3) of the Act the power of the municipality to levy rates on property is subject to-

- (a) Section 229 and other applicable provisions of the Constitution
- (b) The provisions of the Act
- (c) The municipality's rates policy; and
- (d) This by-law

#### 3. General principles

- (1) Rates are levied as an amount in the rand based on the market value of all rateable property contained in the municipality's valuation roll
- (2) Criteria are provided for the determination of categories of property and owners and for the purpose of levying different rates on categories of property and owners.

- (3) Different rates will be levied for different categories of rateable property.
- (4) Relief measures in respect of payment for rates will not be granted to any category of property or owners on an individual basis, other than by way of an exemption, rebate or reduction.
- (5) All ratepayers with similar properties will be treated the same.
- (6) The ability of a person to pay rates will be taken into account.
- (7) Provision will be made for the promotion of local social development and sustainable local government.
- (8) Rates will be based on the value of all rateable property and the amount required by the municipality to balance the operating budget.

#### **4. Classification of services and expenditure**

- (1) The municipal manager or his/her nominee subject to the guidelines provided by the National Treasury and Executive Mayor or Committee and principles contained in the rates policy will classify services, categorise expenditure and create cost centres to prevent that property rates subsidise trading and economic services
- (2) Trading and economic services will be ringfenced and financed from service charges while community and subsidised services will be financed from profits on trading and economic services, regulatory fees and rates and rates related income.

#### **5. Categories of properties and owners**

- (1) In terms of Section 3(3) of the Act the municipality must determine the criteria for the determination of categories of

property and owners for granting exemptions, reductions and rebates and criteria if it levies different rates for different categories of property.

- (2) In terms of sections 8(1) and 15(1) read in conjunction with section 19 of the Act the municipality may exempt a category of owner of property from rates or grant a rebate or reduction in the rates.
- (3) The criteria for categories of property and owners and the different categories of property and owners are reflected in the municipality's rates policy and adjusted annually, if required, during the budget process.

**6. Properties used for multiple purposes**

Rates on properties used for multiple purposes will be levied on properties used for-

- (a) a purpose corresponding with the permitted use of the property, if the permitted use of the property is regulated;
  - (b) a purpose corresponding with the dominant use of the property;
- or
- (c) by apportioning the market value of a property to the different purposes for which the property is used; and
  - (d) applying the relevant cent amount in the rand to the corresponding apportioned market value.

**7. Differential rating**

(1) Criteria for differential rating on different categories of properties in terms of section 8(1) of the Act will be according to-

- (a) The use of the property.
- (b) Permitted use of the property; or
- (c) Geographical area in which the property is situated.

(2) Differential rating among the various property categories will be done by way of setting different cent amount in the rand for each property category

and/or

by way of reductions and rebates

#### 8. Criteria for exemptions, reductions and rebates

Criteria for determining categories of owners of property for the purpose of granting exemptions, rebates and reductions in terms of section 15(2) of the Act will be according to-

- (a) indigent status of the owner of a property
- (b) sources of income of the owner of a property
- (c) owners of property situated within an area affected by-
  - i. a disaster within the meaning of the Disaster Management Act, 2002 (Act No. 57 of 2002); or
  - ii. any other serious adverse social or economic conditions;
- (d) owners of residential properties with a market value below a determined threshold; or
- (e) owners of agricultural properties who are *bona fide* farmers

#### 9. Exemptions

- (1) Over and above the exemptions provided for in sections 16 and 17 of the Act specific categories of property as indicated in the table below are exempted from the payment of rates within the meaning of section 15(1)(a) of the Act and 9(2) to 9(7) of this by-law.

Description of category of property	Criteria
Residential	9(3))
Municipal properties	9(2)
Public service infra-structure	9(5) and 9(7)
Cemetaries and crematoriums	9(4) and 9(7)
Public Benefit organizations	9(6) and 9(7)

- (2) Municipal properties are exempted from paying rates as it will increase the rates burden or service charges to property owners or consumers.
- (3) All residential properties with a market value of less than R 17 000 are exempted from paying rates. The R 15 000 impermissible rates contemplated in terms of section 17(1) (h) of the Property Rates Act is included in the R 17 000 amount. This is an important part of the council's indigent policy and is aimed primarily at alleviating poverty
- (4) Cemeteries and crematoriums registered in the names of private persons and operated not for gain.
- (5) Public service infrastructure is exempted from paying rates as they provide essential services to the community
- (6) Public benefit organisations as provided for in the Rates Policy may apply for the exemption of property rates subject to producing a tax exemption certificate issued by the South African Revenue Services (SARS) as contemplated in Part 1 of the Ninth Schedule of the Income Tax Act, 1962 (No 58 of 1962):
- (7) Exemptions will be subject to the following conditions:
  - (a) all applications must be addressed in writing to the municipality;
  - (b) a SARS tax exemption certificate must be attached to all applications;
  - (c) the municipal manager or his/her nominee must approve all applications;
  - (d) applications must reach the municipality before the end of October preceding the start of the new municipal financial year for which relief is sought; and
  - (e) the municipality retains the right to refuse exemptions if the details supplied in the application form were incomplete, incorrect or false.

## 10. REBATES

- (1) Categories of properties
  - (a) The municipality may grant rebates within the meaning of section 15(1) (b) of the Act on the rates

to the owners of the following categories of properties and subject to the criteria and conditions contained in 10(1)(b) to 10(1)(f) of this by-law:

<b>Description of category of property</b>	<b>Criteria</b>
(a) Residential	10(1)(d)
(b) Industrial	10(1)(b)
(c) Business/commercial	10(1)(b)
(d) Agricultural	10(1)(e)
(e) state-owned properties	10(1)(c)
(f) Property below a prescribed valuation level	10(1)(f)

(b) The municipality may grant rebates to rateable enterprises that promote local, social and economic development in its area of jurisdiction, based on its Local, Social and Economic Development Policy.

- i. The following criteria will apply:
  - a. job creation in the municipal area;
  - b. social upliftment of the local community; and
  - c. creation of infrastructure for the benefit of the community.
- ii. Rebates will be granted on application subject to:
  - a. a business plan issued by the directors of the company indicating how the local, social and economic development objectives of the municipality are going to be met;
  - b. a continuation plan issued by the directors and certified by auditors of the company stating that the objectives have been met in the first year after establishment and how the company plan to continue to meet the objectives;

- c. an assessment by the municipal manager or his/her nominee indicating that the company qualifies; and
  - d. a municipal resolution.
- (c) State properties  
Receive a rebate of 20%.
- (d) Residential properties  
The municipality grants a 20 % rebate, which applies to improved residential property that is:
  - i. used predominantly for residential purposes, with not more than two dwelling units per property,
  - ii. registered in terms of the Sectional Title Act,
  - iii. owned by a share-block company,
  - iv. a rateable residence on property used for or related to educational purposes
- (e) Agricultural property rebate
  - i. Agricultural properties will be granted a rebate certain information in an affidavit by 30 September each year.
  - ii. Qualifying requirements are that the owner should be taxed by SARS as a farmer and the last tax assessment must be provided as proof,  
or
  - iii. where the owner is not taxed as farmer, proof is required that income from farming activities exceeds 40% of the household income.
  - iv. The following rebates will apply:
    - a. 7.5% rebate, if there are no municipal roads next to the property.
    - b. 7.5% rebate, if there is no municipal sewerage to the property.
    - c. 7.5% rebate, if there is no municipal electricity to the property.
    - d. 20% rebate, if water is not supplied by the municipality
    - e. 7,5% rebate, if there is no refuse removal that is provided by the municipality.

- f. A rebate of 5% will be granted to agricultural property that contributes substantially to job creation, and the salaries/wages of farm workers are reasonable, e.g. if they meet minimum standards set by government or if they are in line with the sector's average.
- g. 5% rebate, if the owner is providing permanent residential property to the farm workers and such property is registered in the name of these farm workers, proof must be provided.
- h. 5% rebate, if such residential properties are provided with potable water.
- i. 5% rebate, if the farmer for the farm workers electrifies such residential properties.
- j. 5% rebate, if the farmer is availing his land/buildings to be used for cemetery, education and recreational purposes of the farm workers' children and nearby community in general, etc.

(f) Properties with a market value below a prescribed valuation level may instead of a rate determined on the market value may be a uniform fixed amount per property.

**(2) Categories of owners**

(a) The following categories of owners of rateable properties may be granted a rebate on rates within the municipality within the meaning of section 15(1) (b) of the Act:

Description of Category of Owners	Criteria
Retired and disabled persons	10(2)(b)

(b) Criteria for granting rebates to category of owners

- i. Retired and Disabled Persons Rate Rebate  
To qualify for the rebate a property owner must:
  - a. occupy the property as his/her normal residence;

- b. be at least 60 years of age or in receipt of a disability pension from the Department of Welfare and Population Development;
  - c. be in receipt of a total monthly income from all sources (including income of spouses of owner) not exceeding R2 700;
  - d. not be the owner of more than one property; and
  - e. provided that where the owner is unable to occupy the property due to no fault of his/her own, the spouse or minor children may satisfy the occupancy requirement.
- ii. Property owners must apply on a prescribed application form for a rebate as determined by the municipality.
  - iii. Applications must be accompanied by-
    - a. a certified copy of the identity document or any other proof of the owners age which is acceptable to the municipality;
    - b. sufficient proof of income of the owner and his/her spouse;
    - c. an affidavit from the owner;
    - d. if the owner is a disabled person proof of a disability pension payable by the state must be supplied; and
    - e. if the owner has retired at an earlier stage for medical reasons proof thereof must be submitted.
  - iv. These applications must reach the municipality before the end of October preceding the start of the new municipal financial year for which relief is sought.
  - v. The municipality retains the right to refuse rebates if the details supplied in the application form are incomplete, incorrect or false.

## 11. Reductions

### (1) Categories of property and owners

- (a) A reduction in the municipal valuation as contemplated in section 15(1)(b) of the Act will be granted where the value of a property is affected by-

- i. a disaster within the meaning of the Disaster Management Act, 2002 (Act No. 57 of 2002); or
  - ii. any other serious adverse social or economic conditions
- (b) The reduction will be in relation to the certificate issued for this purpose by the municipal valuer
- (c) All categories of owners can apply for a reduction in the rates payable as described above
- (d) Owners of the following categories of rateable property situated within the municipality may be granted a reduction within the meaning of section 15(1) (b) of the Act on the rates payable in respect of their properties and subject to the conditions contained in 11(1)(e) of this by-law:

<b>Description of category of property</b>	<b>Criteria</b>
(a) Residential	11(1)(e)
(b) Industrial	11(1)(e)
(c) Business	11(1)(e)
(d) Agricultural	11(1)(e)
(e) state-owned properties	11(1)(e)
(f) Municipal properties	11(1)(e)
(g) Public service infrastructure	11(1)(e)
(h) Informal settlements	11(1)(e)
(i) Properties -	
(i) Acquired through the Provision of Land Assistance Act, 1993, or the Restitution of Land Rights Act, 1994, or	11(1)(e)
(ii) which is subject to the Communal Property Associations Act, 1996	11(1)(e)
(j) Protected areas	11(1)(e)
(k) National monuments	11(1)(e)

(l) Public benefit organizations (Part 1 of the Ninth Schedule to the Income Tax Act)	11(1)(e)
(m) Multiple purposes	11(1)(e)
(n) Private towns serviced by the developers	11(1)(e)
(o) private towns serviced and maintained by the developers	11(1)(e)

(e) Criteria for granting reductions

- i. A reduction in the municipal valuation as contemplated in section 15(1)(b) of the Act will be granted where the value of a property is affected by fire damage, demolition or floods.
- ii. The reduction will be in relation to the certificate issued for this purpose by the municipal valuer.

**12. Rates increases**

- (1) The municipality will consider increasing rates annually during the budget process in terms of the guidelines issued by National Treasury from time to time.
- (2) Rate increases will be used to finance the increase in operating costs of community and subsidised services.
- (3) Relating to community and subsidised services the following annual adjustments will be made:
  - (a) All salary and wage increases as agreed at the South African Local Government Bargaining Council
  - (b) An inflation adjustment for general expenditure, repairs and maintenance and contributions to statutory funds, and
  - (c) Additional depreciation costs or interest and redemption on loans associated with the assets created during the previous financial year.

- (4) Extraordinary expenditure related to community services not foreseen during the previous budget period and approved by the council during a budget review process will be financed by an increase in property rates.
- (5) Affordability of rates to ratepayers.
- (6) All increases in property rates will be communicated to the local community in terms of the municipality's policy on community participation.

### **13. Notification of rates**

- (1) The municipality will give notice of all rates approved at the annual budget meeting at least 30 days prior to the date that the rates become effective. Accounts delivered after the 30 days notice will be based on the new rates.
- (2) A notice stating the purport of the municipality's resolution and the date on which the new rates become operational will be displayed by the municipality at places installed for that purpose.

### **14. Payment of rates**

- (1) Ratepayers may choose between paying rates annually in one instalment on or before 30 September or in twelve equal instalments on or before the seventh day of the month following on the month in which it becomes payable.
- (2) If the owner of property that is subject to rates, notify the municipal manager or his/her nominee not later than 31 May in any financial year, or such later date in such financial year as may be determined by the municipal manager or his/her nominee that he/she wishes to pay all rates in respect of such property in instalments, such owner shall be entitled to pay all rates in the subsequent financial year and each subsequent financial year in twelve instalments until such notice is withdrawn by him/her in a similar manner.
- (3) Interest on arrears rates, whether payable on or before 30 September or in equal monthly instalments, shall be calculated in accordance with the provisions of the credit control, debt collection and indigent policy of the Municipality.

- (4) If a property owner who is responsible for the payment of property rates in terms of this policy, fails to pay such rates in the prescribed manner, it will be recovered from him/her in accordance with the provisions of the Credit Control, Debt Collection and indigent policy of the Municipality.
- (5) Arrears rates shall be recovered from tenants, occupiers and agents of the owner, in terms of section 28 and 29 of the Act.
- (6) Where the rates levied on a particular property have been incorrectly determined, whether because of an error or omission on the part of the municipality or false information provided by the property owner concerned or a contravention of the permitted use to which the property concerned may be put, the rates payable shall be appropriately adjusted for the period extending from the date on which the error or omission is detected back to the date on which rates were first levied in terms of the current valuation roll.
- (7) In addition, where the error occurred because of false information provided by the property owner or as a result of a contravention of the permitted use of the property concerned, interest on the unpaid portion of the adjusted rates payable shall be levied at the maximum rate permitted by prevailing legislation.

**15. Short title**

This by-law is the rates by-law of the Mafikeng Local Municipality.

**16. Commencement**

This by-law comes into force and effect on ----- 2008.

**LOCAL AUTHORITY NOTICE 464****MAFIKENG LOCAL MUNICIPALITY****BY-LAW RELATING TO THE KEEPING OF ANIMALS**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the By-Laws Relating to the Keeping of Animals which shall come into operation on the date of publication thereof.

**Purpose of By-Law**

The purposes of this by-law is to promote the interests of animals and residents by exercising control over the numbers and kinds of animals that may be kept as well as the conditions under which such animals may be kept, sheltered and cared for and to provide for the prevention of nuisances through the keeping of such animals.

**Definitions**

- [1] In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates: -

"**animals**" mean members of the equine family, cattle, sheep, goats, pigs, fowls, dogs, cats, or other domestic animals or birds, or any wild animal, wild bird or reptile which is in captivity or under the control of any person;

"**municipality**" means the Mafikeng Local Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"**nuisance**" means, any act, omission or condition which is, in the opinion of the municipality, detrimental to health and/or offensive or injurious or which materially interferes with the ordinary comfort and/or convenience of the public and/or adversely affects the safety of the public and/ or which disturbs the quiet of the neighbourhood, and

"**pets**" means any dogs, cats, guinea pigs, hamsters, rabbits, chinchillas or birds not kept for breeding or business purposes;

"**premises**" means any piece of land registered in a deeds registry as an erf, lot, plot, or stand as part of a township, and includes a stand or

lot forming part of a piece of land laid out as a township, but not yet registered, or a portion of such erf, stand or lot and includes any residential site outside townships provided by government departments, semi-government institutions or industries and, where the text so requires, buildings on such erf, stand or lot ;

#### **Written permission**

- [2] No person shall keep or permit to be kept on any premises or property any animals [excluding pets] without the written permission of the municipality, and such permission may be withdrawn if, at any time, a nuisance is caused or the requirements of this by-law are not complied with; provided that the provisions of this section shall not apply to premises or land which is zoned for agricultural purposes.

#### **Number of animals**

- [3] For the purpose of controlling and restricting the keeping of animals within townships, the municipality may from time to time determine the number, kind and sex of animals that may be kept and the areas within which such animals shall be prohibited.

#### **Plans for structures and management**

- [4] [1] An application for permission to keep animals shall be accompanied by a detailed site plan indicating all structures and fences, existing and proposed, on the premises.
- [2] Detailed plans and specifications shall be submitted to and be approved by the municipality in respect of all structures where animals are to be accommodated.
- [3] A detailed explanation of the number, kinds, sizes and sex of animals to be accommodated on premises shall accompany the plan.
- [4] Notwithstanding anything to the contrary contained in this by law the municipality may refuse to approve the application and plans if, in its opinion, the premises, owing to its location, siting or geographical features is unsuitable for the keeping of animals thereon.

#### **Structures shall comply with requirements**

- [5] [1] All structures housing animals shall be constructed in a workmanlike manner and of materials approved by the municipality.

- [2] No structure shall be sited within a distance of 15 m from any dwelling and staff quarters or the boundary of a residential erf and 8 m from any road boundary. The municipality may however, depending on circumstances and in its sole discretion, allow a relaxation of the said distances.
- [3] Every part of a structure in which animals will be housed shall be properly maintained and painted as often as the municipality may deem necessary.
- [4] No animals shall be kept in a structure or on land which is considered by the municipality to be undesirable or objectionable by reason of its locality, construction or manner of use.

#### **Premises to be kept clean**

- [6] [1] All manure from animals shall be stored in a manner approved by the municipality and disposed of on a regular basis at an approved place or disposal site so as to prevent any nuisance from being created.
- [2] All animal feed shall be stored in a rodent-proof receptacle approved by the municipality.
- [3] The premises in which animals are accommodated shall be kept in such condition as not to attract or provide shelter for rodents.

#### **Animals and pets kept in an unsatisfactory manner**

- [7] Whenever, in the opinion of the municipality, any animals or pets kept on any premises, whether or not such premises have been approved by the municipality under this by-law, are a nuisance or danger to health, the municipality may by written notice require the owner or occupier of such premises, within a period to be stated in such notice but not being less than 24 hours after the date of such notice, to remove the cause of and to abate such nuisance or danger to health and to carry out such work or do such things as the municipality may deem necessary for the said purpose.

#### **Stray animals and pets**

- [8] [1] The municipality may seize animals or pets found on any premises, land or a public road and which are not under supervision or control of any person and which are causing a nuisance or danger to the safety and health of persons.
- [2] Animals or pets seized in terms of sub-section [1] may be destroyed or caused to be destroyed by the municipality with

such instruments or appliances and with such precautions and in such a manner as to inflict as little suffering as possible.

### **DOG KENNELS AND CATTERIES**

#### **Requirements for premises**

- [9]** No person shall keep a kennel or cattery unless the requirements listed hereunder are complied with:
- [1]** Every dog or cat shall be kept in an enclosure complying with the following requirements:
- [a]** It shall be constructed of durable materials and the access thereto shall be adequate for cleaning purposes.
  - [b]** The floor shall be constructed of concrete or other durable and impervious material brought to a smooth finish and graded to a channel 100 mm wide, extending over the full width of the floor and situated within the enclosure, which channel shall be graded and shall drain into a gully connected to the municipality's sewer system by means of an earthenware pipe or a pipe of any other approved material with a minimum diameter of 100 mm, or to another approved disposal system.
  - [c]** A kerb 150 mm high shall be provided along the entire length of the channel referred to in sub-section [b] and on the side thereof adjacent to the surrounding outside area, to prevent storm water from such area from entering the channel.
- [2]** Every enclosure referred to in sub-section [1] shall contain a roofed shelter for the accommodation of dogs and cats and such shelter shall comply with the following requirements:
- [a]** Every wall shall be constructed of brick, stone, concrete or other durable material and shall have a smooth internal surface without cracks or open joints.
  - [b]** The floor shall be of concrete or other impervious and durable material brought to a smooth finish without cracks or open joints and the surface between the floor and the walls of a permanent structure shall be covered.
  - [c]** Every shelter shall have adequate access thereto for the cleaning thereof and for extermination of vermin.

- [3] In the case of dogs, a dog kennel of moulded asbestos or other similar material, which is movable and placed on a base constructed of concrete or other durable material with an easily cleaned finish, without cracks or open joints, may be provided instead of a shelter contemplated in sub-section [2], and if the base of such kennel is not rendered waterproof, a sleeping board which will enable the dog to keep dry shall be provided in every such kennel.
- [4] A concrete apron at least 1 m wide shall be provided at the entrance of the enclosure over its full width and the apron shall be graded for the drainage of water away from the enclosure.
- [5] A supply of potable water, adequate for drinking and cleaning purposes, shall be provided in or adjacent to the enclosure.
- [6] All food shall be stored in a rodent-proof store-room, and all loose food shall be stored in rodent-proof receptacles with closefitting lids in such store-room.
- [7] At least 5 m of clear, unobstructed space shall be provided between any shelter or enclosure and the nearest point of any dwelling, other building or structure used for human habitation or any place where food is stored or prepared for human consumption.
- [8] Isolation facilities for sick dogs and cats shall be provided to the satisfaction of the municipality.
- [9] If cages are provided for the keeping of cats, such cages shall be of durable, impervious material and constructed so as to be easily cleaned.

### **PET SHOPS**

#### **Requirements for premises**

- [10] No person shall conduct the business of a pet shop upon any premises unless the premises are constructed and equipped in accordance with the following requirements:
  - [1] Every wall, including any partition of any premises shall be constructed of brick, concrete or other durable material, shall have a smooth internal surface and shall be painted with a light coloured washable paint or given some other approved finish.
  - [2] The floor of any premises shall be constructed of concrete or other durable and impervious material brought to a smooth finish.

- [3] The ceiling of any premises shall be constructed of durable material, have a smooth finish, be dustproof and be painted with a light coloured washable paint.
- [4] Sanitary facilities shall be provided to the premises as required by the National Building Regulations.
- [5] A rodent-proof store-room shall be provided on the premises to the satisfaction of the municipality.
- [6] Facilities for the washing of cages, trays and other equipment shall be provided on the premises to the satisfaction of the municipality.
- [7] If required, change room or locker facilities shall be provided on the premises to the satisfaction of the municipality.
- [8] No door, window or other opening in any wall of premises shall be within 2 m of any other door, window or other opening to any other building in which food is prepared, stored or sold for human consumption or is consumed by humans.
- [9] There shall be no direct access from the premises from which a pet shop is conducted to any habitable room or any room in which clothing or food for human consumption is stored.

#### **Business requirements**

- [11] Every person who conducts the business of a pet shop shall:
  - [1] for the separate housing of animals, poultry or birds provide movable cages complying with the following requirements:
    - [a] The cages shall be constructed entirely of metal or other durable, impervious material and shall be fitted with a removable metal tray below the floor thereof to facilitate cleaning.
    - [b] Every cage shall be free from any recess or cavity not readily accessible for cleaning and every tubular or hollow fitting used in connection therewith shall have its interior cavity sealed.
    - [c] If rabbits are kept in a cage, the metal tray referred to in sub-section [a] shall drain into a removable receptacle.
    - [d] Every cage shall be fitted with a drinking vessel kept filled with water and accessible to pets kept in the cage;

- [2] provide rodent-proof receptacles of impervious material with close-fitting lids in the store-room of the pet shop in which all pet food shall be stored;
- [3] maintain the premises and every cage, tray, container, receptacle, basket and all apparatus, equipment and appliances used in connection with the pet shop in a clean, sanitary condition, free from vermin and in good repair;
- [4] take effective measures to prevent the harbouring or breeding of, and to destroy, flies, cockroaches, rodents and other vermin, and to prevent offensive odours arising from the keeping of pets on the premises;
- [5] provide overalls or other protective clothing for use by persons employed in connection with the pet shop and ensure that such apparel is worn by every employee when on duty;
- [6] at all times keep every pet in or on the premises unless otherwise approved by the Municipality;
- [7] provide isolation facilities in which every pet which is or appears to be sick shall be kept whilst on the premises;
- [8] ensure that there is a constant supply of potable water in the premises for drinking and cleaning purposes;
- [9] ensure that the premises are at all times so ventilated as to ensure sufficient movement of air for the comfort and survival of the pets, and
- [10] ensure that the number of pets per cage is not such that the free movement of such pets is impeded.

### **PET SALONS**

#### **Requirements for premises**

- [12] No person shall conduct the business of a pet salon in or upon any premises unless the premises are constructed and equipped in accordance with the following requirements:
  - [1] A room shall be provided with a minimum floor area of 6,5 m<sup>2</sup> for the washing, drying and clipping of dogs or cats.
  - [2] The floor of such room shall be constructed of concrete or other durable, impervious material brought to a smooth finish and graded to a channel drained in terms of the National Building

Regulations.

- [3] The surface between the floor and the wall of such room shall be covered and the covering shall have a minimum radius of 75 mm.
- [4] Every internal wall surface shall be smooth-plastered and be painted with a light-coloured washable paint.
- [5] The room shall be equipped with -
  - [a] a bath or similar facility with a constant supply of hot and cold water drained in terms of the National Building Regulations;
  - [b] an impervious-topped table, and
  - [c] refuse receptacles of impervious, durable material with a close-fitting lid for the storage of cut hair pending removal.
- [6] If cages are provided for the keeping of cats and kennels for the keeping of dogs, such cages and kennels shall be of durable material and be so constructed as to be easily cleaned.

#### **Business requirements**

- [12] Every person who conducts the business of a pet salon shall -
  - [1] ensure that every cage, including its base, is of metal construction and movable;
  - [2] ensure that all pesticidal preparations and preparations used for the washing of dogs and cats and the cleaning of equipment and materials are stored in separate metal cupboards;
  - [3] ensure that all tables used for the drying and grooming of dogs and cats are of metal with durable and impervious tops;
  - [4] maintain the premises and every cage, tray, receptacle, basket and all apparatus, equipment and appliances used in connection with the pet shop in a clean, sanitary condition, in good repair and free of vermin;
  - [5] at all times keep every dog or cat inside the building on the premises, unless otherwise approved by the municipality.
  - [6] provide portable storage receptacles of impervious material with close-fitting lids for the storage of dog and cat litter, and

- [7] remove all litter and other waste matter from the enclosure and shelter at least once every 24 hours and place it in the receptacles referred to in sub-section [6].

#### **Penalty**

- [13] Any person who contravenes or fails to comply with any provision of this by-law shall be guilty of an offence and liable upon conviction to—
- [1] a fine or imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment and,
  - [2] in the case of a continuing offence, to an additional fine or an additional period of imprisonment of 10 days or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued; and
  - [3] a further amount equal to any costs and expenses found by the court to have been incurred by the municipality result of such contravention or failure.

#### **Repeal of by-laws**

- [14] Any by-laws relating to the keeping of animals adopted by the municipality or any municipality now comprising an administrative unit of the municipality is repealed from the date of promulgation of this by-law.

**LOCAL AUTHORITY NOTICE 465****MAFIKENG LOCAL MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the Public Passenger, Transport Services By-Law which shall come into operation on the date of publication thereof.

**PUBLIC PASSENGER, TRANSPORT SERVICES BY LAW****Preamble**

The purpose of this by-law is to provide for the regulation and control of public transport services within the municipal area of Mafikeng Local Municipality.

**[1] Definitions**

In this by-law unless the context otherwise indicates –

“**Council**” means –

- [a] Mafikeng Local Municipality or its successor in title, and any committee or person to which or whom an instruction has been given or any power, function or duty has been delegated or subdelegated in terms of, or as contemplated in, section 59 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000].
- [b] a service provider in respect of any power, function or duty of the Council as contemplated in paragraph [a], assigned by it for the purposes of this by-law to that service provider in terms of section 81[2] of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000].

“**Medical Officer of Health**” means a person appointed as such under section 22 or 25 of the Health Act, 1977 [Act No. 63 of 1977] or any person acting in this position or performing the duties of Medical Officer of Health and includes, in the absence of a duly appointed Medical Officer of Health, a medical practitioner appointed by Mafikeng Local Municipality;

“**prescribed**” means determined by resolution of Mafikeng Local Municipality from time to time;

“**prescribed fee**” means a fee determined by the Council by resolution in terms of section 10G[7][a][ii] of the Local Government Transition Act, 1993 [Act No. 209 of 1993], or any other applicable legislation.

“**queue marshal**” a person designated by a taxi association to regulate minibus and midibus operations and passengers;

## **CHAPTER 1 TAXIS**

### **1. Driver to take shortest route**

- [1] A driver of any metered taxi must, while the metered taxi is hired, drive to the passenger's destination along the most beneficial route to the passenger, unless otherwise directed by the passenger.
- [2] A metered taxi driver must have a current map of the municipal area in his or her possession and must be made available by the driver to a passenger on request.

### **2. Driver to keep engagement**

- [1] A driver of any metered taxi must convey a passenger and his or her goods to the destination agreed upon between the passenger and the driver.
- [2] Should the driver for any reason whatsoever, be unable to convey the passenger and the passenger's goods to the agreed destination, the driver of a metered taxi must take all reasonable steps to arrange another metered taxi for the passenger, or let the passenger arrange for transport to get the passenger to his or her destination.

### **3. Operation of taximeter**

- [1] The driver of a metered taxi fitted with a taximeter must, as soon as the driver arrives at the point where his or her hiring commences and not sooner, set the taximeter in motion, and must upon the termination of hiring immediately stop the taximeter from recording.
- [2] Upon the occurrence of any stoppage not caused by traffic congestion or by the action or request of any passenger, the said driver must for the duration of such stoppage stop the taximeter from recording.

## **CHAPTER 2 BUSES**

### **4. Stopping places**

No driver of a bus may allow the bus to stop for the purpose of picking up or setting down any passengers except at such stopping places as approved and designated by the Council.

### **5. Entering and alighting a bus**

A prospective passenger of a bus may only enter or alight a bus at an approved stopping place.

## **6. Driver to stop at stopping places**

The driver of a bus, which at the time is not carrying the maximum number of passengers the vehicle is lawfully entitled to carry, must stop at any prescribed stopping place if a prospective passenger is waiting at such stopping place.

### **Chapter 3 GENERAL**

## **7. Parking of metered taxi, minibus, midibus or bus**

No person may park a metered taxi, minibus, midibus or bus on any public road for the purpose of providing a public transport service except in an exclusive parking bay marked by a road traffic sign as prescribed in terms of the National Road Traffic Act, 1996 [Act No. 93 of 1996] for that vehicle.

## **8. Parking at places of entertainment or funeral**

Notwithstanding the provision of section 7 of this by-law a metered taxi may park on a public road for the purpose of providing a metered taxi service, where a party or private entertainment is in progress or from which any funeral or wedding procession is about to start.

## **9. Preventing engagement**

[1] No driver of a metered taxi, minibus, midibus or bus or any other person may by using force or threats, or in a clandestine manner or by any other means, prevent or seek to prevent any person from hiring any other metered taxi, minibus, midibus or bus or the driver of such other metered taxi, minibus, midibus or bus from obtaining or conveying passengers or loads.

[2] No person may use force or threats or any clandestine method, to prevent or attempt to prevent any person from engaging in a lift club.

## **10. Failing or refusing to pay or attempting to evade payment of the fare due**

No hirer of, or passenger in or upon a metered taxi, minibus, midibus or bus may fail or refuse to pay any fare due by the hirer or passenger.

## **11. Furnishing of name and address by person conveyed in or on metered taxi, minibus, midibus or bus**

Any person hiring, or conveyed in or upon, a metered taxi, minibus, midibus or bus who, having failed or refused to pay any fare due by him or her, must when requested to do so by the driver, state his or her correct name and address.

## **12. Conveyance of filthy or diseased persons**

[1] No driver of a metered taxi, minibus, midibus or bus may knowingly convey or carry -

- [a] any person in a state of filth or suffering from any contagious disease; or
  - [b] any dead animal except animals or poultry intended for human consumption if the animal or poultry is properly wrapped.
- [2] No person who has another person in his or her care who to his or her knowledge has been exposed to, or contaminated with, any contagious disease, may place any such person in any metered taxi, minibus, midibus or bus.
- [3] No person in a state of filth or suffering from any contagious disease may enter any metered taxi, minibus, midibus or bus or, having entered, remain upon such vehicle after being requested by the driver or conductor thereof to leave the vehicle.

### **13. Disinfection of metered taxi, minibus, midibus or bus**

- [1] The owner, driver, conductor or any other person in charge of a metered taxi, minibus, midibus or bus must take immediate steps to provide for the disinfecting of the metered taxi, minibus, midibus or bus as soon as it comes to his or her knowledge that –
- [a] any person suffering from a contagious disease; or
  - [b] the body of any person who has died of such disease; or
  - [c] anything which has been exposed to or contaminated with such disease, has been conveyed in or upon such metered taxi, minibus, midibus or bus, and must forthwith report the matter to the Medical Officer of Health.
- [2] Such owner, driver, conductor or other person must carry out every instruction issued by the Medical Officer of Health with regard to the disinfection of such metered taxi, minibus, midibus or bus.

### **14. Driver's right to refuse to convey passengers**

- [1] The driver of a metered taxi, minibus, midibus or bus may, and at the request of any passenger must, refuse to convey any person who is in a state of intoxication or who is noisy or rowdy or otherwise misbehaving himself or herself.
- [2] No person mentioned in subsection [1], may remain in or upon such metered taxi, minibus, midibus or bus, after having been requested by the driver or conductor thereof to leave the metered taxi, minibus, midibus or bus.

**15. Property left in metered taxi, minibus, midibus or bus**

If any property left in a metered taxi, minibus, midibus or bus is not claimed within twenty-four [24] hours after it has been discovered in such metered taxi, minibus, midibus or bus, the driver or conductor must take such property to the nearest office of the South African Police Services and there deposit it with the officer on duty, who must issue a receipt for such property to the person depositing it.

**16. Possession of dangerous or offensive articles**

[1] If the driver or conductor of a metered taxi, minibus, midibus or bus who reasonably suspects that any passenger is in possession of any dangerous or offensive article, the driver or conductor may request the passenger to produce such article.

[2] If the passenger refuses to produce the article mentioned in subsection [1], the driver may refuse engagement to the passenger.

**17. Cleanliness**

The driver or conductor of any metered taxi, minibus, midibus or bus must be clean, neatly dressed and presentable at all times while conveying passengers and must treat passengers politely and with respect.

**18. Queue marshal**

[1] A queue marshal at any rank must be clearly identifiable as to who he or she is employed by and must display his or her name in a conspicuous manner on his or her clothing below the left shoulder.

[2] A queue marshal must discharge his or her duties in a courteous and polite manner and show respect to all passengers.

**19. Clean vehicle**

The driver of any metered taxi, minibus, midibus or bus must keep the vehicle clean and in a presentable condition at all times while engaged in public passenger road transport services.

**20. Offences and penalties**

Any person who –

[a] contravenes or fails to comply with any provisions of this by-laws

[b] fails to comply with any notice issued in terms of this by-laws;  
or

[c] fails to comply with any lawful instruction given in terms of this by-law; or

[d] who obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties under this by-law,

is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months.

**21. Repeal of by-laws**

All by-laws relating to metered taxis, minibuses, midibuses and buses previously adopted by the Council or any of the Councils comprising the administrative units situated in the area of jurisdiction of the council are, with effect from the date of promulgation of this by-law rescinded.

**LOCAL AUTHORITY NOTICE 466****MAFIKENG LOCAL MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the By-Law Relating to the Prevention of Nuisances which shall come into operation on the date of publication thereof.

**BY-LAW RELATING TO THE PREVENTION OF NUISANCES****Purpose of By-Law**

The purpose of this by-law is to promote the achievement of a safe, peaceful and healthy environment for the benefit of residents within the area of jurisdiction of the municipality and to provide for procedures, methods and practices to regulate nuisances.

**Definitions**

[1] In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and, unless the context otherwise indicates: -

"**council**" means the Mafikeng Local Municipality or any political structure, political office bearer, councillor, or any staff member acting under council's delegated or sub-delegated authority;

"**erf**" means any land, whether vacant, occupied or with buildings thereon;

"**municipal area**" means the municipal area of Mafikeng Local Municipality.

"**municipality**" means the Mafikeng Local Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998;

"**objectionable material**" means garden litter, rubbish, waste material, rubble, scrap metal, article or thing, disused motor cars, machinery or other vehicles, as well as the disused parts thereof, refuse from any building operations, or any refuse capable of being dumped on any land or premises, including new or used building materials not necessarily required in connection with bona fide building operations actually in progress on any land, and includes any solid, liquid or gas which is or may become offensive or dangerous or injurious to health or which materially interferes with the ordinary comfort or convenience of the public;

**“public nuisance”** means any act, omission or condition which is offensive and/or injurious and/or dangerous to health and/or which materially interferes with the ordinary comfort, convenience, peace or quiet of the public and/or which adversely effects the safety of the public;

**“public place”** means any square, building, park, recreation ground or open space which:–

- [a] is vested in the Mafikeng Local Municipality area of jurisdiction
- [b] the public has the right to use, or
- [c] is shown on a general plan of a township filed in a deeds registry or a Surveyor-General’s office and has been provided for or reserved for the use of the public or the owners of erven in such township;

**“public road”** means any road, street or thoroughfare or any other place [whether a thoroughfare or not] which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes:–

- [a] the verge of any such road, street or thoroughfare;
- [b] any bridge, ferry or drift traversed by any such road, street or thoroughfare, and
- [c] any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

#### **Enforcement**

- [2] The council may, whenever it regards it necessary to do so, enter any premises at any reasonable time to ensure compliance with this by-law.

#### **Behaviour and conduct**

- [3] Notwithstanding the provisions of any other by-law, no person shall:
  - [a] dump, accumulate or place or cause or permit to be dumped, accumulated or placed objectionable material in or on any erf, street, drain, water furrow, sewer, thoroughfare, public square or commonage except at such place or places as the council may from time to time set aside or approve for such purposes, provided however that the council may permit public garages, workshops and other trades, subject to such conditions as may be imposed in each case, to keep, store, repair, dismantle or re-assemble any motor vehicle or other vehicle or apparatus on premises approved by the council;
  - [b] do work on any erf or use any building or land for purposes calculated, in the opinion of the council, to depreciate or to disfigure such erf or to

interfere with the convenience or comfort of the neighbours thereof or to become a source of danger to any person;

- [c] carry on any trade, business or profession on any erf in the municipal area which may in the opinion of the council be a source or become a source of discomfort or annoyance to the neighbourhood;
- [d] deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse or any objectionable material or thing which is offensive or likely to cause annoyance, danger or injury to persons in or upon any erf, street or public place;
- [e] allow any erf to be overgrown with bush, weeds or grass or other vegetation except cultivated trees, shrubs and grass to such extent that, in the opinion of the council or any duly authorised employee of the council it may be used as a shelter by vagrants, wild animals or vermin or may threaten the public health or the safety of any member of the community or may promote the spread of fires;
- [f] allow any erf to be dirty, neglected or infested with rodents, snakes, mosquitoes, flies, ticks, bugs or other insects harmful to health, or allow any offensive odours or gasses to emanate from such erf;
- [g] allow the fencing of any erf to fall into a state of disrepair or to become unsightly or dilapidated;
- [h] allow any building or structure or any portion thereof on any erf to fall into a dilapidated, neglected or unsightly state, or fail to maintain the roof-water disposal system, pipes, sewers, drains, water fittings, waste water fittings, water closet fittings and all other appurtenances forming part of or attached to any building or structure in good and sound repair, or fail to maintain the walls of any building or structure free from dampness;
- [i] use or cause or permit to be used any stoep and/or verandah of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, displaying, keeping, selling or offering for sale any goods, articles or merchandise;
- [j] use or cause or permit any shop or business premises or vacant land adjoining such shop or business premises or any portion thereof which is open or visible to the public for the purpose of storing, stacking, dumping, disposing, or keeping any waste material, refuse, cartons, crates, containers or other articles of a like nature;
- [k] enclose or cause or permit the enclosing of any stoep or verandah of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the council may approve;

- [l] keep on his premises any animal or bird which creates a disturbance or a nuisance to the neighbours by making frequent and excessive noise;
- [m] deposit or keep or cause or suffer to be deposited or kept any night soil on any premises, except in a proper sanitary convenience approved by the council and in accordance with any by-law of the council;
- [n] keep or cause or suffer to be kept upon his premises any sanitary convenience of such nature that it is a nuisance or is offensive or injurious or dangerous to health;
- [o] defoul, misuse or damage any public convenience or any convenience provided in any public building or place of public entertainment;
- [p] carry or convey, or cause or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become offensive or dangerous or injurious to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any nuisance;
- [q] bury or dispose of any dead body in any unauthorised place;
- [r] permit the carcass of any animal, being his property or of which he is in charge, and which has died on his premises or elsewhere in the municipal area, to remain unburied;
- [s] cause or permit any stream, pool, ditch, drain, gutter, watercourse, sink, bath, cistern, water closet, privy or urinal on any land or premises owned or occupied by him or of which he is in charge to be or become so foul or in such a state or to be so situated or constructed as to be offensive or dangerous or injurious to health;
- [t] cause or permit any foul or polluted water or any foul liquid or objectionable material to run or flow from any premises owned or occupied by him, whether occupied for trade, business, manufacturing, dwelling or any other purpose, into any street or on any land;
- [u] commit or cause or permit to be committed, any act which may pollute any water which inhabitants of the municipality have the right to use or which is provided or deserved for the use of such inhabitants;
- [v] bathe or wash himself or any animal or article or clothing or any other article or thing in any public stream, pool or water trough or at any public hydrant or fountain or at any place which has not been set aside by the council for any purpose;
- [w] disturb the public peace in any street or public place by making unseemly noises or by shouting, insistent hooting, wrangling or

quarrelling, or by collecting a crowd or by organising any demonstration or by fighting or challenging to fight, or by striking with or brandishing or using in a threatening manner any stick or other weapon or by any other riotous, violent or unseemly behaviour at any time of the day or night, or by loitering in any street or public place or by gathering in crowds on pavements;

- [x] advertise wares or services in any street or public place by means of any megaphone, loudspeaker, or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells in such manner as to constitute a public nuisance in the neighbourhood;
- [y] in or upon any property or premises disturb the public peace in the neighbourhood of such premises by making therein or thereon any unseemly noises, or by shouting, wrangling, quarrelling and singing or by playing therein or thereon a musical instrument or use or permit to be used any musical instruments, radios, television sets or the like or any loudspeaker or other device for the reproduction or amplification of sound, in such manner or at such a time or in such circumstances that the sound thereof is audible beyond the boundaries of such property or premises and materially interferes with the ordinary comfort, convenience, peace or quiet of the occupiers of surrounding properties;
- [z] in any street or public place use any abusive or threatening language or commit any act which may or is calculated to cause a breach of the peace;
- [za] solicit alms in any street or public place or endeavour by the exposure of wounds, sores, injuries or deformities or the production of begging letters to obtain alms, or
- [zb] cleanse or wash any vehicle or part in any street or public place.

#### **Failure to comply with provisions**

- [4] [1] Where any material, article or thing of whatsoever nature has been accumulated, dumped, stored or deposited on any erf, or where there is an overgrowth of bush, weeds, grass or vegetation on any erf in contravention of section 3[a], [d] and [e] the council may serve a notice on -
  - [a] the person directly or indirectly responsible for such accumulation, dumping, storing or depositing;
  - [b] the owner of such material, article or thing, whether or not he is responsible for such accumulation, dumping, storage or depositing;

[c] the owner of the erf on which such accumulation, dumping, storage or depositing takes place, whether or not he is responsible therefor, or

[d] the owner of the erf on which there is an overgrowth of bush, weeds, grass or vegetation -

requiring such persons or owners to dispose of, destroy or remove such material, article or thing or to clear such overgrowth to the satisfaction of the council.

[2] Should any person or owner fail to comply with the requirements of a notice in terms of subsection [1] within the period stipulated by the council, the council may itself dispose of or destroy or remove such material, article or thing, or clear the overgrowth from any erf at the cost of any one or more of the persons or owners mentioned in subsection [1][a], [b], [c] and [d].

[3] Where on any erf there is a contravention of section 3[b], [f], [g], [h] and [t] the council may at its discretion serve a notice on either the owner or the occupier to abate the nuisance within a defined period to be stated in such notice.

#### **Sanitary facilities at construction sites**

[4] Every person engaged in building operations, road construction or construction work of any nature shall, when required to do so by the council, provide adequate sanitary accommodation for himself and his employees to the satisfaction of and in accordance with any requirements specified by the council.

#### **Unlawful occupation**

[5] [1] No person shall, without the permission of the council, occupy or permit to be occupied for human habitation any caravan, tent or other similar shelter of any description except on an authorised camping or caravan site controlled by the council or any other camping or caravan site which conforms with the provisions of the by-laws relating to such caravan parks or camping sites.

[2] The council may serve notice on any person who occupies a caravan, tent or shelter in contravention of subsection [1] to vacate such caravan, tent or shelter within 3 days after the service of such notice upon him, failing which, such person shall be guilty of an offence.

#### **Penalties**

[6] Any person who contravenes or fails to comply with any provision of this by-law or any notice served in terms thereof shall be guilty of an offence and be liable upon conviction to -

- [i] a fine or imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment and,
- [ii] in the case of a continuing offence, to an additional fine or an additional period of imprisonment of 10 days or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
- [iii] a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as a result of such contravention or failure.

#### **Repeal of By-Laws**

- [6] Any by-law relating to the prevention of nuisances adopted by the municipality or any municipality now comprising an administrative unit of the municipality is repealed from the date of promulgation of this by-law.

**LOCAL AUTHORITY NOTICE 467****THIS BY-LAW MAY ALSO APPLY TO PARKS AND GARDENS****MAFIKENG LOCAL MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the By-Law Relating to Open Spaces which shall come into operation on the date of publication thereof.

**BY-LAW RELATING TO OPEN SPACES****CHAPTER 1 – INTERPRETATION AND FUNDAMENTALS****Definitions**

[1] In this by-law, unless the context indicates otherwise –

“**active game**” means any physical sport, game or other activity by one or more persons which is undertaken within a public open space other than in an area set aside for that purpose, and which may cause injury to other users of the public open space, a nuisance or damage to vegetation or municipal property within a public open space and includes rugby, golf, archery, football, tennis, badminton, hockey, netball, volleyball, skate-boarding, roller-skating and in-line skating;

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

“**conservation public open space**” means public open space that is managed by or on behalf of the Council for conservation purposes, and includes nature reserves, greenbelts, ravines, bird sanctuaries and sites of historic, ecological or archaeological value;

“**Council**” means –

[a] the municipal council of Mafikeng established in terms of Section 12 of the Municipal Structures Act 1998 as amended or its successors in title, and any committee or person to which or whom an instruction has been given or any power has been delegated or sub-delegated in terms of, or as contemplated in, section 59 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] or, where the context so requires, means the Municipality of Mafikeng; or

[b] a service provider in respect of any power, function or duty of the Council as contemplated in paragraph [a], which has been assigned for the purposes of this by-law to that service provider in terms of section 81[2] of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000];

“**designated area**” means an area designated by the Council as an area in which an active game or any other activity, which would otherwise be prohibited under Chapter III of this by-law, may be undertaken;

“**enforcement officer**” means any peace officer, as defined in the Criminal Procedure Act, 1977 [Act No. 51 of 1977], who is duly appointed by the Council to enforce any provision of this by-law;

**“environment”** means the surroundings within which humans exist and that are made up of –

- [a] the land, water and atmosphere of the earth;
- [b] micro-organisms, plant and animal life;
- [c] any part or combination of [a] and [b] and the interrelationships among and between them; and
- [d] the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

**“environmentally sustainable”** means the exercising of any decision-making powers or performance of any activities in a manner aimed at ensuring that –

- [a] the risk of harm to the environment and to human health and safety is minimised to the extent reasonably possible under the circumstances;
- [b] the potential benefits to the environment and to human health and safety are maximised to the extent reasonably possible under the circumstances; and
- [c] legislation intended to protect the environment and human health and safety is complied with;

**“local community”** means that body of persons comprising –

- [a] the residents of the area in which the public open space is situated;
- [b] the ratepayers of the area in which the public open space is situated; and
- [c] any civic organisations and non-governmental or private sector organisations or bodies which are involved in local affairs in the area in which the public open space is situated;

**“Municipal manager”** means a person appointed as such by the Council in terms of section 82 of the Local Government: Municipal Structures Act, 1998 [Act 117 of 1998];

**“municipal property”** means any structure or thing owned or managed by or on behalf of the Council and which is incidental to the use and enjoyment of a public open space and includes buildings, lapas, kiosks, benches, picnic tables, playground equipment, fountains, statues, monuments, fences, poles, notices and signs;

**“notice”** means a clear and legible official notice drawn up by the Council in the official languages recognised by the Council and prominently erected in a public open space;

**“nuisance”** means an unreasonable interference or likely interference with –

- [a] the health or well-being of any person;
- [b] the use and enjoyment by an owner or occupier of his or her property; or
- [c] the use and enjoyment by a member of the public of a public open space;

**“organ of State”** means –

- [a] any department of State or administration in the national, provincial or local sphere of government; or

- [b] any other functionary or institution –
  - [i] exercising a power or performing a function in terms of the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996] or a provincial Constitution; or
  - [ii] exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer;

“**person**” means a natural person or a juristic person, and includes an organ of State;

“**prescribed fee**” means a fee determined by the Council by resolution in terms of section 10G[7][a][ii] of the Local Government Transition Act, 1993 [Act No. 209 of 1993], or any other applicable legislation;

“**printed matter**” includes any advertisement, billboard, poster, book, pamphlet or handbill;

“**prohibited activity**” means any activity or behaviour that is prohibited in terms of Chapter III from being undertaken in a public open space, either completely or without permission in terms of sections 22, 23 or 24;

“**public open space**” means any land which –

- [a] is owned by an organ of State, or
- [b] over which an organ of State has certain real rights arising from the filing in the Deeds Office or other registration office of a general plan of a township, agricultural holding or other division of land, or any alteration, addition to or amendment of such land approved by the Surveyor-General, on which is marked the land to which the public has a common right of use; and
- [c] is controlled and managed by the Council; and
- [d] is either –
  - [i] set aside in terms of any law, zoning scheme or spatial plan for the purposes of public recreation, conservation, the installation of public infrastructure or agriculture; or
  - [ii] predominantly undeveloped and open and has not yet been set aside for a particular purpose in terms of any law, zoning scheme or spatial plan;

“**public utility public open space**” means public open space that is managed by or on behalf of the Council for the purposes of providing a public service, which includes road reserves and areas subject to electrical, pipeline and other public utility servitudes, but excludes council housing, clinics and other social services;

“**recreational public open space**” means public open space that is managed by or on behalf of the Council for public recreational purposes, and includes parks, botanical gardens, sports grounds and play grounds, but excludes golf courses;

“**road reserve**” means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic which is between the edges of the roadway or that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or shoulder;

“**service provider**” means a person or institution or any combination of persons and institutions which provide a municipal service in terms of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000];

“**special event**” means a parade, procession, race, concert, show, exhibition, festival, ceremony, film shoot, photographic shoot or similar event, which requires, for that purpose, exclusive use of a part of a public open space;

“**urban agricultural public open space**” means public open space that is managed by or on behalf of the Council for urban agricultural purposes;

“**vehicle**” means a device designed or adapted mainly to travel on wheels, but excludes wheelchairs and children’s pushchairs;

“**waste**” means any substance or article that the owner wishes to dispose of because it is unwanted, superfluous, broken, worn out, contaminated or otherwise spoilt and that has either been discarded or has been accumulated or stored so that it can be discarded, reused, reclaimed or recycled;

“**watercraft**” includes any boat, raft, yacht, canoe, inflatable mattress, model ship or boat, radio-controlled boat or similar device;

“**water body**” means any body of water within a public open space and includes a pond, fountain, artificial watercourse, dam, lake, canal, reservoir, stream, river or wetland.

### Application

[2] [1] This by-law apply to all public open space that fall under the jurisdiction and control of the Council but do not apply to cemeteries.

[2] This by-law are binding on the State.

### Purpose

[3] The purpose of this by-law is to provide, in conjunction with other applicable legislation, an effective legal and administrative framework:

[a] to ensure that the way in which the Council controls, manages and develops public open spaces is environmentally sustainable, and is in the long-term interests of the whole community of [insert name of municipality], including future generations; and

[b] that clearly defines the rights and obligations of the public in relation to public open spaces.

## CHAPTER II: MANAGEMENT AND ADMINISTRATION OF PUBLIC OPEN SPACES

### Principles

[4] [1] Public open spaces must be managed, and where appropriate developed, in the interests of the whole community, and in determining the interests of the whole community –

[a] the long-term collective interests of the people of \_\_\_\_\_ [insert name of municipality], and of South Africa, must be prioritised over the interests of any specific interest group or sector of society;

[b] a long-term perspective, that takes account the interests of future generations, must be adopted; and

- [c] the interests of other living organisms that depend on public open spaces must be taken into account.
- [2] Public open spaces must be managed in an environmentally sustainable manner.
- [3] Subject to subsection [5] and section 7, people must be given access to public open spaces on a non-discriminatory and equitable basis.
- [4] Where necessary, special measures must be taken to facilitate access to public open spaces by historically disadvantaged persons and by disabled persons.
- [5] Access to a public open space may be restricted in a manner that does not unjustifiably discriminate against any person or class of persons –
  - [a] if the restriction is authorised by these by-laws or by any other applicable legislation; or
  - [b] in order to achieve the purposes of these by-laws.
- [6] The recreational, educational, social and other opportunities which public open spaces offer must be protected and enhanced to enable local communities, particularly historically disadvantaged communities, and the public to improve and enrich their quality of life.
- [7] Local communities must be encouraged to use and care for public open spaces in their areas.
- [8] The natural environment and heritage resources within public open spaces must be identified, preserved, protected and promoted, for the benefit of the local community, the public and future generations.

#### **Application of principles**

- [5] The public open space management principles set out in section 4, and the national environmental management principles set out in section 2 of the National Environmental Management Act, 1998 [Act 107 of 1998], must be considered and applied by any person –
  - [a] exercising a power or function or performing a duty under these by-laws;
  - [b] formulating or implementing any policy that is likely to have a significant effect on, or which concerns the use of, public open spaces within the Council's jurisdiction; or
  - [c] exercising a public power or function or performing a public duty that is likely to have a significant effect on, or which concerns the use of, public open spaces.

#### **General powers**

- [6] The Council may in relation to any public open space –
  - [a] designate any area within a public open space as an area within which one or more activities otherwise prohibited in terms of this by-law may be undertaken, and erect a prominent notice to this effect at entrances to the designated area;
  - [b] develop any public open space in accordance with the principles set out in section 4;

- [c] erect, construct, establish or demolish municipal property; and
- [d] exercise any other power reasonably necessary for the discharge of the Council's obligations in terms of this by-law relating to the management of public open spaces.

**Fees**

- [7] The Council may require members of the public to pay –
  - [a] a reasonable prescribed fee to use recreational or other facilities that the Council provides within public open spaces;
  - [b] a reasonable prescribed fee for entrance to public open spaces which are significantly more expensive to maintain than other public open spaces, such as botanical gardens;
  - [c] a prescribed fee for the right to undertake a special event;
  - [d] a prescribed fee for the right to exclusively use municipal property for a specific period;
  - [e] a deposit prior to undertaking a prohibited activity;
  - [f] an annual or monthly fee for the right to use urban agricultural public open space to the exclusion of any other person; and
  - [g] a prescribed fee for processing applications for permits or letters of permission under this by-law.

**Restricting access**

- [8] The Council may restrict access to any public open space or to any part of a public open space for a specified period of time –
  - [a] to protect any aspect of the environment within a public open space;
  - [b] to reduce vandalism and the destruction of property;
  - [c] to improve the administration of a public open space;
  - [d] to develop a public open space;
  - [e] to enable a special event that has been permitted in terms of section 0 to proceed; or
  - [f] to undertake any activity that the Council reasonably considers necessary or appropriate to achieve the purposes of this by-law.

**Procedure when exercising powers**

- [9] If the rights or legitimate expectations of any person will be materially and adversely affected by the Council exercising any power in terms of sections 6, 7 or 8, before exercising the power the Council must –
  - [a] give notice of the proposed administrative action, which notice must –
    - [i] be published in the Provincial Gazette and in a newspaper circulating in the area or areas that will be directly affected by the proposed administrative action;
    - [ii] contain a clear statement of the proposed administrative action;
    - [iii] invite comments and objections within a specified period; and

- [iv] consider the comments and objections received in response to the notice.

#### **Powers of enforcement officers**

- [10] In relation to any public open space, an enforcement officer may –
  - [a] issue a notice in terms of section 341 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977];
  - [b] issue a notice under section 21;
  - [c] order any person to leave a public open space if the enforcement officer reasonably believes that that person has not complied with any provision of this by-law; and
  - [d] exercise any other power that may be exercised by a peace officer under the Criminal Procedure Act, 1977 [Act No. 51 of 1977].

#### **Obligations in relation to public open spaces**

- [11] [1] The Council must within a public open space, erect any notice required under this by-law.
- [2] In relation to recreational public open spaces, the Council must –
  - [a] ensure that they are open to the public between sunrise and sunset, unless specified otherwise in terms of a notice; and
  - [b] erect prominently displayed notices at every entrance indicating:
    - [i] the opening and closing times of that recreational public open space; and
    - [ii] any rules made in relation to that recreational public open space.

### **CHAPTER III: PROHIBITED CONDUCT**

#### **Prohibited activities**

- [12] [1] Any person who undertakes an activity or behaves in a manner that is prohibited under sections 13 to 20 commits an offence unless the activity or conduct in question –
  - [a] took place in a designated area within which that activity was allowed;
  - [b] is authorised in terms of a permission granted or permit issued under sections 22, 23 or 24; or
  - [c] was deemed to have been authorised by the Council under subsection [2].
- [2] Subject to subsection [3], a person is deemed to have permission to undertake a prohibited activity if that person needs to undertake the prohibited activity –
  - [a] to perform his or her obligations as an employee, agent or subcontractor of the Council under his or her contract with, or mandate from, the Council or to achieve the purposes of this by-law;

- [b] to carry out public duties as an employee, agent or subcontractor of an organ of State within a public open space which is subject to a public utility servitude in favour of an organ of State;
  - [c] to fulfil his or her duties as an authorised officer to implement this by-law; or
  - [d] to fulfill his or her duties as a peace officer.
- [3] No person is deemed to have permission to undertake an activity that is prohibited under Section 13 [a], [e] or [f] or an activity that the Council has expressly refused to permit.

**General**

- [13] No person shall within a public open space –
- [a] act in a manner that is dangerous to life or property;
  - [b] contravene the provisions of any notice within any public open space;
  - [c] unlawfully enter a public open space to which access has been restricted in terms of section 8;
  - [d] cause a nuisance;
  - [e] behave in an indecent or offensive manner; or
  - [f] obstruct any authorised official who is exercising a power under this by-law.

**Use**

- [14] No person shall within a public open space –
- [a] bathe, wade, or swim in or wash him- or herself, an animal or any object, including clothing, in any water body;
  - [b] sail, row, paddle, propel or control any watercraft on any water body;
  - [c] make, light or otherwise start a fire;
  - [d] camp or reside in any public open space;
  - [e] consume, brew, store or sell any alcoholic beverage;
  - [f] use any sound equipment, including a radio, portable hi-fi or car stereo;
  - [g] play an active game, except in an area designated for that purpose, on sport playing fields or on a golf course;
    - [a] shoot a projectile of any nature; or
    - [b] ride a horse or bicycle.

**Waste**

- [15] No person shall within a public open space –
- [a] deposit, dump or discard any waste, unless in a receptacle provided by the Council for that purpose; or
  - [b] pollute or deposit any waste or thing in a manner which may detrimentally impact on a water body.

**Vehicles**

- [16] No person shall within a public open space –
- [a] except at times and on roads or pathways prescribed by the Council, drive, draw or propel any vehicle;
  - [b] drive, draw or propel a vehicle in excess of 5 kilometres per hour; or
  - [c] park a vehicle in a public open space.

**Animals and vegetation**

- [17] [1] Subject to subsection [2], no person shall within a public open space –
- [a] disturb, damage, destroy or remove any vegetation;
  - [b] plant any vegetation;
  - [c] alter the slope or drainage pattern so as to interfere with the access of water, air or nutrients to any tree;
  - [d] capture or attempt to capture, chase, shoot at, injure, throw objects at, tease, molest or in any other way disturb any fish, bird or animal;
  - [e] disturb, damage or destroy any bird nest or eggs;
  - [f] walk, carry, ride or bring an animal, unless the animal is a guide dog and is accompanied by a person with a sight disability; or
  - [g] affix or place on any tree any printed matter.
- [2] The provisions of subsections [1][a] and [b] do not apply to any person who has obtained a permit in terms of section 24 to undertake agricultural activities in an urban agricultural public open space.

**Municipal property and erection of structures**

- [18] [1] Subject to subsection [2], no person shall within a public open space-
- [a] deface, damage, destroy or remove any municipal property;
  - [b] disturb the surface of any land, whether by digging or undertaking any earthworks;
  - [c] erect, build or assemble any structure, including a hut, tent, screen, bulletin board, pole, stand or stage;
  - [d] affix or place on any municipal property, or distribute, any printed matter; or
  - [e] plug, tamper with, or in any way damage any plumbing, electrical, heating or other fixtures or installations in any public open space.
- [2] The provisions of subsection [1][b] do not apply to any person who has obtained a permit in terms of section 24 to undertake agricultural activities in an urban agricultural public open space.

**Selling and special events**

- [19] [1] No person shall within a public open space –

- [a] use municipal property in a way that unfairly restricts or prevents other users of the public open space from enjoying that municipal property; or
  - [b] sell, hawk, offer or display any goods or articles for sale or hire;
- [2] No person may undertake a special event, except in terms of a permit issued in terms of section 0.

#### **Community service**

- [20] No person shall within a public open space undertake any community or voluntary work of any description.

#### **Restoration or removal notices**

- [21] [1] Unless permission or a permit to do so has been obtained under sections 21, 23 or 24, an enforcement officer may issue a restoration or removal notice to any person who has directly or indirectly in a public open space –
- [a] damaged, defaced, disturbed, destroyed, demolished or removed vegetation or a municipal structure;
  - [b] erected, built or assembled a structure; or
  - [c] dumped, discarded or deposited any waste, unless in a receptacle provided by the Council for that purpose.
- [2] The restoration or removal notice may direct the person within the reasonable time stated in the notice to take stated reasonable action:
- [a] to restore or rehabilitate the affected area to the reasonable satisfaction of the Council; or
  - [b] to remove a structure or thing and restore the affected site, as nearly as practicable, to its former condition.

### **CHAPTER IV: APPLICATIONS FOR AUTHORISATION**

#### **Application for permission**

- [22] [1] **Any person who wants to undertake a prohibited activity must** apply in writing to the Council for permission to do so.
- [2] The Council may, after receiving an application, request the applicant to provide additional information which the Council reasonably requires in order to consider the application.
- [3] The Council may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and until the prescribed fee [if any] has been paid.
- [4] Subject to subsections [2] and [3], the Council must consider the application within a reasonable time and must either:
- [a] refuse the application; or
  - [b] grant permission in writing subject to whatever conditions the Council considers appropriate to best achieve the purposes of

this by-law, which may include payment of a deposit and/or a fee.

- [5] The Council must not grant permission for any person to behave in a manner that is prohibited under section 13[1][a], [e] or [f].

#### **Application for a special event permit**

- [23] [1] An application for permission to hold a special event in a public open space must be made at least three weeks before the proposed date of the special event.
- [2] The time period referred to in subsection [1] may be reduced on good cause at the Council's discretion.
- [3] The application must contain the following information –
- [a] the name and full contact details of the applicant [including name, organisation [if any], address, telephone and fax numbers and email address, if available];
  - [b] the nature and purpose of the special event;
  - [c] the intended route or area proposed to be used by the special event; and
  - [d] the permissions, if any, required under Chapter III of this by-law.
- [4] Subject to any permit conditions imposed by the Council, the holder of a special events permit has the right to use the area of public open space specified on the permit to the exclusion of any other person during the period specified in the permit.

#### **Application for permission to farm in an urban agricultural public open space**

- [24] [1] An application for permission to farm in an urban agricultural public open space must contain the following information –
- [a] the name and full contact details of the applicant [including name, organisation [if any], address, telephone and fax numbers and email address, if available];
  - [b] the nature of the agricultural activity that the applicant proposes to undertake; and
  - [c] the size and location of the area on which the applicant wishes to undertake the proposed agricultural activity.
- [2] A permit under this section may require the permit holder to pay an annual or monthly fee for the use of the land.
- [3] The holder of an urban agricultural permit may, subject to any conditions in the permit, use the area of public open space specified in the permit for agricultural purposes to the exclusion of any other person.

**CHAPTER V: CO-OPERATIVE MANAGEMENT AGREEMENTS**

- [25] [1] The Council may enter into a written agreement with any organ of State, local community or organization to provide for –
  - [a] the co-operative development of any public space; or
  - [b] the co-operative management of any public open space;
  - and
  - [c] the regulation of human activities within a public open space.
- [2] The Council shall not enter into a co-management agreement in relation to a public open space unless it is reasonably believed that entering into the co-management agreement will promote the purpose of this by-law.
- [3] The Council must monitor the effectiveness of the co-management agreement in achieving the purposes for which it was entered into and may cancel the agreement after giving reasonable notice to the other party if the Council has reason to believe that the co-management agreement is not effective, or is inhibiting the attainment of the purpose of this by-law.

**CHAPTER VI: TREE PRESERVATION ORDERS**

**General**

- [26] [1] If the Council believes that any tree or group of trees in a public open space requires legal protection the Council may issue a tree preservation order in respect of that tree or group of trees.
- [2] A tree preservation order:
  - [a] must indicate the tree or trees to which it relates; and
  - [b] may provide that any person who cuts, disturbs, damages, destroys, removes, transports, exports, purchases, sells, donates or in any other manner acquires or disposes of the tree or trees to which it relates, commits an offence.
- [3] The Council must erect a prominently displayed copy of any tree preservation order granted at or in the vicinity of the tree or trees to which the order relates.

**Procedure**

- [27] Unless, in the Council's reasonable opinion, the issuing of a tree preservation order is required as a matter of urgency, the Council must, before issuing a tree preservation order under section 26 –
  - [a] give notice of the proposal to protect the tree or group of trees and invite comments and objections within a specified period, by publishing a notice in the Provincial Gazette and in two newspapers circulating in the area in which the tree or group of trees is situated;
  - [b] notify any affected organs of State; and
  - [c] consider the comments and objections received in response to the notice.

**CHAPTER VII: APPEALS**

- [28] [1] A person whose rights are affected by a decision taken by any authorised official under this by-law, may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- [2] The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection [4].
- [3] The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- [4] An appeal submitted in terms of this section shall be dealt with in the manner prescribed by Section 62 of the Municipal Systems Act 32/2000.

**[4] CHAPTER VIII: GENERAL PROVISIONS****Offences and penalties**

- [29] [1] **Any person who –**
- [a] contravenes or fails to comply with any provisions of this by-law;
- [b] fails to comply with any notice issued in terms of this by-law;
- [c] fails to comply with any lawful instruction given in terms of this by-law; or
- [d] obstructs or hinders any authorised official in the execution of his or her duties under this by-law is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months.

**Repeal**

- [30] Any by-law relating to open spaces, parks and/or gardens adopted by the municipality or any municipality now comprising an administrative unit of the municipality is repealed from the date of promulgation of this by-law.

**LOCAL AUTHORITY NOTICE 468****MAFIKENG LOCAL MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the By-Law in respect of the Control of Temporary Advertisements which by-law shall come into operation on the date of publication thereof.

**BY-LAW IN RESPECT OF THE CONTROL OF TEMPORARY ADVERTISEMENTS****[1] Purpose**

The purpose of this by-law is to regulate, limit, prohibit, inspect, supervise and levy moneys with regard to the erection, display and use of temporary advertisements of whatever nature, on or visible from any street or public space.

**[2] Definitions**

For the purposes of this by-law, unless the context otherwise indicates-

**"advertisement trailer"** means any trailer on which an advertisement sign is mounted with the sole purpose of displaying the advertisement to the public;

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

**"aerial sign"** means an aerial sign and includes any sign in the form of an air balloon or a sign which is displayed in the sky by means of balloons, searchlights, aeroplanes or similar aids;

**"banner"** means any flag-type temporary advertisement which is tied to poles with ropes or similar material;

**"commercial poster"** means any temporary advertisement of a commercial nature advertising any event, meeting, gathering, activity, product, service or the sale of any goods;

**"control areas"** means those areas as determined by the municipality from time to time in which degrees of advertising control are applied in accordance with the visual sensitivity of such areas and traffic safety conditions;

**"directional sign"** means any sign with the purpose to make known or which indicates the route to and location of any meeting, gathering, event, exhibition, show house or any property which is for sale or to let, excluding any such sign erected by the municipality;

**"election material"** means any advertisement or advertising device which is displayed or is in any way whatsoever visible from a street or any public place and which is used in connection with a parliamentary or municipal election, referendum or plebiscite;

**"municipality"** means the Mafikeng Local Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998 and includes any political structure, political office bearer, councillor, duly authorised agent or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee.

**"non-commercial poster"** means any temporary advertisement which is not of a commercial nature announcing or attracting public attention to any meeting, event, function, activity, show, market or undertaking of a sports, welfare, educational, political or religious nature or to the candidature of any person nominated for election to parliament, local government or any similar body or to a referendum;

**"public place"** includes any road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, foot-path, sidewalk, lane, square, open space, garden, park or enclosed space vested in or under the control of the municipality.

**"street"** includes any street, road or thoroughfare shown on the general plan of a township, agricultural holdings or other division of land or in respect of which the public have acquired a prescriptive or other right of way and includes a sidewalk adjacent to such a street, a traffic island, bridge or subway forming part of such a street.

**"tariff"** means any charge or deposit determined from time to time by Municipality in terms of section 10G [7] of the Local Government Transition Act, Second Amendment Act, 1996 [Act No. 97 of 1996] or any other applicable law in respect of the display or any temporary advertisement in terms of this by-law;

**"temporary advertisement"** means any visible representation of a word, name, letter, figure object, mark or symbol or of an abbreviation of a word or name, or of any combination of such elements with the object of transferring information including any non-commercial poster, commercial poster, banner, aerial sign, directional sign, election material, advertisement trailer, "For sale" or "Sold" sign which is not permanently fixed and where it is not intended to be permanently fixed.

### [3] **Permission to display**

- [1] The Municipality shall from time to time define control areas and allocate the types of temporary advertisements which shall be allowed and/or prohibited in each of the aforesaid control areas.
- [2] Unless the prior written approval of Municipality has been obtained, no person shall affix, attach, secure, place, display, distribute or have displayed or distributed or allow or permit the display or distribution of any temporary advertisement in or in view of any street or public place within the relevant control area where that type of temporary advertisement is allowed.
- [3] Where temporary advertisements are prohibited within the control areas as defined by Municipality, no person shall in or in view of any street or public place affix, attach, secure, place, display, distribute or have displayed or distributed or allow or permit the display or distribution of any temporary advertisement.

**[4] Manner of application to obtain permission**

An application for permission to display or distribute a temporary advertisement shall be made on the prescribed application form and be accompanied by the applicable tariff and deposit as determined by the Municipality plus a sketch plan or sample of the temporary advertisement if feasible as the case may be. Such sketch plan or sample shall contain sufficient detail describing the nature, dimensions, wording and method of affixation of the temporary advertisement to which it relates, provided that the Municipality shall, at all times, reserve the right to obtain such additional information as it may deem necessary from the applicant.

**[5] Approval in respect of the display of temporary advertisements**

- [1] If the Municipality, having considered an application referred to in Section 4, is satisfied that the application in question complies with the requirements of this by-law and any other applicable law, it shall grant its approval in respect thereof.
- [2]
  - [a] If the Municipality, having considered an application referred to in Section 4, is not so satisfied, it shall refuse to grant its approval in respect thereof and give the applicant written reasons for such refusal.
  - [b] If the Municipality, having considered an application referred to in Section 4, is satisfied that the temporary advertisement to which the application in question relates-
    - [i] is to be erected in such manner or will be of such nature or appearance that-

[aa] the area in which it is to be erected will probably or in fact be disfigured thereby;

[bb] it will probably or in fact be unsightly or objectionable;

[cc] it will probably or in fact derogate from the value of adjoining or neighbouring properties;

[ii] will probably or in fact be dangerous to life or property, the Municipality must refuse to grant its approval in respect thereof and give the applicant written reasons for such refusal.

**[6] Deposits and charges**

Whether or not permission therefor has been granted in terms of this by-law, no temporary advertisement shall be erected or displayed, unless the prescribed tariff or tariffs have been paid to Municipality by the applicant.

**[7] Refund of deposit**

A deposit paid in terms of Section 6 shall be refunded to the applicant, subject to the provisions of Section 18, only when-

[1] all the temporary advertisements to which the deposit relates, have been removed to the satisfaction of Municipality; or

[2] an application for approval has been refused by Municipality.

**[8] Exempted advertisements**

[1] The following temporary advertisements are exempted from the provisions of this by-law:

[a] Applications in terms of Municipality's town-planning scheme or other legally prescribed advertisements regarding building or similar activities where such advertisements are erected within the boundaries of the site where the activities are taking place; and

[b] temporary advertisements which are erected in or on business premises with the previously obtained permission of the owner or tenant of the building.

[2] A temporary advertisement of a newspaper or magazine which is offered for sale to the public at a specific time, is exempted from the other provisions of this by-law, only if such display is undertaken-

[a] on a stand or container, or place previously approved by Municipality; and

[b] the sign only shows headlines of the newspaper or magazine concerned.

[3] The Municipality may, in its sole discretion, in writing deviate from or grant an exemption in respect of one or more of the provisions of this by-law after an application in writing has been received for such exemption and it shall be lawful for the Municipality to impose such conditions as it may deem fit in granting such exemption.

**[9] Prohibited advertisements**

[1] No temporary advertisement which, in the opinion of Municipality-

[a] is suggestive of anything indecent or which may prejudice the public morals;

[b] is blasphemous or offensive to the religious convictions or feelings of any inhabitant of the municipal area;

[c] brings any section of the inhabitants of the municipal area into ridicule or contempt;

[d] is harmful to the relations between persons or groups of persons;

[e] is prejudicial to the safety, general public welfare or the peace or the good order; or

[f] is repugnant with any other law, shall be displayed or distributed in any form whatsoever.

**[10] General requirements regarding temporary advertisements**

[1] No temporary advertisement shall be placed in such a position or be attached in such a manner that it may, in the discretion of the Municipality, be dangerous to vehicular traffic or pedestrians in a street or in any other public place.

[2] Every temporary advertisement shall be maintained by the owner or applicant in a good and safe condition at all times and to the satisfaction of Municipality.

[3] No temporary advertisement shall be positioned in such a way that any road traffic sign or robot shall be obscured thereby.

**[11] General requirements regarding posters**

- [1] Unless otherwise specifically specified in this by-law, every commercial and non-commercial poster and election material shall comply with the following requirements:
- [a] The poster shall be affixed to a suitable and solid material, in such a way that it will not become totally or partially detached owing to wind or rain.
  - [b] Neither the material nor the poster itself may in extent exceed 600mm by 900mm.
  - [c] The poster shall be placed only on or against or be affixed to or against an electrical pole in a street.
  - [d] The poster shall be attached to electric poles with wire or string or any other material approved by the Municipality.
  - [e] The top end of all posters which are fixed to an electrical pole in a street, shall not be closer than 1,5m of the conductors.
  - [f] No poster shall be erected lower than 2m from ground level on street corners.
  - [g] No poster shall be erected on or against or affixed to or against any tree, road traffic sign or robot pole.
  - [h] No poster shall be displayed for a longer period than between fourteen days prior to the day on which the activity to which the poster relates begins to three days after the day of such activity.
  - [i] A sticker for control purposes shall be issued by the Municipality for each poster, excluding election material, and the applicant himself shall affix such sticker to each of the approved posters.
  - [j] With the exception of election material, not more than one hundred posters in respect of any meeting, event, function, activity, show, market or undertaking shall be displayed at any one particular time.

**[12] Election material**

- [1] In respect of any election material, the following further conditions and/or requirements shall be compiled with:
- [a] No election material shall be displayed for longer than a period stretching from the announcement of the election, referendum or plebiscite to the end of the fourth day after midnight of the election day or the polling day; provided that nothing contained in this section shall have any bearing on specific election material regarding such election which is-

- [i] displayed in or on a private motor vehicle which is parked or driven in a street or in another public place;
  - [ii] erected on the premises of the polling station as determined by the Returning Officer on the day before an election, by-election, referendum or plebiscite and which is to be removed not later than the day following the election.
- [2] No. election material by political parties shall be erected or affixed on the premises of a polling station at a position determined by the Returning Officer earlier than a day prior to the election day concerned and such material shall be removed on the day following the election day by political parties responsible for same.
- [3] Not more than the number of posters as indicated hereunder shall be displayed at any one particular time with regard to a parliamentary or municipal election, referendum or plebiscite:

Parliamentary election: 1 500 per party.

Municipal election: 300 per candidate per ward and 1 500 per party.

Referendum: 1 500 per party.

Plebiscite:

[i] Municipal: 1500 per party.

[ii] Parliamentary: 1 500 per party.

**[13] Banners**

- [1] With regard to banners, the following further conditions and/or requirements shall be complied with:
- [a] The Municipality shall from time to time determine such sites where banners may be displayed.
  - [b] Only one banner may be displayed per determined site.
  - [c] The municipality shall allocate a specific site to successful applicants for a period of seven days, provided that the period of allocations shall not overlap.
  - [d] The municipality shall have the right to remove any banner which becomes unsightly, untidy or which is torn or damaged on account of wind or for any other reason, and, as a result becomes dangerous to the public and the municipality shall not

be obliged to refund to the applicant any tariffs paid in respect of a banner so removed.

- [e] The banner shall, in extent not exceed 1m x 8m and shall be made of a material acceptable to the municipality.
- [f] Only one banner may be erected per candidate or per party during a parliamentary election, referendum or plebiscite irrespective of the number of determined sites.

**[14] Aerial signs**

[1] With regard to aerial signs, the following further conditions and/or requirements shall be complied with:

- [a] The mooring-ropes must be tied in such a way that no road traffic sign, surrounding construction or overhead electricity lines will be damaged or affected.
- [b] The erection of the aerial sign shall be in the discretion of the Municipality and the Municipality shall retain the right to withdraw its permission, should the aerial sign become unsightly or untidy or dangerous to the public and request the owner or applicant to remove same, at his or her own cost, if the sign has already been erected.
- [c] Should the owner or applicant fail or refuse to remove the aerial sign referred to in subsection [b] the Municipality shall be entitled to remove same and recover the cost of removal from the owner or applicant as the case may be.
- [d] The Municipality shall not be obliged to refund to the applicant any tariffs paid in respect of an aerial sign removed in terms of this section..
- [e] The aerial sign may be displayed for a maximum period of twenty one days before the date of the activity to which it relates and shall be removed within 48 hours after such activity has ended.

**[15] "For Sale" and "Sold" signs**

[1] With regard to "For Sale" and "Sold" signs of fixed property the following further conditions and/or requirements shall be complied with:

- [a] The sign shall, in extent, not exceed 600 mm x 450mm.
- [b] The sign shall be erected or attached within or on the boundaries of any site or erf.

[2] The person who erects a "For Sale" and "Sold" sign on a site or erf is, notwithstanding the provisions of Section 6, exempted from the requirement relating to the obtaining of the prior written approval from

Municipality in terms of this by-law as well as from the obligation to pay any tariff to the Municipality in terms of this by-law.

**[16] Directional signs**

- [1] With regard to directional signs, the following further conditions and/or requirements shall be complied with:
- [a] A maximum of twenty [20] directional signs in respect of any specific meeting, gathering, event, exhibition, show house or any property which is for sale or to let may be exhibited at any one time.
  - [b] No directional sign may be exhibited for more than seven days before and two days after the occurrence of the event to which it relates.
  - [c] No directional sign shall be erected in such a way that the free movement of pedestrians on a pavement may be obstructed thereby.
- [2] The person who erects a directional sign is, notwithstanding the provisions of Section 6 exempted from the requirement to obtain the prior written approval of Municipality and also from the obligation to pay any tariff to the Municipality in terms of this by-law.

**[17] Advertisement trailers**

- [1] With regard to advertisement trailers, the following further conditions and/or requirements shall be complied with:
- [a] The Municipality shall from time to time determine specific parking bays for the parking of advertisement trailers on municipal and/or private property.
  - [b] The advertisement trailer may only be parked on the designated parking bay determined by Municipality, and only one advertisement trailer may be parked on one parking bay.
  - [c] The advertisement trailer may be parked on one specific parking bay for a maximum period of seven days.
  - [d] The advertisement trailer shall be properly secured in order to withstand strong winds and weather conditions.
  - [e] The advertisement trailer shall not be towed for the sole purpose of displaying the advertisement sign, which is mounted on the trailer, to the public during the movement and may only be towed to and from the designated parking bay.

- [f] The advertisement trailer shall not be towed in any public street if, in the opinion of Municipality, it will probably or in fact cause a hindrance to or an obstruction to any traffic in such street.
- [g] The advertisement sign on an advertisement trailer shall not be self illuminated.
- [h] The design and construction of any advertisement trailer shall conform to the requirements of the Road Traffic Act, 1989 [Act No. 29 of 1989], and SABS Standards for trailers.

**[18] Failure to remove signs**

Any person who, after he has displayed or caused to be displayed any temporary advertisement, fails to remove it or have it removed after the permission therefor has lapsed or is withdrawn in terms of this by-law, commits an offence and, apart from any fine which he has to pay in terms of Section 21 of this by-law, shall also forfeit the deposit paid by him to the municipality in terms of this by-law.

**[19] Damage to municipal property**

No damage shall be caused to any tree, electrical pole or any municipal property or services as a result of the erection and or display of any temporary advertising sign in terms of this by-law and any person who causes such damage or negligently fails to prevent such damage from occurring shall be guilty of an offence and, apart from the fine imposed upon him in terms of this by-law, shall be responsible for the repair, at his own expense and to the satisfaction of the Municipality of such damage; provided that Municipality may repair such damage and recover the cost thereof from such person.

**[20] Exemption from liability**

The municipality shall not be responsible for any loss, damage, injury or death to anything or any person in respect of any action taken by such person or the Municipality in terms of this by-law.

**[21] Offences and penalties**

[1] Any person who:-

- [a] contravenes any of the provisions of this by-law or fails to comply therewith, or
- [b] contravenes or fails to comply with any order made hereunder or any notice served in connection herewith,

shall be guilty of an offence and upon conviction be liable to -

- [i] a fine or imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment and,
- [ii] in the case of a continuing offence, to an additional fine or an additional period of imprisonment of 10 days or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
- [iii] a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as a result of such contravention or failure.

**[22] Repeal of By-Laws**

Any other by-law adopted by the municipality or a municipality now comprising an administrative unit of the municipality and relating to the control of temporary advertisements are, from the date of promulgation of this by-law, repealed.

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