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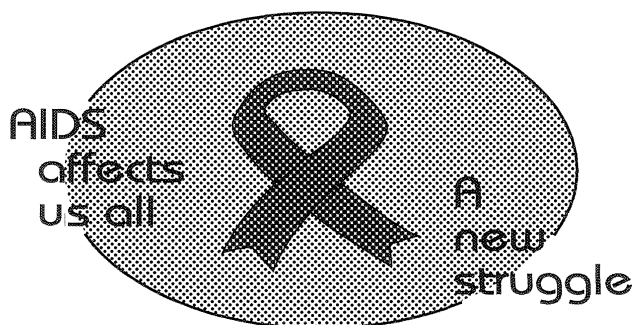
**BUITENGEWONE  
PROVINSIALE KOERANT**

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**Prevention is the cure**

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**DEPARTMENT OF HEALTH**

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## LOCAL AUTHORITY NOTICES

### LOCAL AUTHORITY NOTICE 221

### MAHIKENG LOCAL MUNICIPALITY

#### BY-LAWS RELATING TO ACCOMMODATION ESTABLISHMENTS

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 Accommodation Establishments which shall come into operation on the date of publication thereof.

#### **[1] Definitions**

In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and, unless the context otherwise indicates –

**“accommodation establishment”** means any place in which accommodation is provided for gain to four or more people, with or without meals, but excludes a private home;

**“authorised official”** means:

- [a]** an official of the Council; or
- [b]** an official of another municipality; or
- [c]** an official of another organ of state; or
- [d]** a person contracted by the Council; and

with whom the Council has concluded an agreement either directly or on an agency basis for the rendering of services in terms of these by-laws and/or to which or whom the Council has delegated a duty, function or power under these by-laws, provided that the official or person concerned shall be a duly registered environmental health officer or health practitioner;

**“Council”** means the council of Mahikeng Local Municipality or any Committee, Political Office Bearer or official thereof acting by virtue of any power entrusted or delegated to it or him in terms of legislation with regard to the application and implementation of these by-laws;

**“compliance notice”** means a notice issued in terms of section 6 to comply with these by-laws or with the conditions of a permit issued in terms of these by-laws;

**“dormitory”** means a sleeping room in which sleeping accommodation is provided for four or more persons.

**“permit”** means a public health permit granted by the Council in terms of section 4;

**“municipality”** means the Mahikeng Local Municipality and includes the Council thereof and should the context so require also the authorised official;

**“prohibition notice”** means a notice issued in terms of section 7;

**“public health”** means the mental and physical health and well-being of people in the municipal area;

**“public health hazard”** means any actual threat to public health, and without limitation, includes –

- [a] unsanitary conditions;
- [b] circumstances that make it easier for a communicable disease to spread;
- [c] circumstances that make food or drink [including water for domestic consumption] unhygienic or unsafe to eat or drink; and
- [d] circumstances that allow pests to infest any place where they may affect public health;

**“public health nuisance”** means the use of any premises or place in a manner that creates conditions that significantly increase the risk of a public health hazard occurring or that compromises any aspect of public health to an extent that is more than trivial or insignificant.

## **[2] Requirements for premises**

Except under authority of permit issued by the Council in terms of these by-laws, no person may operate an accommodation establishment on premises that do not comply with the following requirements:

- [a] No room wholly or partly used by persons for sleeping in may be occupied by a greater number of persons than will allow:
  - [i] less than 11,3 m<sup>3</sup> of free air space and 3,7 m<sup>2</sup> of floor space for each person over the age of 10 years; or
  - [ii] less than 5,7 m<sup>3</sup> of free air space and 1,9 m<sup>2</sup> of floor space for each person under the age of 10 years.
- [b] No latrine, passage, staircase, landing, bathroom, cupboard, outbuilding, garage, stable, tent, storeroom, lean-to, shed, cellar or loft may be used as sleeping accommodation.
- [c] If a dormitory is provided on the premises -
  - [i] a single bed, manufactured of metal or some other durable material and equipped with a mattress, must be provided for every person housed in the dormitory;
  - [ii] a separate locker must be provided for every person making use of the

- [ii] every bed in a dormitory must be placed such that its sides are at least one metre away from any part of any other bed.
- [d] An accommodation establishment must be provided with -
  - [i] an area for the preparation and cooking of food, adequate for the use of and easily accessible to any occupier residing in the premises;
  - [ii] adequate separate wash-up facilities; and
  - [iii] where meals are provided to persons housed on the premises, a dining-room or adequate dining area with tables and chairs or benches and unobstructed floor area [including the area occupied by tables, chairs and benches] of at least 1,2 m<sup>2</sup> for every seat provided for dining purposes.
- [e]
  - [i] An accommodation establishment must be provided with one or more showers, each suitably placed in a separate compartment, easily accessible to all occupiers of the premises, and fitted with waste pipes which comply with the provisions of the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977], as amended.
  - [ii] A bath fitted with a waste pipe may be substituted for each shower referred to in subsection [i] hereof.
  - [iii] The facilities referred to in subsections [i] and [ii] hereof must be designated for the different sexes.
- [f] An accommodation establishment must be provided with sanitary facilities as prescribed in the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977] and such fixtures must be designated for the different sexes.
- [g] An accommodation establishment must be provided with an adequate supply of hot and cold running potable water.
- [h] All rooms must be provided with adequate ventilation and lighting as prescribed in the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977], as amended.
- [i] Openings such as doors, windows or fanlights may not be obstructed in a manner that interferes with the lighting or cross ventilation they provide.
- [j]
  - [i] A separate room with metal bins or canvas laundry bags must be provided for the storage of dirty articles used in connection with the accommodation establishment, pending removal to be laundered; and

- [ii]** If articles used in connection with the accommodation establishment are laundered on the premises, a separate approved washing, drying and ironing area equipped with the necessary facilities for this purpose must be provided.
- [k]** A store-room for the storage of furniture and equipment and a separate linen room with cupboards or shelves for the storage of clean bed and other linen, towels, blankets, pillows and other articles used in connection with the accommodation establishment, must be provided.
- [l]** **[i]** All walls and ceilings must have a smooth finish and be painted with a light-coloured washable paint, or have some other approved finish;
  - [ii]** The floor surface of every kitchen, scullery, laundry, bathroom, shower, ablution room, toilet and sluice room must be constructed of concrete or some other durable, impervious material brought to a smooth finish; and
  - [iii]** The floor surface of every habitable room must be constructed of an approved material.
- [m]** The following facilities must be provided for people who are employed and also reside on the premises:

  - [i]** sleeping quarters equipped with a bed, mattress and locker that comply with the provisions of subsections [a], [b] and [c] for each employee; and
  - [ii]** where employees are not provided with meals on the premises, food preparation and dining facilities that comply with the provisions of subsection [d].
- [n]** Adequate changing facilities must be provided for non-resident employees.
- [o]** Adequate ablution and sanitary facilities, which comply with the provisions of subsections [e] and [f] must be provided for resident and non-resident employees.
- [p]** An adequate refuse holding area must be provided and an approved refuse removal system must be maintained.
- [q]** All walls, floors and roofs must be constructed in a manner that prevents wind and rain entering the premises or dampness entering the interior surfaces of the walls and floors.
- [r]** All accesses to an accommodation establishment must have a door which when closed, prevents the wind or rain entering the premises; and
- [s]** All windows must be constructed in a manner that prevents rain entering the

premises when the windows are closed.

### **[3] Duties of the operators of accommodation establishments**

Every person who operates an accommodation establishment must –

- [a]** keep the premises and all furniture, fittings, appliances, equipment, containers, curtains, covers, hangings and other soft furnishings, table linen, bed linen, and other bedding, towels and cloths of whatever nature used in connection with the accommodation establishment in a clean, hygienic and good condition at all times;
- [b]** clean and wash any bed linen, towel, bath mat or face cloth after each use by a different person;
- [c]** take adequate measures to eradicate pests on the premises;
- [d]** provide a container made of a durable and impervious material, equipped with a close-fitting lid, in every toilet used by females;
- [e]** provide towel rails or hooks in every bathroom and in every room in which there is a wash-hand basin or shower;
- [f]** store all dirty linen, blankets, clothing, curtains and other articles used in connection with the accommodation establishment in the manner referred to in Section [2][j];
- [g]** store all clean linen, towels, blankets, pillows and other articles used in connection with the accommodation establishment in the manner referred to in Section [2][k];
- [h]** keep all sanitary, ablution and water supply fittings in good working order;
- [i]** keep every wall, surface and ceiling, unless constructed of materials not intended to be painted, painted at the intervals to ensure that the area painted remains clean and in a good state of repair; and
- [j]** handle refuse in the manner referred to in Section [2][p].

### **[4] Permit to operate a accommodation establishment**

- [1]** Any person wishing to obtain a permit to operate an accommodation establishment must apply to the Council in writing in a form stipulated by the Council, prior to operating such establishment.
- [2]** When the Council receives an application for a permit, it must ensure that the relevant premises are inspected by the authorised official as soon as reasonably possible.
- [3]** Before deciding whether or not to approve an application referred to in

subsection [1], the Council –

- [a] must ensure that any persons in the vicinity of the premises whose health or wellbeing may be affected if the premises are used for an accommodation establishment, have been consulted and have had an opportunity to make representations with regard to such proposal; and
- [b] may request the applicant to provide any further information which the Council considers relevant to enable it to make a properly informed decision.

**[5] General terms applicable to permits**

- [1] A permit issued in terms of these by-laws –
  - [a] is not transferable from one person to another; and
  - [b] applies only to the premises specified in the permit.
- [2] Every permit –
  - [a] must specify the address and other relevant details regarding the location of the premises concerned;
  - [b] must describe the premises concerned;
  - [c] must describe the authorised use or activity concerned;
  - [d] may specify terms and conditions; and
  - [e] must indicate when it expires.
- [3] The Council may levy a fee for considering and granting a permit in terms of these by-laws.
- [4] The Council may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and until the prescribed fee [if any] has been paid.

**[6] Compliance notice**

- [1] If an authorised official after inspecting premises on which an accommodation establishment is being conducted or operated, reasonably believes that a public health hazard or public health nuisance exists on such premises or that the premises are being used for a purpose in contravention of these by-laws, he may serve a compliance notice on one or more of the following persons:
  - [a] the owner of the premises;



- [b] the occupier of the premises;
  - [c] any person apparently in charge of undertaking the aforesaid use on the premises.
- [2] A compliance notice must state –
  - [a] why the authorised official believes that these by-laws are being contravened;
  - [b] the measures that must be taken –
    - [i] to ensure compliance with these by-laws; or
    - [ii] to eliminate or minimise any public health nuisance;
    - [iii] the time period within which the measures must be taken;
  - [c] the possible consequences of failing to comply with the notice; and
  - [d] how to appeal against the notice.
- [3] If a person fails to comply with a compliance notice that requires a particular action to be taken, the Council may –
  - [a] take the required action specified in the compliance notice; and
  - [b] recover, as a debt, from the person to whom the notice was given, the costs and expenses reasonably incurred in taking the required action; or
  - [c] direct that a prohibition notice be served on such person in terms of Section 7 of these by-laws.

**[7] Prohibition notice**

- [1] An authorised official may, after inspecting premises apparently used for accommodation establishment purposes contrary to these by-laws, serve a prohibition notice on the owner, occupier or user of such premises prohibiting the premises from being so used and requiring measures to be taken to ensure that this occurs.
- [2] The authorised official must give the person on whom he intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice unless he reasonably believes that the delay in doing so would significantly compromise public health, in which case the person on whom a prohibition notice is served must be given reasonable opportunity to make representations

why it should be withdrawn.

**[3]** A prohibition notice must state –

- [a]** the reasons for serving the notice;
- [b]** whether or not the Council will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;
- [c]** the possible consequences of failing to comply with the notice; and
- [d]** how to appeal against the notice.

**[4]** Unless a prohibition notice provides otherwise, it comes into effect when it is served under subsection [1] and remains in force until it is withdrawn.

**[5]** The authorised official must as soon as possible affix a copy of the notice in a conspicuous position on the premises.

**[6]** It is a defence for anyone charged with failing to comply with a prohibition notice to prove that –

- [a]** he did not know of the existence of the prohibition order and could not reasonably be expected to have known of its existence; and
- [b]** he had complied with the prohibition notice within 48 hours of the time that the notice was affixed to the premises in terms of subsection [5].

**[8] Withdrawal of prohibition notice**

**[1]** The authorised official must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a prohibition notice, carry out an investigation of the premises.

**[2]** After completing the investigation, the authorised official must inform the person on whom the prohibition notice was served or that person's agent in writing, whether or not the prohibition has been removed or withdrawn.

**[3]** The Council may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection [1], a fee for undertaking the investigation.

**[9] Suspension, cancellation and amendment of permits**

**[1]** An authorised official may suspend or cancel a permit with immediate

effect if–

- [a] he reasonably believes that it is urgently necessary to do so to eliminate or to reduce a significant risk to public health posed by a public health hazard or a public health nuisance; and
  - [b] the holder of the permit fails to comply with a compliance notice that states that the permit may be suspended or cancelled without further notice if the holder fails to comply with such notice.
- [2] An authorised official may suspend or cancel a permit after giving the holder a reasonable opportunity of making representations as to why the permit should not be suspended or cancelled if –
- [a] he reasonably believes that it is desirable to do so to eliminate or reduce the risk to public health posed by a public health hazard or a public health nuisance; or
  - [b] the holder of the permit fails to comply with a compliance notice.
- [3] An authorised official may amend a permit by endorsing the permit or by written notice to the holder, if he reasonably believes that it is necessary to do so to protect public health or to take account of changed circumstances since the permit was issued.

#### **[10] Appeals**

- [1] A person whose rights are affected by a decision taken by any authorised official under these by-laws may appeal against the decision by giving written notice of the appeal and reasons to the Municipal Manager of the Municipality 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 referred to in Section 62 of the Municipal Systems Act 32 of 2000.
- [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 authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

#### **[11] Offences and penalties**

Any person who –

- [a]** contravenes or fails to comply with any provisions of these by-laws;
- [b]** fails to comply with any notice issued in terms of these by-laws;
- [c]** fails to comply with any lawful instruction given in terms of these by-laws; or
- [d]** obstructs or hinders any authorised official in the execution of his duties under these by-laws –

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.

**[12] Delivery of notices**

- [1]** A notice, order or other document is to be regarded as having been properly served if -
  - [a]** it has been delivered to that person personally;
  - [b]** sent by registered post to the person to whom it is addressed at his/her/their last known address;
  - [c]** it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;
  - [d]** if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided for in subsections [a],[b] or [c]; or
  - [e]** if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the premises to which it relates.
- [2]** A notice, order or other document that may in terms of these by-laws be served on the owner or occupier of premises –
  - [a]** may be addressed to the owner or occupier of the specified premises and need not name the owner or occupier; and
  - [b]** if the Council does not know the address of the owner or occupier of the premises and cannot easily obtain it, the notice, order or other document is to be regarded as having been properly served if it is posted up in some conspicuous place on the premises.

**[13] Repeal**

Any by-law relating to Accommodation Establishments or similar undertakings adopted by the Municipality or the Council of a Municipality now comprising an administrative unit of the Municipality are, from the date of promulgation of these by-laws hereby repealed.

**LOCAL AUTHORITY NOTICE 222****MAHIKENG LOCAL MUNICIPALITY****BY-LAWS RELATING TO CHILDCARE SERVICES**

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 Childcare Services which shall come into operation on the date of publication thereof.

**[1] Definitions**

In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and, unless the context otherwise indicates -

**"authorised official"** means an official of the Council or the official of another municipality or another organ of state with which the Council has concluded an agreement for the rendering of services in terms of these by-laws and to whom the Council has delegated a duty, function or power under these by-laws,

**"child"** means any person under the age of 18 [eighteen] years who is in the care of a childcare facility;

**"childcare service"** means any undertaking involving the custody and care of more than six children during the whole or part of the day on all or any days of the week;

**"childminder service"** means any undertaking involving the custody and care of a maximum of six children during the whole or part of the day on all or any days of the week;

**"certificate"** means a certificate issued in terms of Section 3 of these by-laws;

**"certificate holder"** means a person to whom a certificate has been issued in terms of Section 3 of these by-laws;

**"communicable disease"** means a communicable disease as defined by Section 1 of the Health Act, 1977 [Act No 63 of 1977];

**"Council"** means the Council of Mahikeng Local Municipality or any Committee, Political Office Bearer or official thereof acting by virtue of any power entrusted or delegated to it or him in terms of legislation with regard to the application and implementation of these by-laws;

**"facility"** means a place where either a childcare or a childminder service is conducted, whichever is applicable, and "service" has a corresponding meaning;

**"Health Act"** means the Health Act, 1977 [No. 63 of 1977];

**"Municipality"** means Mahikeng Local Municipality and includes the Council thereof;

**"National Building Regulations"** means the regulations published under the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977];

**"occupier"** includes any person in actual occupation of land or premises without regard to the title under which he or she occupies, and, in the case of premises sub-divided and let to lodgers or various tenants, includes the person receiving the rent payable to the lodgers or tenants whether for his or her own account or as agent for any person entitled thereto or interested therein;

**"owner"** includes any person that has title to any premises or land or any person receiving the rent or profits of any land or premises from any tenant or occupier thereof, or who would receive such rents or profits if such land or premises were let, whether for his or her own account or as agent for any person entitled thereto or interested therein: Provided that the "owner" in respect of premises on the Sectional Title Register opened in terms of Section 12 of the Sectional Titles Act, 1986, [Act 95 of 1986] means the body corporate, as defined in that Act, in relation to such premises;

**"premises"** means the stand, including any buildings or part thereof and outdoor play areas in or upon which a childcare service or a childminder service is conducted;

## **[2] Application of by-laws**

**[1]** These by-laws shall apply to all childcare services and childminder services within the jurisdiction of the municipality.

**[2]** Subject to the provisions of these by-laws, no person shall conduct a childcare service or a childminder service unless it has been registered as contemplated in section 3 of these by-laws and such service is in possession of a valid certificate issued in terms of that section.

**[3]** A person who is, at the date of commencement of these by-laws, conducting a childcare service or a childminder service shall, within one month of that date, or within such extended period as Council may allow, on written application made prior to the expiry of the said period, apply for registration of such service in terms of section 3 of these by-laws. If any person conducting such a service fails to apply as aforesaid or his application is refused, he shall, if he continues to conduct such

service after such period or after refusal of his application, be deemed to have contravened section 2[2] of these by-laws.

- [4] A person whose service has been registered in terms of Section 3 of these by-laws shall ensure that the service and the premises comply with the conditions and restrictions imposed upon the operation of the service.

**[3] Registration of Childcare Facilities and Childminder Facilities**

- [1] Any person wishing to undertake the operation of a childcare or childminder service, must apply in writing, in a manner and form as near as possible to Form 1 of the Schedule, to the Council for such service to be registered for the intended purpose. If the applicant is not the owner of the premises, the written consent of the owner shall accompany the application.
- [2] The Council may, before or during the consideration of the application, request such further information relating to the application as it deems necessary.
- [3] The Council may approve an application and register the service if it is satisfied that the applicant is a fit and proper person to conduct the relevant facility, and that no circumstances exist which are likely to be prejudicial to the health, safety and welfare of the children who are to be cared for at the facility.
- [4] The Council may, at any time before or after approval of an application in terms of this section, require the applicant to submit to the Council a report at his own cost from a registered psychologist pertaining to the applicant's state of mental health as well as a social report on the qualifications and criminal background of such applicant.
- [5] The Council may approve an application and register the facility if it is satisfied that the premises comply with:-
- [a] the National Building Regulations;
  - [b] the Health Act;
  - [c] the Council's Town Planning Scheme or Town Planning Scheme in the course of preparation; and
  - [d] requirements relating to the premises on which the childcare or childminder service is to be conducted as contemplated in these by-laws.
  - [e] as far as childcare facilities are concerned, registration with the Department of Social Development in accordance with the Childcare Act, 1983 [ Act No 74 of 1983] as amended.



- [6]** When approving an application for registration, the Council may impose such further conditions and restrictions as it deems fit.
- [7]** Once an application for registration has been approved, the Council will issue a certificate which:-

  - [a]** states the name of the person to whom it is issued;
  - [b]** describes the premises in respect of which the application was approved;
  - [c]** specifies any conditions or restrictions imposed in terms of sub-section [6];
  - [d]** states the period for which the premises will be so registered.
- [8]** Neither registration nor the certificate is transferable to any other person, heir or successor-in-title to the certificate holder.
- [9]** If the Council does not approve an application for the registration of a childcare or childminder facility, the Council must within 14 [fourteen] days of the decision:-

  - [a]** inform the applicant of such a decision;
  - [b]** provide written reasons for such refusal if so requested by the applicant; and
  - [c]** may give the applicant an opportunity to comply, within a period determined by the Council, with the stated requirements of or any other conditions and/or requirements that the Council may stipulate.
- [10]** A certificate holder shall, at least 30 days before expiry of the period referred to in sub-section [7][d], re-submit an application for registration in terms of this section.

#### **[4] Cancellation of Registration**

- [1]** The authorised official shall, by written notice to the certificate holder where possible, cancel registration of a childcare service if-

  - [a]** the certificate holder is convicted of an offence under these by-laws or pays an admission of guilt in respect of any such contravention;
  - [b]** the certificate holder fails to comply with any condition or restriction imposed in terms of section [3.6] of these by-laws ; or

- [c] the authorised official is of the opinion that the certificate holder is an unsuitable person to conduct a childcare service, or that circumstances exist that are likely to be prejudicial to the health, safety and welfare of children being cared for by the service;
- [d] if the applicant sell or vacates the premises;
- [e] upon the applicant or owner's death; and
- [f] if the certificate holder notifies Council of the permanent termination of the service as contemplated in section 5 of these by-laws.

[2] Upon cancellation of registration in terms of sub-section [1], the registration certificate shall lapse and the facility shall be closed immediately, provided that, before cancellation of the registration, the authorised official may in his sole discretion, suspend cancellation to afford the certificate holder an opportunity to remedy a defect in the premises or rectify an omission. If the certificate holder complies to his satisfaction, the authorised official may elect not to cancel the registration. During the period of such suspension, the certificate holder shall cease operation of the facility.

#### **[5] Termination of Service**

The certificate holder shall immediately notify Council of the temporary or permanent termination or closure of the childcare facility to which the certificate relates.

#### **[6] Right of Entry and Inspection of Premises and Records**

An authorised official may, in the enforcement of these by-laws, at any reasonable time and without prior notice, enter any premises upon which a childcare or childminder service is being conducted, or upon which such official has reasonable grounds for suspecting the existence of such service and conduct such examination, enquiry and inspection thereon as he may deem necessary.

#### **[7] Requirements for Childcare Facility**

Every childcare facility shall comply with the under-mentioned requirements provided that the authorised official may determine such additional requirements as he may consider fit to meet any prescribed and/or desirable health and safety considerations:

##### **[1] Office, staff room and sick-bay:**

- [a] If more than 30 children are cared for on the premises, provision should be made for a separate office large enough to be divided into a sick bay to accommodate at least two children, as well as

a staff room where staff can rest and safekeep their personal possessions.

- [b] The office, staff room and sickbay referred to in paragraph [a] may be combined.

**[2] Indoor Play Area:**

- [a] Provision should be made for an indoor play area covering a minimum floor space of 1,8m<sup>2</sup> per child to be used for play, meals and rest.
- [b] Not more than one third of the compulsory floor space per child may consist of covered veranda.
- [c] Cots and mattresses utilised for sleeping purposes by children must be arranged so that there shall be a minimum of 50cm space between the cots and or mattresses.

**[3] Kitchen:**

- [a] The kitchen must comply with the following requirements:
  - [i] adequate and suitable cooking and washing facilities must be provided;
  - [ii] a smoothly finished floor of concrete or any other impervious material;
  - [iii] adequate natural lighting and ventilation;
  - [iv] wall surfaces should have a smooth finish and should be painted with a washable paint;
  - [v] ceilings must be dust-proof;
  - [vi] all working surfaces must be of stainless steel or other impervious material;
  - [vii] cooling facilities for the storage of perishable food must be provided;
  - [viii] adequate storage space must be provided;
  - [ix] adequate number of waste bins with tightly fitting lids;
  - [x] adequate supply of potable as well as hot water and cleaning agents for the cleansing of equipment and eating utensils must be provided;

- [xi] the kitchen must be separate from the play area;
- [xii] the kitchen must not be accessible to the children;
- [xiii] all foodstuffs must be protected from contamination by dust, dirt, pests and any contaminating agent;
- [xv] kitchen staff must wear personal protective clothing which must be maintained in a clean and tidy condition at all times.

**[4] Sanitary facilities:**

- [a] Subject to sub-section [b], provision must be made for -
  - [i] one toilet and one hand washing facility for every 20 or less children under 5 years of age irrespective of gender; and
  - [ii] one toilet and hand washing facility for every 20 or less children above the age of 5 years, separate for each gender.
- [b] One urinal is to be regarded as equal to two toilets, provided that urinals should not replace more than 25% of the total toilet facilities.
- [c] Separate toilet facilities must be provided for the staff as contemplated in the National Building Regulations.
- [d] Walls and floors of the sanitary facilities must be of an impervious material rendered to a smooth surface.
- [e] The following additional toilet and wash facilities for children under the age of 2 years must be provided -
  - [i] facilities for the hygienic handling of nappies and potties;
  - [ii] adequate containers for the storage of clean and soiled napkins;
  - [iii] ready access to a suitable washing facility;
  - [iv] suitable and adequate toilet and wash facilities for children who are not toilet trained;
  - [v] a supply of hot and cold running potable water at the wash-hand basins, or if no running water is available, a minimum of 25 litres of potable water, stored in a hygienically clean container.

**[f]** Chamber pots [potties] are to be emptied, cleaned and disinfected with a disinfectant immediately after being used and stored in a suitable place when not in use;

**[g]** All basins must be closely fitted to the walls at the rear of such basins which walls shall be smooth and washable.

**[5] Outdoor play Area:**

**[a]** An outdoor play area of at least 2 m<sup>2</sup> per child must be provided.

**[b]** The outdoor play area must -

**[i]** comprise lawns, shady areas or other safe surfaces;

**[ii]** be fenced/walled to a height of 1.8 m;

**[iii]** have approved lockable or child-proof gates; and

**[iv]** shall be free of excavations and dangerous steps and levels.

**[8] Requirements for Child Minder Facility**

The certificate holder shall ensure that a child minder facility complies with the National Building Regulations and that the following minimum accommodation and facility requirements are provided:

**[a]** adequate, suitable and unobstructed indoor floor area reserved for the use of the children;

**[b]** suitable floor covering for the area referred to in paragraph [a] if required by, and to the satisfaction of the authorised official;

**[c]** a kitchen on the premises for the preparation of meals;

**[d]** storage facilities for the personal belongings of each child;

**[e]** a towel and face cloth for each child, which shall be kept or hung separately;

**[f]** a plastic bucket with a close-fitting lid for each child for the storage of soiled napkins, which buckets must be marked to ensure individual use and must be stored in a bathroom or other suitable area, inaccessible to any child;

**[g]** separate storage for clean napkins; and

- [h] adequate outdoor play area, comprising lawns or other safe surfaces which is fenced and has approved lockable or child-proof gates, provided that if such an area cannot be provided, the authorised official may, at his sole discretion, approve of the substitution of an indoor area additional to that provided in terms of paragraph [a] above.

**[9] Equipment for children**

The certificate holder shall, to the satisfaction of the authorised official, provide sufficient and suitable equipment in every childcare facility and, except where otherwise provided, such equipment shall comprise as least the under-mentioned items which items shall comply with the minimum requirements listed:

- [a] chairs must be lightweight, washable and of a suitable height, without splinters or rough surfaces;
- [b] tables should be sturdy, washable and without splinters;
- [c] beds and mats for sleeping and resting purposes must in no way be dangerous to the child. Mattresses must be covered with suitable waterproof material;
- [d] sheets, waterproof sheets and blankets must be provided;
- [e] sufficient, safe and adequate indoor as well as outdoor play apparatus and toys must be provided;
- [f] personal toiletries such as face cloth, toothbrush, a comb or brush and items such as soap, paper towels and toilet paper must be supplied. It should be ensured that enough soap, towels or paper towels are available at the washbasins at all times;
- [g] sufficient eating utensils must be provided;
- [h] sand pits should be covered overnight, sprinkled with coarse salt every six weeks and the sand replaced at least once a year.

**[10] General Requirements**

Notwithstanding anything to the contrary contained in these by-laws, every childcare and childminder facility shall comply with the following general requirements:

- [1] All interior walls must have a durable finish that can be cleaned with relative ease.
- [2] All floors must be constructed of a smooth and impervious material that is durable and can be easily cleaned.

- [3] If carpeting is used on the floors, it must be kept clean at all times.
  - [4] Any slats or rails forming part of an enclosure, security gate, play pen, bed, cot or any other object or structure whatsoever, must be a minimum of 75 mm apart, must be installed and maintained in a good state of repair, and if painted, only non-toxic paint must be used.
  - [5] All windows and doors accessible to children must be constructed of safety glass.
  - [6] A separate storage area must be provided for the storage of indoor and outdoor play materials, equipment, stretchers, sleeping mats, bedding and linen.
  - [7] Waste bins with tightly fitted lids must be provided.
  - [8] Apparatus and equipment used and any structures that may be on the premises must in no way present any danger to the children.
  - [9] Provision should be made for the storage of medicines, cleaning materials and other harmful agents in such a way that it is out of the reach of children and kept separate from food.
  - [10] Pets may not be kept on the premises without the prior permission of Council.
  - [11] All food, eating utensils and equipment used for the preparation, handling or serving of food must be properly protected against dust, dirt, insects or any contaminating agent.
  - [12] No children may have free access to living quarters of staff at any time. Adequate measures must be taken to keep such living quarters separate from the facility.
  - [13] Insects and vermin must be efficiently combated.
  - [14] Where a child stays with the childcare or childminder facility for longer than 4 [four] hours at a time, the person in charge of such facility must provide at least 2 [two] meals per day, which meals must be balanced and meet the child's daily nutritional requirements.
  - [15] Children must at all times be under the direct supervision of an adult staff member.
  - [16] Staff should be trained and skilled in First Aid and Basic Fire Fighting.
- [11] Ratio of Staff to number of children**
- [1] The certificate holder shall ensure that the following staff-to-children ratio is adhered to at all times:

**Children from birth - 18 months old**

1 childcare worker for every 6 or less babies

**Children from 18 months to 3 years old**

1 childcare worker for every 12 or less babies

**Children from 3 to 4 years old**

1 childcare worker for every 20 or less children

**Children from 4 to 5 years old**

1 childcare worker for every 30 or less children

**School going children**

1 staff member for every 35 or less children

- [2] Administrative and domestic staff are not included in the ratio referred to in sub-section [1].

**[12] Health register**

- [1] The certificate holder shall maintain a health register reflecting the following details of all children attending the facility:
- [a] The child's name and date of birth.
  - [b] The name of the parents or guardian and their address and telephone number, both at home and at place of employment.
  - [c] The name and address and telephone number of each child's medical practitioner and dentist, with written authority from the parents or guardian to consult them in emergencies.
  - [d] Information concerning the child's general state of health and physical condition.
  - [e] Details of operations which each child has undergone, and any illnesses or communicable diseases from which the child has suffered and the relevant dates.
  - [f] Details of immunisations against polio, diphtheria, tetanus, whooping cough, measles, mumps, German measles and tuberculosis; and
  - [g] Details of allergies and any medical treatment the child may be undergoing.
- [2] The names of children who are allergic to certain substances or products should be posted prominently in the facility.



- [3] A proper record of any medicine that is given to a child should be kept.

**[13] Medical Care of Children**

- [1] The certificate holder shall -

- [a] observe all children for any signs of illness, indisposition, injury or other abnormal condition, including possible child abuse.
- [b] keep an Incident Register of all injuries and illnesses which occurred or manifested themselves whilst the child was on the premises and keep records of injuries observed on the child which have occurred other than at the premises;
- [c] immediately notify the parent or guardian of such illness, indisposition, injury or other abnormal condition;
- [d] if necessary and subject to the prior consent of the parent or guardian, summon the private medical practitioner if any child is suffering or suspected to be suffering from illness or injury or in the event of the unavailability of such medical practitioner, summon a medical practitioner of the certificate holder's choice;
- [e] immediately isolate the child suffering as contemplated in sub-section [d] and devote all care necessary to the comfort and treatment of the child whilst on the premises;
- [f] only administer medicine to a child with the written consent of that child's parents or guardian;
- [g] in the event of a communicable disease or detection of signs of possible child-abuse, notify the authorised official and/or the local social worker immediately;
- [h] ensure that all children admitted to the facility have completed basic immunisation schedules, provided that if a child is too young, the certificate holder shall ensure that such immunisation be performed soon as the child is old enough;
- [i] inform the parents or guardian immediately if head or body lice are noticed and the child or children concerned may not be allowed back into the facility before the condition has cleared up.

**[14] Health and Safety Measures**

- [1] The certificate holder shall, in the interest of the health and safety of the children -
- [a] take effective precautions for the protection of the children against fires, hot water installations, electrical fittings and

appliances and any other object, condition or thing which may be dangerous or is likely to cause injury to any child;

- [b]** fence and completely cover any swimming or paddling pool on the premises at all times when not in use. Any children utilising the pools must do so with the parents' consent and must be under adult supervision at all times;
  - [c]** ensure that all gates or doors of outdoor play areas are securely locked or otherwise closed at all times so as to prevent children from entering or leaving the confines of such areas or the premises of their own accord, and to prevent the entrance or presence of unauthorised people and domestic animals in the facility;
  - [d]** equip and maintain first-aid equipment, to the satisfaction of the authorised official, and keep it readily available for use and out of reach of children;
  - [e]** install fire fighting equipment on the premises in accordance with National Building Regulations SABS 0400 and submit an Emergency Procedure to the Fire Brigade Disaster Management Officer or other designated official of the municipality for approval.
  - [f]** store medicines, corrosive and other harmful substances, including cleaning materials and alcoholic beverages, in a safe manner and in a place not accessible to the children;
  - [g]** ensure that no noxious or poisonous plant or shrub grows on the premises;
  - [h]** arrange for the medical examination of employees and other persons involved in the conduct of the childcare service or present on the premises when called upon by the authorised official to do so, and shall not allow any person who is found to be suffering from, or a carrier of, a communicable disease, to remain on the premises.
- [2]** The provisions of the Regulations relating to Communicable Diseases and the Notification of Notifiable Medical Conditions published under Government Notice R. 2438 dated 30 October 1987, as amended, and or any other similar and applicable law shall, mutatis mutandis, apply to the services as if it falls within the scope of the expression "teaching institution" in Regulation 1 of those Regulations and-
- [a]** a breach by a certificate holder of a duty placed upon a principal in terms of the Regulations shall be deemed to be a breach of these by-laws;

- [b] the duties placed upon and the powers vested in a medical official of health under the Regulations shall be placed upon or vested in the authorised official for the purposes of these by-laws.

#### **[15] Management responsibilities**

**[1]** The certificate holder shall ensure that -

- [a] no refuse receptacle or any other potentially harmful or hazardous object or material is stored in the outdoor play area used by the children;
- [b] children are under adult supervision at all times;
- [c] each child uses his own sleeping equipment, towel and face cloth, clearly marked and kept separately;
- [d] prepared infant feeds are provided by the parents or guardians of babies, in bottles with covered teats;
- [e] the facility has access to a telephone at all times;
- [f] the premises is maintained in a clean, hygienic, safe, sound and pest-and-rodent-free condition at all times;
- [g] staff are clean, healthy and appropriately dressed at all times;
- [h] no person smoke or use any tobacco product in the presence of children.

#### **[16] Transport**

**[1]** The certificate holder shall ensure that -

- [a] if transport is provided for the children to and from the facility, the staff of the facility are held responsible for the child for the period that he is so transported until he is handed back to his parent or guardian or an authorized person;
- [b] in addition to the driver, at least one other adult should be in the vehicle with the children;
- [c] all doors are fitted with child locks and said locks are used at all times when transporting children;
- [d] the driver remains in the driving cabin of the vehicle at all times and may not assist in the handing-over of the children;
- [e] no children are transported in the driving cabin;

- [f] the driver of the vehicle is in possession of a special license to transport passengers;
- [g] babies in carrycots are not pushed in underneath the seats;
- [h] the sitting space for each child and the room for carrycots must comply with the prescribed requirements; and
- [i] any other prescribed legislation regulating the transportation of children is adhered to.

**[17] Offences and Penalties**

[1] Any person who -

- [a] contravenes or fails to comply with any provision of these by-laws;
- [b] contravenes or fails to comply with any notice given or condition imposed in terms of these by-laws;
- [c] for the purpose of these by-laws, makes a false statement knowing it to be false or deliberately furnishes false or misleading information to an authorized official or official; or
- [d] threatens, resists, interferes with or obstructs an authorized official or employee of Council in the performance of his/her powers, duties or functions as contemplated in these by-laws, shall be guilty of an offence and upon conviction be liable to a fine or imprisonment for a period not exceeding six months or to both the fine and the imprisonment.

**[18] Repeal of By-laws**

- [1] Any by-laws adopted by the Council or the Council of a Municipality now forming an administrative unit of the Council and relating Crèches and Crèches-Cum Nursery Schools or any facilities in respect to or with regard to any matter regulated in these by-laws are hereby repealed.
- [2] Anything done under the provisions of the by-laws repealed by subsection [1], shall be deemed to have been done under the corresponding provision of these by-laws and such repeal shall not affect the validity of any approval, authority, waiver or other act which at the commencement of these by-laws is valid under the by-laws so repealed.

**[19] Date of commencement**

These by-laws commence on the date of publication thereof in the Provincial Gazette.

**SCHEDULE**

**FORM 1**

**APPLICATION FOR OPERATION OF A CHILDCARE FACILITY**

To be completed by an applicant as contemplated in section 3 of these by-laws.

DETAILS OF APPLICANT FIRST NAMES : \_\_\_\_\_

SURNAME : \_\_\_\_\_

GENDER [tick applicable block]

MALE

FEMALE

NATIONALITY : \_\_\_\_\_

IDENTITY NUMBER [attach certified copy of ID document] : \_\_\_\_\_

RESIDENTIAL ADDRESS : \_\_\_\_\_

POSTAL ADDRESS : \_\_\_\_\_

TELEPHONE NUMBER : \_\_\_\_\_

**DETAILS OF PREMISES INTENDED FOR CHILDCARE FACILITY**

ADDRESS : \_\_\_\_\_

ERF NO [attach certified copy of title deed or owner's consent] : \_\_\_\_\_

QUALIFICATIONS HIGHEST STANDARD PASSED : \_\_\_\_\_

LIST ALL OTHER RELEVANT QUALIFICATIONS : \_\_\_\_\_

HAVE YOU EVER BEEN CONVICTED OF A CRIMINAL OFFENCE  
[tick applicable block]

YES

NO

IF YES, PROVIDE DETAILS WITH REGARD TO OFFENCE, INCLUDING DATE OF COMMISSION :

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SENTENCE, INCLUDING DATE OF CONVICTION : \_\_\_\_\_

POLICE STATION WHERE OFFENCE WAS REPORTED INCLUDING CASE NUMBER : \_\_\_\_\_

\_\_\_\_\_

**MEDICAL HISTORY**

DO YOU SUFFER FROM ANY CHRONIC ILLNESS FOR WHICH YOU ARE CURRENTLY RECEIVING MEDICAL TREATMENT. IF YES, STATE THE NATURE OF THE MEDICAL CONDITIONS AND TREATMENT BEING ADMINISTERED AND ATTACH A COPY OF A DOCTOR'S MEDICAL REPORT :

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**SIGNATURE OF APPLICANT**

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**DATE**

## LOCAL AUTHORITY NOTICE 223

### MAHIKENG LOCAL MUNICIPALITY

#### BY-LAWS RELATING TO THE MANAGEMENT AND CONTROL OF INFORMAL SETTLEMENTS

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 Management and Control of Informal Settlements within the area of jurisdiction of the municipality which by-laws shall come into operation on the date of publication thereof.

#### **[1] Application of By-laws**

These by-laws shall apply to all informal settlements within the area of jurisdiction of the Mahikeng Local Municipality, hereinafter referred to as “the Municipality”.

#### **[2] Definitions**

In the by-laws, unless the context otherwise indicates –

“**authorized informal settlement**” means any informal settlement which is recognized by the Municipality as an authorized informal settlement which will be legalized and upgraded as a formal township in terms of the Municipality’s existing housing policies;

“**consent**” means the express or implied consent of the owner or person in charge to the occupation of land by a resident of a shack, irrespective of whether such consent was given in writing or otherwise;

“**contractual agreement**” means the contractual agreement entered into between the head of a household and the Municipality in terms of which the said household is authorised to occupy a shack in an authorised informal settlement;

“**court**” means any Division of the High Court or the magistrate’s court in whose area of jurisdiction the land is situated;

“**eviction**” means the permanent removal of a person and his/her personal property from occupation of a shack or the land on which such shack is constructed or erected in accordance with the provisions of a court order, including the demolition and removal from such land of any building materials used to construct or erect such shack ;

“**head of the household**” means -

- [a]** the father in a household, where the father and mother of the household are legally married;

- [b] the single parent, where the household has only one parent with dependents living permanently with him / her in such household;
- [c] any person in a household who has legal capacity to act and is recognized by the majority of other persons in the household as the person responsible for the maintenance of the welfare and discipline within the household;

Provided that in respect of the occupation of a shack by a single person, such person shall be regarded as the head of the household for the purposes of these by-laws.

**“informal settlement”** means one or more shacks or building(s) constructed or erected on land, with or without the consent of the owner or person in charge of the land,

**“land”** means any land within the area of jurisdiction of the Municipality, irrespective of whether such land belongs to the National or Provincial Government, the Municipality or a private individual, company or other legal entity;

**“land invasion”** means the illegal occupation of land or any settlement or occupation of persons on land without the express or tacit consent of the owner or person in charge of the land, or without any other right in law to settle on or occupy such land;

**“Land Invasion Reaction Unit”** means a group of officers or workers consisting of any combination of one or more of the following components –

- [a] members of the South African Police Service and/or;
- [b] members of the Municipality’s law enforcement and/or;
- [c] members of the staff of the sheriff or messenger of the court with jurisdiction in the area and/or;
- [d] members of a private security company contractually engaged by the Municipality to perform certain duties on its behalf and/or;
- [e] any combination of employees of the Municipality,

designated or appointed by the Municipality to assist the Informal Settlements Manager in the execution of his/her duties and to execute any eviction order contemplated by section 5 of these by-laws to terminate an unauthorised informal settlement.

**“Municipality”** means the Mahikeng Local Municipality and includes the Council of the Municipality, the Executive Mayor and / or the Mayoral Committee or any other committee established by the Council and any employee or official of the said Council duly authorised to perform any duty, power or function in terms of these by-laws;



**“owner”** means the registered owner of land, irrespective of whether such owner is the National or Provincial Government, the Municipality or a private individual, company or other legal entity;

**“person in charge”** means a person who has the legal authority to give permission to a person to enter or reside upon land ;

**“shack”** means any temporary shelter, building, hut, tent, dwelling or similar structure which does not comply with the provisions of the National Building Regulations and Building Standards Act, 1977 [Act 103 of 1977], the Regulations promulgated thereunder and, where applicable, the Municipality’s Building Control By-Laws and which is primarily used for residential purposes;

**“unauthorized informal settlement”** means any informal settlement which is not recognized by the Municipality as an authorized informal settlement and which will not be legalized and upgraded as a formal township in terms of the Municipality’s existing housing policies, but will, on the contrary, be demolished and removed as contemplated in these by-laws;

### **[3] Appointment of Informal Settlements Manager**

The Municipality shall appoint an officer or assign one of its officials to manage and control all the Informal Settlements within the area of jurisdiction of the Municipality in accordance with the provisions of these by-laws.

### **[4] Duties of the Informal Settlements Manager**

The Informal Settlements Manager shall –

- [1]** conduct regular surveys to determine the location, origin, extent and conditions prevailing in each informal settlement within the area of jurisdiction of the Municipality;
- [2]** monitor and control all informal settlements within the area of jurisdiction of the Municipality and take the necessary steps to prevent land invasion within the area of jurisdiction of the Municipality;
- [3]** undertake and promote liaison and communication with local communities with a view to obtaining their understanding and co-operation regarding the prevention of land invasion in the area;
- [4]** keep a register of all the residents who are entitled to reside in each authorised informal settlement within the Municipality in which shall be entered the following details in respect of each shack in such authorised informal settlement -
  - [a]** the number allocated to the stand or site on which the shack is constructed;

- [b] the name and identity number of the head of the household who is entitled to occupy such shack;
  - [c] the names, identity numbers and relationships to the head of the household of each and every other person occupying the said shack as a member of the particular household;
  - [d] the reference number of the Manager's file containing a copy of the contractual agreement entered into between the head of the household and the Municipality in respect of his/her occupation of the shack in the authorised informal settlement;
  - [e] the number of the particular shack's rental account;
  - [f] the number of the particular shack's municipal services account;
  - [g] the previous address of the particular household;
  - [h] the names, addresses and telephone numbers, if any, of at least two family members of the head of the household who do not live at the same address as the said household.
- [5] ensure that all the residents living within an authorized informal settlement are registered in the Municipality's Housing Waiting List;
  - [6] submit written reports on the control and management of any informal settlement, or the conditions prevailing therein, if and when required to do so by the Municipality;
  - [7] ensure that the contents of these by-laws are communicated to all the residents in informal settlements and that a copy thereof is posted and maintained in a prominent place at the venue where the said committee usually holds its meetings, for the information of the residents and all other persons visiting the said informal settlement.
  - [8] allocate to each site or stand in an authorized informal settlement a unique number as its temporary address and ensure that such number is legibly painted or inscribed in a prominent place on the site or stand;
  - [9] ensure that no new unauthorised shacks are erected and that no new unauthorized residents take up residence within any informal settlement;
  - [10] perform any other duty or function which may be necessary to ensure the proper management and control of an informal settlement;
  - [11] consult through the appropriate channels of communication determined by the Council of the Municipality with Ward Councillors and political officer bearers of the Municipality on the application of these by-laws.

**[5] Incidents of Land Invasion**

- [1]** The Informal Settlements Manager shall, within a period of 72 hours after he/she becomes aware of an incident of land invasion or the existence of a newly established informal settlement, irrespective of whether such informal settlement was established as a consequence of an incident of land invasion or not, make a determination of its status as an authorized or an unauthorized informal settlement in terms of the Municipality's existing housing policies and inform the residents of the informal settlement accordingly as contemplated by section 6 or section 7 of these by-laws, whichever might be applicable under the circumstances.
- [2]** In the event of the status of the informal settlement contemplated in subsection [1] being determined as an authorized informal settlement, the Informal Settlements Manager shall deal with the matter in accordance with the provisions of section 6 of these by-laws.
- [3]** In the event of the status of the informal settlement contemplated in subsection [1] being determined as an unauthorized informal settlement, the Informal Settlements Manager shall deal with the matter in accordance with the provisions of section 8 of these by-laws.

**[6] Procedures relating to the Management and Control of Authorised Informal Settlements**

- [1]** As soon as a determination of the status of the authorised informal settlement has been made and within the period contemplated by section 5[1], the Informal Settlements Manager shall, personally or by means of a subordinate official designated by him/her for this purpose, visit the settlement concerned and notify the residents of the status of the authorised informal settlement in the manner contemplated by section 7[2] or by means of a letter delivered to each shack in the said informal settlement, whichever might be appropriate under the circumstances.
- [2]** The Informal Settlements Manager shall compile a comprehensive register of all the residents who are entitled to reside in the said authorised informal settlement in which shall be entered the following details in respect of each shack in such settlement -
- [a]** the number allocated to the stand or site on which the shack is constructed or erected;
  - [b]** the name and identity number of the head of the household who is entitled to occupy such shack;
  - [c]** the names, identity numbers and relationships to the head of the

household of each and every other person occupying the said shack as a member of the particular household;

- [d] the reference number of the Manager's file containing a copy of the contractual agreement entered into between the head of the household and the Municipality in respect of his/her occupation of the shack in the authorised informal settlement;
  - [d] the number of the particular shack's rental account;
  - [e] the number of the particular shack's municipal services account;
  - [f] the previous address of the particular household ;
  - [g] the names, addresses and telephone numbers, if any, of at least two family members of the head of the household who do not live at the same address as the said household.
- [3] The Informal Settlements Manager shall ensure that the names, addresses and other relevant details of all the residents living within an authorized informal settlement are registered in the Municipality's Housing Waiting List.
- [4] The Informal Settlements Manager shall allocate to each site or stand in an authorized informal settlement a unique number as its temporary address and ensure that such number is legibly painted or inscribed in a prominent place on the site or stand.
- [5] The Informal Settlements Manager shall, furthermore, ensure that no new unauthorized shacks are constructed and that no new unauthorized residents take up residence within the said settlement by implementing appropriate measures to manage, monitor and control the occupancy of residents in the settlement in general.
- [6] Any unauthorized occupancy within the said authorized informal settlement must be dealt with in accordance with the provisions of section 8 of these by-laws.
- [7] The Informal Settlements Manager must ensure that the Municipality's Finance Department institutes, operates and maintains an appropriate account for services rendered by the Municipality, as well as any charges levied for the right of occupation of a particular site or stand and that it is supplied to the head of the household of each registered shack in the said authorized informal settlement.

**[7] Residents' Committee**

- [1] A meeting of residents in each authorized informal settlement shall be convened annually on a date and at a venue determined by the

Informal Settlements Manager to elect a Residents' Committee with a Chairperson, Deputy Chairperson, Secretary and six ordinary members, to represent the views and interests of the residents of the settlement in all consultative processes between the Municipality and the residents of the settlement.

**[2]** The Residents' Committee and the Informal Settlements Manager [or his/her designated representative] shall meet on a regular monthly basis where the Municipality shall consult the said Committee on all matters relating to the authorized informal settlement and communicate matters of general concern to the residents on a collective basis. It shall, thereafter, be the sole responsibility of the Residents' Committee to inform the individual residents of matters discussed at such meetings.

**[3]** Special meetings of residents may be convened from time to time by the Residents' Committee to communicate with and to inform the individual residents of matters relating to the settlement.

**[4]** Notice of meetings of residents shall be given by placing notices prominently on the official notice board at the venue determined by the Residents' Committee and communicated to the residents at an official meeting of residents.

**[5]** The Informal Settlements Manager shall consult the Ward Councillor in whose area the authorized informal settlement is situated with regard to the application of this section.

**[6]** Nothing in this section shall preclude a duly established and operational ward committee from participating in the formation and operation of a Residents' Committee established in terms of this section.

**[8] Procedures relating to the Termination of Unauthorised Informal Settlements**

**[1]** As soon as a determination of the status of the unauthorised informal settlement has been made and within the period contemplated by Section 5 [1], the Informal Settlements Manager shall, personally or by means of a subordinate official designated by him/her for this purpose, visit the settlement concerned and notify the residents of the status of the unauthorized informal settlement by means of a written notice hand-delivered to each shack in the said informal settlement.

**[2]** The written notice contemplated in subsection [1] shall, furthermore, notify the residents of each shack in the unauthorized informal settlement that their occupation of the said shack and the site or stand on which it is situated is illegal and request them to vacate and remove all their shacks, structures, building materials and other personal property from the settlement within a period of 24 hours after serving of

such written notice.

- [3] In the event where the notified residents co-operate and vacate and remove their shacks, structures, building materials and other personal property from the site or stand on which it is situated, as requested, the Informal Settlements Manager shall take such steps as he/she may deem appropriate in order to prevent a recurrence of any incident of land invasion or illegal land occupation in the particular site or settlement and regularly monitor the situation to ensure such non-recurrence.
  - [4] In the event where the notified residents fail to co-operate and to vacate and remove their shacks, structures, building materials and other personal property from the site or stand on which it is situated, as requested, the Informal Settlements Manager shall immediately institute the necessary legal procedures to obtain an eviction order contemplated by subsection [5].
  - [5] Within a period of 24 hours after the expiry of the period mentioned in the written notice contemplated by subsection[1], the Informal Settlements Manager shall lodge an application in a competent court of law to obtain an eviction order contemplated in sections 4, 5 or 6 of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998 , [Act No. 19 of 1998] or any other applicable law against any person or persons jointly or separately occupying or residing in any shack, site or stand in the said unauthorized informal settlement.
  - [6] The Informal Settlements Manager shall, within a period of 24 hours after obtaining the eviction order envisaged in subsection [5], deploy the Municipality's Land Invasion Reaction Unit to execute the said eviction order and to terminate the unauthorized informal settlement by vacating the relevant settlement, demolishing and removing all shacks, structures, building materials and other personal property from the settlement and dealing with such building materials and other personal property in accordance with the provisions of these by-laws.
  - [7] Any costs incurred by the Informal Settlements Manager for the purposes of executing the provisions of these by-laws shall be undertaken by the Municipality in accordance with its approved Budget.
- [9] **Disposal of Building Materials and Personal Property**
- [1] In the execution of the provisions of section 8[6], any building materials and other personal property belonging to any resident or inhabitant of a shack or structure in the unauthorized informal settlement shall be removed and stored in a safe place by the Informal Settlements Manager.
  - [2] If such building materials and other personal property are not claimed

by the owner thereof within a period of three months after the date of removal and storage, it shall be sold to the best advantage by the Informal Settlements Manager or a person designated by him/her, who shall, after deducting the amount of any charges due or any expenses incurred, pay the net proceeds into the Municipality's Revenue Account; Provided that, subject to the laws governing the administration and distribution of estates, nothing in this subsection contained shall deprive the heir of any deceased person of his/her right to the balance of the proceeds of such property : Provided further, that any such building materials or other personal property which are, in the opinion of the Informal Settlements Manager, valueless and unable to realize any meaningful amount, may be destroyed, abandoned, dumped or otherwise disposed of.

**[3]** The Informal Settlements Manager shall compile and maintain a register in which shall be recorded –

**[a]** particulars of all building materials or other personal property removed and stored in terms of these by-laws;

**[b]** the date of removal and storage of such building materials or other personal property in terms of subsection [1] and the name and site or stand number of the owner thereof;

**[c]** **[i]** the signature or left thumb print of the person claiming ownership and to whom delivery of such building materials or other personal property has been made, or

**[ii]** full details of the amount realized on the sale of such building materials or other personal property and the date of such sale, and

**[iii]** if the building materials or other personal property have been destroyed, abandoned, dumped or otherwise disposed of, a certificate by the Informal Settlements Manager to the effect that these were valueless.

**[4]** Neither the Municipality, nor any of its officials acting within the reasonable scope of their authority, shall be held responsible for any loss or damage to property or injury to person suffered by any resident or inhabitant of an unauthorized informal settlement or any other person for any reason whatsoever.

**[10] Prohibition of Receipt or Solicitation of Consideration in respect of Unlawful Occupation of Land**

**[1]** No person may directly or indirectly receive or solicit payment of any money or other consideration as a fee or charge for arranging or organizing or permitting a person to occupy land without the consent of

the owner or person in charge of that land.

- [2] Any person who contravenes the provisions of subsection [1] is guilty of an offence and liable upon conviction to a fine or to imprisonment not exceeding two years, or to both such fine and such imprisonment.
- [3] The court which convicts any person of a contravention of this section, must order any money or other consideration received by that person which have been seized, to be forfeited, and the said money and the proceeds of such other consideration may be paid to the person or persons from whom the money or other consideration was received, and where such person or persons cannot be positively identified, into the Municipality's Revenue Account.
- [4] If any money has been received in contravention of subsection [1], but has not been seized or made available for purposes of confiscation, the court which convicts any person of a contravention of this section, may order the amount proved to the satisfaction of the court to have been received by such person to be paid to the person or persons from whom the money or other consideration was received, and where such person or persons cannot be positively identified, into the Municipality's Revenue Account, and such other order has the effect of and may be executed against such person as if it were a civil judgment in favour of that person or persons from whom the money or other consideration was received or in favour of the Municipality.

**[11] General prohibition on land invasion**

Notwithstanding the provisions of any law or in addition to any law relating to the illegal occupation or invasion of land, it shall be unlawful for any person to invade any land or permit the invasion of land within the municipal area, and, in addition to any other remedies available to the municipality in terms of any law and/or these by-laws, any person who invades land or permits the invasion of land in the municipal area shall be guilty of an offence and be liable upon conviction to a fine or imprisonment not exceeding two years or to both such fine and such imprisonment.

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

All by-laws adopted by the municipality or a former municipality now comprising an administrative unit of the municipality and relating to the management and control of informal settlements or any matter referred to in these by-laws are, from the date of promulgation of these by-laws, here by repealed.



## LOCAL AUTHORITY NOTICE 224

### MAHIKENG LOCAL MUNICIPALITY

#### BY-LAWS RELATING TO ACCOMMODATION ESTABLISHMENTS

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 Accommodation Establishments which shall come into operation on the date of publication thereof.

#### **[1] Definitions**

In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and, unless the context otherwise indicates –

**“accommodation establishment”** means any place in which accommodation is provided for gain to four or more people, with or without meals, but excludes a private home;

**“authorised official”** means:

- [a]** an official of the Council; or
- [b]** an official of another municipality; or
- [c]** an official of another organ of state; or
- [d]** a person contracted by the Council; and

with whom the Council has concluded an agreement either directly or on an agency basis for the rendering of services in terms of these by-laws and/or to which or whom the Council has delegated a duty, function or power under these by-laws, provided that the official or person concerned shall be a duly registered environmental health officer or health practitioner;

**“Council”** means the council of Mahikeng Local Municipality or any Committee, Political Office Bearer or official thereof acting by virtue of any power entrusted or delegated to it or him in terms of legislation with regard to the application and implementation of these by-laws;

**“compliance notice”** means a notice issued in terms of section 6 to comply with these by-laws or with the conditions of a permit issued in terms of these by-laws;

**“dormitory”** means a sleeping room in which sleeping accommodation is provided for four or more persons.

**“permit”** means a public health permit granted by the Council in terms of section 4;

**“municipality”** means the Mahikeng Local Municipality and includes the Council thereof and should the context so require also the authorised official;

**“prohibition notice”** means a notice issued in terms of section 7;

**“public health”** means the mental and physical health and well-being of people in the municipal area;

**“public health hazard”** means any actual threat to public health, and without limitation, includes –

- [a] unsanitary conditions;
- [b] circumstances that make it easier for a communicable disease to spread;
- [c] circumstances that make food or drink [including water for domestic consumption] unhygienic or unsafe to eat or drink; and
- [d] circumstances that allow pests to infest any place where they may affect public health;

**“public health nuisance”** means the use of any premises or place in a manner that creates conditions that significantly increase the risk of a public health hazard occurring or that compromises any aspect of public health to an extent that is more than trivial or insignificant.

## **[2] Requirements for premises**

Except under authority of permit issued by the Council in terms of these by-laws, no person may operate an accommodation establishment on premises that do not comply with the following requirements:

- [a] No room wholly or partly used by persons for sleeping in may be occupied by a greater number of persons than will allow:
  - [i] less than 11,3 m<sup>3</sup> of free air space and 3,7 m<sup>2</sup> of floor space for each person over the age of 10 years; or
  - [ii] less than 5,7 m<sup>3</sup> of free air space and 1,9 m<sup>2</sup> of floor space for each person under the age of 10 years.
- [b] No latrine, passage, staircase, landing, bathroom, cupboard, outbuilding, garage, stable, tent, storeroom, lean-to, shed, cellar or loft may be used as sleeping accommodation.
- [c] If a dormitory is provided on the premises -
  - [i] a single bed, manufactured of metal or some other durable material and equipped with a mattress, must be provided for every person housed in the dormitory;
  - [ii] a separate locker must be provided for every person making use of the

**[ii]** every bed in a dormitory must be placed such that its sides are at least one metre away from any part of any other bed.

**[i]** an area for the preparation and cooking of food, adequate for the use of and easily accessible to any occupier residing in the premises;

**[iii]** where meals are provided to persons housed on the premises, a dining-room or adequate dining area with tables and chairs or benches and unobstructed floor area [including the area occupied by tables, chairs and benches] of at least 1,2 m<sup>2</sup> for every seat provided for dining purposes.

**[(ii)]** A bath fitted with a waste pipe may be substituted for each shower referred to in subsection [(i)] hereof.

**[f]** An accommodation establishment must be provided with sanitary facilities as prescribed in the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977] and such fixtures must be designated for the different sexes.

**[h]** All rooms must be provided with adequate ventilation and lighting as prescribed in the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977], as amended.

**[U] [1]** A separate room with metal bins or canvas laundry bags must be provided for the storage of dirty articles used in connection with the accommodation establishment, pending removal to be laundered; and



premises when the windows are closed.

### **[3] Duties of the operators of accommodation establishments**

Every person who operates an accommodation establishment must –

- [a]** keep the premises and all furniture, fittings, appliances, equipment, containers, curtains, covers, hangings and other soft furnishings, table linen, bed linen, and other bedding, towels and cloths of whatever nature used in connection with the accommodation establishment in a clean, hygienic and good condition at all times;
- [b]** clean and wash any bed linen, towel, bath mat or face cloth after each use by a different person;
- [c]** take adequate measures to eradicate pests on the premises;
- [d]** provide a container made of a durable and impervious material, equipped with a close-fitting lid, in every toilet used by females;
- [e]** provide towel rails or hooks in every bathroom and in every room in which there is a wash-hand basin or shower;
- [f]** store all dirty linen, blankets, clothing, curtains and other articles used in connection with the accommodation establishment in the manner referred to in Section [2][j];
- [g]** store all clean linen, towels, blankets, pillows and other articles used in connection with the accommodation establishment in the manner referred to in Section [2][k];
- [h]** keep all sanitary, ablution and water supply fittings in good working order;
- [i]** keep every wall, surface and ceiling, unless constructed of materials not intended to be painted, painted at the intervals to ensure that the area painted remains clean and in a good state of repair; and
- [j]** handle refuse in the manner referred to in Section [2][p].

### **[4] Permit to operate a accommodation establishment**

- [1]** Any person wishing to obtain a permit to operate an accommodation establishment must apply to the Council in writing in a form stipulated by the Council, prior to operating such establishment.
- [2]** When the Council receives an application for a permit, it must ensure that the relevant premises are inspected by the authorised official as soon as reasonably possible.
- [3]** Before deciding whether or not to approve an application referred to in

subsection [1], the Council –

- [a] must ensure that any persons in the vicinity of the premises whose health or wellbeing may be affected if the premises are used for an accommodation establishment, have been consulted and have had an opportunity to make representations with regard to such proposal; and
- [b] may request the applicant to provide any further information which the Council considers relevant to enable it to make a properly informed decision.

**[5] General terms applicable to permits**

[1] A permit issued in terms of these by-laws –

- [a] is not transferable from one person to another; and
- [b] applies only to the premises specified in the permit.

[2] Every permit –

- [a] must specify the address and other relevant details regarding the location of the premises concerned;
- [b] must describe the premises concerned;
- [c] must describe the authorised use or activity concerned;
- [d] may specify terms and conditions; and
- [e] must indicate when it expires.

[3] The Council may levy a fee for considering and granting a permit in terms of these by-laws.

[4] The Council may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and until the prescribed fee [if any] has been paid.

**[6] Compliance notice**

[1] If an authorised official after inspecting premises on which an accommodation establishment is being conducted or operated, reasonably believes that a public health hazard or public health nuisance exists on such premises or that the premises are being used for a purpose in contravention of these by-laws, he may serve a compliance notice on one or more of the following persons:

- [a] the owner of the premises;

- [b] the occupier of the premises;
- [c] any person apparently in charge of undertaking the aforesaid use on the premises.

**[2] A compliance notice must state –**

- [a] why the authorised official believes that these by-laws are being contravened;
- [b] the measures that must be taken –
  - [i] to ensure compliance with these by-laws; or
  - [ii] to eliminate or minimise any public health nuisance;
  - [iii] the time period within which the measures must be taken;
- [c] the possible consequences of failing to comply with the notice; and
- [d] how to appeal against the notice.

**[3] If a person fails to comply with a compliance notice that requires a particular action to be taken, the Council may –**

- [a] take the required action specified in the compliance notice; and
- [b] recover, as a debt, from the person to whom the notice was given, the costs and expenses reasonably incurred in taking the required action; or
- [c] direct that a prohibition notice be served on such person in terms of Section 7 of these by-laws.

**[7] Prohibition notice**

- [1] An authorised official may, after inspecting premises apparently used for accommodation establishment purposes contrary to these by-laws, serve a prohibition notice on the owner, occupier or user of such premises prohibiting the premises from being so used and requiring measures to be taken to ensure that this occurs.
- [2] The authorised official must give the person on whom he intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice unless he reasonably believes that the delay in doing so would significantly compromise public health, in which case the person on whom a prohibition notice is served must be given reasonable opportunity to make representations

why it should be withdrawn.

**[3]** A prohibition notice must state –

- [a]** the reasons for serving the notice;
- [b]** whether or not the Council will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;
- [c]** the possible consequences of failing to comply with the notice; and
- [d]** how to appeal against the notice.

**[4]** Unless a prohibition notice provides otherwise, it comes into effect when it is served under subsection [1] and remains in force until it is withdrawn.

**[5]** The authorised official must as soon as possible affix a copy of the notice in a conspicuous position on the premises.

**[6]** It is a defence for anyone charged with failing to comply with a prohibition notice to prove that –

- [a]** he did not know of the existence of the prohibition order and could not reasonably be expected to have known of its existence; and
- [b]** he had complied with the prohibition notice within 48 hours of the time that the notice was affixed to the premises in terms of subsection [5].

**[8] Withdrawal of prohibition notice**

**[1]** The authorised official must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a prohibition notice, carry out an investigation of the premises.

**[2]** After completing the investigation, the authorised official must inform the person on whom the prohibition notice was served or that person's agent in writing, whether or not the prohibition has been removed or withdrawn.

**[3]** The Council may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection [1], a fee for undertaking the investigation.

**[9] Suspension, cancellation and amendment of permits**

**[1]** An authorised official may suspend or cancel a permit with immediate



effect if–

- [a] he reasonably believes that it is urgently necessary to do so to eliminate or to reduce a significant risk to public health posed by a public health hazard or a public health nuisance; and
  - [b] the holder of the permit fails to comply with a compliance notice that states that the permit may be suspended or cancelled without further notice if the holder fails to comply with such notice.
- [2] An authorised official may suspend or cancel a permit after giving the holder a reasonable opportunity of making representations as to why the permit should not be suspended or cancelled if –
- [a] he reasonably believes that it is desirable to do so to eliminate or reduce the risk to public health posed by a public health hazard or a public health nuisance; or
  - [b] the holder of the permit fails to comply with a compliance notice.
- [3] An authorised official may amend a permit by endorsing the permit or by written notice to the holder, if he reasonably believes that it is necessary to do so to protect public health or to take account of changed circumstances since the permit was issued.

#### **[10] Appeals**

- [1] A person whose rights are affected by a decision taken by any authorised official under these by-laws may appeal against the decision by giving written notice of the appeal and reasons to the Municipal Manager of the Municipality 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 referred to in Section 62 of the Municipal Systems Act 32 of 2000.
- [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 authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

#### **[11] Offences and penalties**

Any person who –

- [a]** contravenes or fails to comply with any provisions of these by-laws;
- [b]** fails to comply with any notice issued in terms of these by-laws;
- [c]** fails to comply with any lawful instruction given in terms of these by-laws; or
- [d]** obstructs or hinders any authorised official in the execution of his duties under these by-laws –

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.

**[12] Delivery of notices**

- [1]** A notice, order or other document is to be regarded as having been properly served if -
  - [a]** it has been delivered to that person personally;
  - [b]** sent by registered post to the person to whom it is addressed at his/her/their last known address;
  - [c]** it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;
  - [d]** if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided for in subsections [a],[b] or [c]; or
  - [e]** if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the premises to which it relates.
- [2]** A notice, order or other document that may in terms of these by-laws be served on the owner or occupier of premises –
  - [a]** may be addressed to the owner or occupier of the specified premises and need not name the owner or occupier; and
  - [b]** if the Council does not know the address of the owner or occupier of the premises and cannot easily obtain it, the notice, order or other document is to be regarded as having been properly served if it is posted up in some conspicuous place on the premises.

**[13] Repeal**

Any by-law relating to Accommodation Establishments or similar undertakings adopted by the Municipality or the Council of a Municipality now comprising an administrative unit of the Municipality are, from the date of promulgation of these by-laws hereby repealed.

**LOCAL AUTHORITY NOTICE 225****MAHIKENG LOCAL MUNICIPALITY****BY-LAWS RELATING TO CHILDCARE SERVICES**

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 Childcare Services which shall come into operation on the date of publication thereof.

**[1] Definitions**

In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and, unless the context otherwise indicates -

**"authorised official"** means an official of the Council or the official of another municipality or another organ of state with which the Council has concluded an agreement for the rendering of services in terms of these by-laws and to whom the Council has delegated a duty, function or power under these by-laws,

**"child"** means any person under the age of 18 [eighteen] years who is in the care of a childcare facility;

**"childcare service"** means any undertaking involving the custody and care of more than six children during the whole or part of the day on all or any days of the week;

**"childminder service"** means any undertaking involving the custody and care of a maximum of six children during the whole or part of the day on all or any days of the week;

**"certificate"** means a certificate issued in terms of Section 3 of these by-laws;

**"certificate holder"** means a person to whom a certificate has been issued in terms of Section 3 of these by-laws;

**"communicable disease"** means a communicable disease as defined by Section 1 of the Health Act, 1977 [Act No 63 of 1977];

**"Council"** means the Council of Mahikeng Local Municipality or any Committee, Political Office Bearer or official thereof acting by virtue of any power entrusted or delegated to it or him in terms of legislation with regard to the application and implementation of these by-laws;

**"facility"** means a place where either a childcare or a childminder service is conducted, whichever is applicable, and "service" has a corresponding meaning;

**"Health Act"** means the Health Act, 1977 [No. 63 of 1977];

**"Municipality"** means Mahikeng Local Municipality and includes the Council thereof;

**"National Building Regulations"** means the regulations published under the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977];

**"occupier"** includes any person in actual occupation of land or premises without regard to the title under which he or she occupies, and, in the case of premises sub-divided and let to lodgers or various tenants, includes the person receiving the rent payable to the lodgers or tenants whether for his or her own account or as agent for any person entitled thereto or interested therein;

**"owner"** includes any person that has title to any premises or land or any person receiving the rent or profits of any land or premises from any tenant or occupier thereof, or who would receive such rents or profits if such land or premises were let, whether for his or her own account or as agent for any person entitled thereto or interested therein: Provided that the "owner" in respect of premises on the Sectional Title Register opened in terms of Section 12 of the Sectional Titles Act, 1986, [Act 95 of 1986] means the body corporate, as defined in that Act, in relation to such premises;

**"premises"** means the stand, including any buildings or part thereof and outdoor play areas in or upon which a childcare service or a childminder service is conducted;

## **[2] Application of by-laws**

- [1]** These by-laws shall apply to all childcare services and childminder services within the jurisdiction of the municipality.
- [2]** Subject to the provisions of these by-laws, no person shall conduct a childcare service or a childminder service unless it has been registered as contemplated in section 3 of these by-laws and such service is in possession of a valid certificate issued in terms of that section.
- [3]** A person who is, at the date of commencement of these by-laws, conducting a childcare service or a childminder service shall, within one month of that date, or within such extended period as Council may allow, on written application made prior to the expiry of the said period, apply for registration of such service in terms of section 3 of these by-laws. If any person conducting such a service fails to apply as aforesaid or his application is refused, he shall, if he continues to conduct such

service after such period or after refusal of his application, be deemed to have contravened section 2[2] of these by-laws.

- [4] A person whose service has been registered in terms of Section 3 of these by-laws shall ensure that the service and the premises comply with the conditions and restrictions imposed upon the operation of the service.

**[3] Registration of Childcare Facilities and Childminder Facilities**

- [1] Any person wishing to undertake the operation of a childcare or childminder service, must apply in writing, in a manner and form as near as possible to Form 1 of the Schedule, to the Council for such service to be registered for the intended purpose. If the applicant is not the owner of the premises, the written consent of the owner shall accompany the application.
- [2] The Council may, before or during the consideration of the application, request such further information relating to the application as it deems necessary.
- [3] The Council may approve an application and register the service if it is satisfied that the applicant is a fit and proper person to conduct the relevant facility, and that no circumstances exist which are likely to be prejudicial to the health, safety and welfare of the children who are to be cared for at the facility.
- [4] The Council may, at any time before or after approval of an application in terms of this section, require the applicant to submit to the Council a report at his own cost from a registered psychologist pertaining to the applicant's state of mental health as well as a social report on the qualifications and criminal background of such applicant.
- [5] The Council may approve an application and register the facility if it is satisfied that the premises comply with:-
- [a] the National Building Regulations;
  - [b] the Health Act;
  - [c] the Council's Town Planning Scheme or Town Planning Scheme in the course of preparation; and
  - [d] requirements relating to the premises on which the childcare or childminder service is to be conducted as contemplated in these by-laws.
  - [e] as far as childcare facilities are concerned, registration with the Department of Social Development in accordance with the Childcare Act, 1983 [ Act No 74 of 1983] as amended.

- [6]** When approving an application for registration, the Council may impose such further conditions and restrictions as it deems fit.
- [7]** Once an application for registration has been approved, the Council will issue a certificate which:-

  - [a]** states the name of the person to whom it is issued;
  - [b]** describes the premises in respect of which the application was approved;
  - [c]** specifies any conditions or restrictions imposed in terms of sub-section [6];
  - [d]** states the period for which the premises will be so registered.
- [8]** Neither registration nor the certificate is transferable to any other person, heir or successor-in-title to the certificate holder.
- [9]** If the Council does not approve an application for the registration of a childcare or childminder facility, the Council must within 14 [fourteen] days of the decision:-

  - [a]** inform the applicant of such a decision;
  - [b]** provide written reasons for such refusal if so requested by the applicant; and
  - [c]** may give the applicant an opportunity to comply, within a period determined by the Council, with the stated requirements of or any other conditions and/or requirements that the Council may stipulate.
- [10]** A certificate holder shall, at least 30 days before expiry of the period referred to in sub-section [7][d], re-submit an application for registration in terms of this section.

#### **[4] Cancellation of Registration**

- [1]** The authorised official shall, by written notice to the certificate holder where possible, cancel registration of a childcare service if-

  - [a]** the certificate holder is convicted of an offence under these by-laws or pays an admission of guilt in respect of any such contravention;
  - [b]** the certificate holder fails to comply with any condition or restriction imposed in terms of section [3.6] of these by-laws ; or

- [c]** the authorised official is of the opinion that the certificate holder is an unsuitable person to conduct a childcare service, or that circumstances exist that are likely to be prejudicial to the health, safety and welfare of children being cared for by the service;
- [d]** if the applicant sell or vacates the premises;
- [e]** upon the applicant or owner's death; and
- [f]** if the certificate holder notifies Council of the permanent termination of the service as contemplated in section 5 of these by-laws.

**[2]** Upon cancellation of registration in terms of sub-section [1], the registration certificate shall lapse and the facility shall be closed immediately, provided that, before cancellation of the registration, the authorised official may in his sole discretion, suspend cancellation to afford the certificate holder an opportunity to remedy a defect in the premises or rectify an omission. If the certificate holder complies to his satisfaction, the authorised official may elect not to cancel the registration. During the period of such suspension, the certificate holder shall cease operation of the facility.

**[5] Termination of Service**

The certificate holder shall immediately notify Council of the temporary or permanent termination or closure of the childcare facility to which the certificate relates.

**[6] Right of Entry and Inspection of Premises and Records**

An authorised official may, in the enforcement of these by-laws, at any reasonable time and without prior notice, enter any premises upon which a childcare or childminder service is being conducted, or upon which such official has reasonable grounds for suspecting the existence of such service and conduct such examination, enquiry and inspection thereon as he may deem necessary.

**[7] Requirements for Childcare Facility**

Every childcare facility shall comply with the under-mentioned requirements provided that the authorised official may determine such additional requirements as he may consider fit to meet any prescribed and/or desirable health and safety considerations:

**[1] Office, staff room and sick-bay:**

- [a]** If more than 30 children are cared for on the premises, provision should be made for a separate office large enough to be divided into a sick bay to accommodate at least two children, as well as



a staff room where staff can rest and safekeep their personal possessions.

- [b]** The office, staff room and sickbay referred to in paragraph [a] may be combined.

**[2] Indoor Play Area:**

- [a]** Provision should be made for an indoor play area covering a minimum floor space of 1,8m<sup>2</sup> per child to be used for play, meals and rest.
- [b]** Not more than one third of the compulsory floor space per child may consist of covered veranda.
- [c]** Cots and mattresses utilised for sleeping purposes by children must be arranged so that there shall be a minimum of 50cm space between the cots and or mattresses.

**[3] Kitchen:**

- [a]** The kitchen must comply with the following requirements:
  - [i]** adequate and suitable cooking and washing facilities must be provided;
  - [ii]** a smoothly finished floor of concrete or any other impervious material;
  - [iii]** adequate natural lighting and ventilation;
  - [iv]** wall surfaces should have a smooth finish and should be painted with a washable paint;
  - [v]** ceilings must be dust-proof;
  - [vi]** all working surfaces must be of stainless steel or other impervious material;
  - [vii]** cooling facilities for the storage of perishable food must be provided;
  - [viii]** adequate storage space must be provided;
  - [ix]** adequate number of waste bins with tightly fitting lids;
  - [x]** adequate supply of potable as well as hot water and cleaning agents for the cleansing of equipment and eating utensils must be provided;

- [xi] the kitchen must be separate from the play area;
- [xii] the kitchen must not be accessible to the children;
- [xiii] all foodstuffs must be protected from contamination by dust, dirt, pests and any contaminating agent;
- [xv] kitchen staff must wear personal protective clothing which must be maintained in a clean and tidy condition at all times.

**[4] Sanitary facilities:**

- [a] Subject to sub-section [b], provision must be made for -
  - [i] one toilet and one hand washing facility for every 20 or less children under 5 years of age irrespective of gender; and
  - [ii] one toilet and hand washing facility for every 20 or less children above the age of 5 years, separate for each gender.
- [b] One urinal is to be regarded as equal to two toilets, provided that urinals should not replace more than 25% of the total toilet facilities.
- [c] Separate toilet facilities must be provided for the staff as contemplated in the National Building Regulations.
- [d] Walls and floors of the sanitary facilities must be of an impervious material rendered to a smooth surface.
- [e] The following additional toilet and wash facilities for children under the age of 2 years must be provided -
  - [i] facilities for the hygienic handling of nappies and potties;
  - [ii] adequate containers for the storage of clean and soiled napkins;
  - [iii] ready access to a suitable washing facility;
  - [iv] suitable and adequate toilet and wash facilities for children who are not toilet trained;
  - [v] a supply of hot and cold running potable water at the wash-hand basins, or if no running water is available, a minimum of 25 litres of potable water, stored in a hygienically clean container.

[f] Chamber pots [potties] are to be emptied, cleaned and disinfected with a disinfectant immediately after being used and stored in a suitable place when not in use;

[g] All basins must be closely fitted to the walls at the rear of such basins which walls shall be smooth and washable.

**[5] Outdoor play Area:**

[a] An outdoor play area of at least 2 m<sup>2</sup> per child must be provided.

[b] The outdoor play area must -

[i] comprise lawns, shady areas or other safe surfaces;

[ii] be fenced/walled to a height of 1.8 m;

[iii] have approved lockable or child-proof gates; and

[iv] shall be free of excavations and dangerous steps and levels.

**[8] Requirements for Child Minder Facility**

The certificate holder shall ensure that a child minder facility complies with the National Building Regulations and that the following minimum accommodation and facility requirements are provided:

[a] adequate, suitable and unobstructed indoor floor area reserved for the use of the children;

[b] suitable floor covering for the area referred to in paragraph [a] if required by, and to the satisfaction of the authorised official;

[c] a kitchen on the premises for the preparation of meals;

[d] storage facilities for the personal belongings of each child;

[e] a towel and face cloth for each child, which shall be kept or hung separately;

[f] a plastic bucket with a close-fitting lid for each child for the storage of soiled napkins, which buckets must be marked to ensure individual use and must be stored in a bathroom or other suitable area, inaccessible to any child;

[g] separate storage for clean napkins; and

- [h] adequate outdoor play area, comprising lawns or other safe surfaces which is fenced and has approved lockable or child-proof gates, provided that if such an area cannot be provided, the authorised official may, at his sole discretion, approve of the substitution of an indoor area additional to that provided in terms of paragraph [a] above.

**[9] Equipment for children**

The certificate holder shall, to the satisfaction of the authorised official, provide sufficient and suitable equipment in every childcare facility and, except where otherwise provided, such equipment shall comprise as least the under-mentioned items which items shall comply with the minimum requirements listed:

- [a] chairs must be lightweight, washable and of a suitable height, without splinters or rough surfaces;
- [b] tables should be sturdy, washable and without splinters;
- [c] beds and mats for sleeping and resting purposes must in no way be dangerous to the child. Mattresses must be covered with suitable waterproof material;
- [d] sheets, waterproof sheets and blankets must be provided;
- [e] sufficient, safe and adequate indoor as well as outdoor play apparatus and toys must be provided;
- [f] personal toiletries such as face cloth, toothbrush, a comb or brush and items such as soap, paper towels and toilet paper must be supplied. It should be ensured that enough soap, towels or paper towels are available at the washbasins at all times;
- [g] sufficient eating utensils must be provided;
- [h] sand pits should be covered overnight, sprinkled with coarse salt every six weeks and the sand replaced at least once a year.

**[10] General Requirements**

Notwithstanding anything to the contrary contained in these by-laws, every childcare and childminder facility shall comply with the following general requirements:

- [1] All interior walls must have a durable finish that can be cleaned with relative ease.
- [2] All floors must be constructed of a smooth and impervious material that is durable and can be easily cleaned.

- [3] If carpeting is used on the floors, it must be kept clean at all times.
  - [4] Any slats or rails forming part of an enclosure, security gate, play pen, bed, cot or any other object or structure whatsoever, must be a minimum of 75 mm apart, must be installed and maintained in a good state of repair, and if painted, only non-toxic paint must be used.
  - [5] All windows and doors accessible to children must be constructed of safety glass.
  - [6] A separate storage area must be provided for the storage of indoor and outdoor play materials, equipment, stretchers, sleeping mats, bedding and linen.
  - [7] Waste bins with tightly fitted lids must be provided.
  - [8] Apparatus and equipment used and any structures that may be on the premises must in no way present any danger to the children.
  - [9] Provision should be made for the storage of medicines, cleaning materials and other harmful agents in such a way that it is out of the reach of children and kept separate from food.
  - [10] Pets may not be kept on the premises without the prior permission of Council.
  - [11] All food, eating utensils and equipment used for the preparation, handling or serving of food must be properly protected against dust, dirt, insects or any contaminating agent.
  - [12] No children may have free access to living quarters of staff at any time. Adequate measures must be taken to keep such living quarters separate from the facility.
  - [13] Insects and vermin must be efficiently combated.
  - [14] Where a child stays with the childcare or childminder facility for longer than 4 [four] hours at a time, the person in charge of such facility must provide at least 2 [two] meals per day, which meals must be balanced and meet the child's daily nutritional requirements.
  - [15] Children must at all times be under the direct supervision of an adult staff member.
  - [16] Staff should be trained and skilled in First Aid and Basic Fire Fighting.
- [11] **Ratio of Staff to number of children**
- [1] The certificate holder shall ensure that the following staff-to-children ratio is adhered to at all times:

**Children from birth - 18 months old**

1 childcare worker for every 6 or less babies

**Children from 18 months to 3 years old**

1 childcare worker for every 12 or less babies

**Children from 3 to 4 years old**

1 childcare worker for every 20 or less children

**Children from 4 to 5 years old**

1 childcare worker for every 30 or less children

**School going children**

1 staff member for every 35 or less children

- [2] Administrative and domestic staff are not included in the ratio referred to in sub-section [1].

**[12] Health register**

- [1] The certificate holder shall maintain a health register reflecting the following details of all children attending the facility:
- [a] The child's name and date of birth.
  - [b] The name of the parents or guardian and their address and telephone number, both at home and at place of employment.
  - [c] The name and address and telephone number of each child's medical practitioner and dentist, with written authority from the parents or guardian to consult them in emergencies.
  - [d] Information concerning the child's general state of health and physical condition.
  - [e] Details of operations which each child has undergone, and any illnesses or communicable diseases from which the child has suffered and the relevant dates.
  - [f] Details of immunisations against polio, diphtheria, tetanus, whooping cough, measles, mumps, German measles and tuberculosis; and
  - [g] Details of allergies and any medical treatment the child may be undergoing.
- [2] The names of children who are allergic to certain substances or products should be posted prominently in the facility.

- [3] A proper record of any medicine that is given to a child should be kept.

**[13] Medical Care of Children**

- [1] The certificate holder shall -

- [a] observe all children for any signs of illness, indisposition, injury or other abnormal condition, including possible child abuse.
- [b] keep an Incident Register of all injuries and illnesses which occurred or manifested themselves whilst the child was on the premises and keep records of injuries observed on the child which have occurred other than at the premises;
- [c] immediately notify the parent or guardian of such illness, indisposition, injury or other abnormal condition;
- [d] if necessary and subject to the prior consent of the parent or guardian, summon the private medical practitioner if any child is suffering or suspected to be suffering from illness or injury or in the event of the unavailability of such medical practitioner, summon a medical practitioner of the certificate holder's choice;
- [e] immediately isolate the child suffering as contemplated in sub-section [d] and devote all care necessary to the comfort and treatment of the child whilst on the premises;
- [f] only administer medicine to a child with the written consent of that child's parents or guardian;
- [g] in the event of a communicable disease or detection of signs of possible child-abuse, notify the authorised official and/or the local social worker immediately;
- [h] ensure that all children admitted to the facility have completed basic immunisation schedules, provided that if a child is too young, the certificate holder shall ensure that such immunisation be performed soon as the child is old enough;
- [i] inform the parents or guardian immediately if head or body lice are noticed and the child or children concerned may not be allowed back into the facility before the condition has cleared up.

**[14] Health and Safety Measures**

- [1] The certificate holder shall, in the interest of the health and safety of the children -
- [a] take effective precautions for the protection of the children against fires, hot water installations, electrical fittings and

appliances and any other object, condition or thing which may be dangerous or is likely to cause injury to any child;

- [b]** fence and completely cover any swimming or paddling pool on the premises at all times when not in use. Any children utilising the pools must do so with the parents' consent and must be under adult supervision at all times;
  - [c]** ensure that all gates or doors of outdoor play areas are securely locked or otherwise closed at all times so as to prevent children from entering or leaving the confines of such areas or the premises of their own accord, and to prevent the entrance or presence of unauthorised people and domestic animals in the facility;
  - [d]** equip and maintain first-aid equipment, to the satisfaction of the authorised official, and keep it readily available for use and out of reach of children;
  - [e]** install fire fighting equipment on the premises in accordance with National Building Regulations SABS 0400 and submit an Emergency Procedure to the Fire Brigade Disaster Management Officer or other designated official of the municipality for approval.
  - [f]** store medicines, corrosive and other harmful substances, including cleaning materials and alcoholic beverages, in a safe manner and in a place not accessible to the children;
  - [g]** ensure that no noxious or poisonous plant or shrub grows on the premises;
  - [h]** arrange for the medical examination of employees and other persons involved in the conduct of the childcare service or present on the premises when called upon by the authorised official to do so, and shall not allow any person who is found to be suffering from, or a carrier of, a communicable disease, to remain on the premises.
- [2]** The provisions of the Regulations relating to Communicable Diseases and the Notification of Notifiable Medical Conditions published under Government Notice R. 2438 dated 30 October 1987, as amended, and or any other similar and applicable law shall, mutatis mutandis, apply to the services as if it falls within the scope of the expression "teaching institution" in Regulation 1 of those Regulations and-
- [a]** a breach by a certificate holder of a duty placed upon a principal in terms of the Regulations shall be deemed to be a breach of these by-laws;



- [b] the duties placed upon and the powers vested in a medical official of health under the Regulations shall be placed upon or vested in the authorised official for the purposes of these by-laws.

#### **[15] Management responsibilities**

**[1]** The certificate holder shall ensure that -

- [a] no refuse receptacle or any other potentially harmful or hazardous object or material is stored in the outdoor play area used by the children;
- [b] children are under adult supervision at all times;
- [c] each child uses his own sleeping equipment, towel and face cloth, clearly marked and kept separately;
- [d] prepared infant feeds are provided by the parents or guardians of babies, in bottles with covered teats;
- [e] the facility has access to a telephone at all times;
- [f] the premises is maintained in a clean, hygienic, safe, sound and pest-and-rodent-free condition at all times;
- [g] staff are clean, healthy and appropriately dressed at all times;
- [h] no person smoke or use any tobacco product in the presence of children.

#### **[16] Transport**

**[1]** The certificate holder shall ensure that -

- [a] if transport is provided for the children to and from the facility, the staff of the facility are held responsible for the child for the period that he is so transported until he is handed back to his parent or guardian or an authorized person;
- [b] in addition to the driver, at least one other adult should be in the vehicle with the children;
- [c] all doors are fitted with child locks and said locks are used at all times when transporting children;
- [d] the driver remains in the driving cabin of the vehicle at all times and may not assist in the handing-over of the children;
- [e] no children are transported in the driving cabin;

- [f] the driver of the vehicle is in possession of a special license to transport passengers;
- [g] babies in carrycots are not pushed in underneath the seats;
- [h] the sitting space for each child and the room for carrycots must comply with the prescribed requirements; and
- [i] any other prescribed legislation regulating the transportation of children is adhered to.

**[17] Offences and Penalties**

**[1] Any person who -**

- [a] contravenes or fails to comply with any provision of these by-laws;
- [b] contravenes or fails to comply with any notice given or condition imposed in terms of these by-laws;
- [c] for the purpose of these by-laws, makes a false statement knowing it to be false or deliberately furnishes false or misleading information to an authorized official or official; or
- [d] threatens, resists, interferes with or obstructs an authorized official or employee of Council in the performance of his/her powers, duties or functions as contemplated in these by-laws, shall be guilty of an offence and upon conviction be liable to a fine or imprisonment for a period not exceeding six months or to both the fine and the imprisonment.

**[18] Repeal of By-laws**

- [1] Any by-laws adopted by the Council or the Council of a Municipality now forming an administrative unit of the Council and relating Crèches and Crèches-Cum Nursery Schools or any facilities in respect to or with regard to any matter regulated in these by-laws are hereby repealed.
- [2] Anything done under the provisions of the by-laws repealed by subsection [1], shall be deemed to have been done under the corresponding provision of these by-laws and such repeal shall not affect the validity of any approval, authority, waiver or other act which at the commencement of these by-laws is valid under the by-laws so repealed.

**[19] Date of commencement**

These by-laws commence on the date of publication thereof in the Provincial Gazette.

**SCHEDULE**

**FORM 1**

**APPLICATION FOR OPERATION OF A CHILDCARE FACILITY**

To be completed by an applicant as contemplated in section 3 of these by-laws.

DETAILS OF APPLICANT FIRST NAMES : \_\_\_\_\_

SURNAME : \_\_\_\_\_

GENDER [tick applicable block]

MALE

FEMALE

NATIONALITY : \_\_\_\_\_

IDENTITY NUMBER [attach certified copy of ID document] : \_\_\_\_\_

RESIDENTIAL ADDRESS : \_\_\_\_\_

POSTAL ADDRESS : \_\_\_\_\_

TELEPHONE NUMBER : \_\_\_\_\_

**DETAILS OF PREMISES INTENDED FOR CHILDCARE FACILITY**

ADDRESS : \_\_\_\_\_

ERF NO [attach certified copy of title deed or owner's consent] : \_\_\_\_\_

QUALIFICATIONS HIGHEST STANDARD PASSED : \_\_\_\_\_

LIST ALL OTHER RELEVANT QUALIFICATIONS : \_\_\_\_\_

HAVE YOU EVER BEEN CONVICTED OF A CRIMINAL OFFENCE  
[tick applicable block]

YES

NO

IF YES, PROVIDE DETAILS WITH REGARD TO OFFENCE, INCLUDING DATE OF COMMISSION :

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SENTENCE, INCLUDING DATE OF CONVICTION : \_\_\_\_\_

POLICE STATION WHERE OFFENCE WAS REPORTED INCLUDING CASE NUMBER : \_\_\_\_\_

\_\_\_\_\_

**MEDICAL HISTORY**

**DO YOU SUFFER FROM ANY CHRONIC ILLNESS FOR WHICH YOU ARE CURRENTLY RECEIVING MEDICAL TREATMENT. IF YES, STATE THE NATURE OF THE MEDICAL CONDITIONS AND TREATMENT BEING ADMINISTERED AND ATTACH A COPY OF A DOCTOR'S MEDICAL REPORT :**

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**SIGNATURE OF APPLICANT**

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**DATE**

## LOCAL AUTHORITY NOTICE 226

### MAHIKENG LOCAL MUNICIPALITY

#### BY-LAWS RELATING TO THE MANAGEMENT AND CONTROL OF INFORMAL SETTLEMENTS

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 Management and Control of Informal Settlements within the area of jurisdiction of the municipality which by-laws shall come into operation on the date of publication thereof.

#### **[1] Application of By-laws**

These by-laws shall apply to all informal settlements within the area of jurisdiction of the Mahikeng Local Municipality, hereinafter referred to as "the Municipality".

#### **[2] Definitions**

In the by-laws, unless the context otherwise indicates –

**"authorized informal settlement"** means any informal settlement which is recognized by the Municipality as an authorized informal settlement which will be legalized and upgraded as a formal township in terms of the Municipality's existing housing policies;

**"consent"** means the express or implied consent of the owner or person in charge to the occupation of land by a resident of a shack, irrespective of whether such consent was given in writing or otherwise;

**"contractual agreement"** means the contractual agreement entered into between the head of a household and the Municipality in terms of which the said household is authorised to occupy a shack in an authorised informal settlement;

**"court"** means any Division of the High Court or the magistrate's court in whose area of jurisdiction the land is situated;

**"eviction"** means the permanent removal of a person and his/her personal property from occupation of a shack or the land on which such shack is constructed or erected in accordance with the provisions of a court order, including the demolition and removal from such land of any building materials used to construct or erect such shack ;

**"head of the household"** means -

**[a]** the father in a household, where the father and mother of the household are legally married;

- [b] the single parent, where the household has only one parent with dependents living permanently with him / her in such household;
- [c] any person in a household who has legal capacity to act and is recognized by the majority of other persons in the household as the person responsible for the maintenance of the welfare and discipline within the household;

Provided that in respect of the occupation of a shack by a single person, such person shall be regarded as the head of the household for the purposes of these by-laws.

**“informal settlement”** means one or more shacks or building(s) constructed or erected on land, with or without the consent of the owner or person in charge of the land,

**“land”** means any land within the area of jurisdiction of the Municipality, irrespective of whether such land belongs to the National or Provincial Government, the Municipality or a private individual, company or other legal entity;

**“land invasion”** means the illegal occupation of land or any settlement or occupation of persons on land without the express or tacit consent of the owner or person in charge of the land, or without any other right in law to settle on or occupy such land;

**“Land Invasion Reaction Unit”** means a group of officers or workers consisting of any combination of one or more of the following components –

- [a] members of the South African Police Service and/or;
- [b] members of the Municipality’s law enforcement and/or;
- [c] members of the staff of the sheriff or messenger of the court with jurisdiction in the area and/or;
- [d] members of a private security company contractually engaged by the Municipality to perform certain duties on its behalf and/or;
- [e] any combination of employees of the Municipality,

designated or appointed by the Municipality to assist the Informal Settlements Manager in the execution of his/her duties and to execute any eviction order contemplated by section 5 of these by-laws to terminate an unauthorised informal settlement.

**“Municipality”** means the Mahikeng Local Municipality and includes the Council of the Municipality, the Executive Mayor and / or the Mayoral Committee or any other committee established by the Council and any employee or official of the said Council duly authorised to perform any duty, power or function in terms of these by-laws;

**“owner”** means the registered owner of land, irrespective of whether such owner is the National or Provincial Government, the Municipality or a private individual, company or other legal entity;

**“person in charge”** means a person who has the legal authority to give permission to a person to enter or reside upon land ;

**“shack”** means any temporary shelter, building, hut, tent, dwelling or similar structure which does not comply with the provisions of the National Building Regulations and Building Standards Act, 1977 [Act 103 of 1977], the Regulations promulgated thereunder and, where applicable, the Municipality’s Building Control By-Laws and which is primarily used for residential purposes;

**“unauthorized informal settlement”** means any informal settlement which is not recognized by the Municipality as an authorized informal settlement and which will not be legalized and upgraded as a formal township in terms of the Municipality’s existing housing policies, but will, on the contrary, be demolished and removed as contemplated in these by-laws;

### **[3] Appointment of Informal Settlements Manager**

The Municipality shall appoint an officer or assign one of its officials to manage and control all the Informal Settlements within the area of jurisdiction of the Municipality in accordance with the provisions of these by-laws.

### **[4] Duties of the Informal Settlements Manager**

The Informal Settlements Manager shall –

- [1]** conduct regular surveys to determine the location, origin, extent and conditions prevailing in each informal settlement within the area of jurisdiction of the Municipality;
- [2]** monitor and control all informal settlements within the area of jurisdiction of the Municipality and take the necessary steps to prevent land invasion within the area of jurisdiction of the Municipality;
- [3]** undertake and promote liaison and communication with local communities with a view to obtaining their understanding and co-operation regarding the prevention of land invasion in the area;
- [4]** keep a register of all the residents who are entitled to reside in each authorised informal settlement within the Municipality in which shall be entered the following details in respect of each shack in such authorised informal settlement -
  - [a]** the number allocated to the stand or site on which the shack is constructed;

- [b]** the name and identity number of the head of the household who is entitled to occupy such shack;
  - [c]** the names, identity numbers and relationships to the head of the household of each and every other person occupying the said shack as a member of the particular household;
  - [d]** the reference number of the Manager's file containing a copy of the contractual agreement entered into between the head of the household and the Municipality in respect of his/her occupation of the shack in the authorised informal settlement;
  - [e]** the number of the particular shack's rental account;
  - [f]** the number of the particular shack's municipal services account;
  - [g]** the previous address of the particular household;
  - [h]** the names, addresses and telephone numbers, if any, of at least two family members of the head of the household who do not live at the same address as the said household.
- [5]** ensure that all the residents living within an authorized informal settlement are registered in the Municipality's Housing Waiting List;
  - [6]** submit written reports on the control and management of any informal settlement, or the conditions prevailing therein, if and when required to do so by the Municipality;
  - [7]** ensure that the contents of these by-laws are communicated to all the residents in informal settlements and that a copy thereof is posted and maintained in a prominent place at the venue where the said committee usually holds its meetings, for the information of the residents and all other persons visiting the said informal settlement.
  - [8]** allocate to each site or stand in an authorized informal settlement a unique number as its temporary address and ensure that such number is legibly painted or inscribed in a prominent place on the site or stand;
  - [9]** ensure that no new unauthorised shacks are erected and that no new unauthorized residents take up residence within any informal settlement;
  - [10]** perform any other duty or function which may be necessary to ensure the proper management and control of an informal settlement;
  - [11]** consult through the appropriate channels of communication determined by the Council of the Municipality with Ward Councillors and political officer bearers of the Municipality on the application of these by-laws.



**[5] Incidents of Land Invasion**

- [1]** The Informal Settlements Manager shall, within a period of 72 hours after he/she becomes aware of an incident of land invasion or the existence of a newly established informal settlement, irrespective of whether such informal settlement was established as a consequence of an incident of land invasion or not, make a determination of its status as an authorized or an unauthorized informal settlement in terms of the Municipality's existing housing policies and inform the residents of the informal settlement accordingly as contemplated by section 6 or section 7 of these by-laws, whichever might be applicable under the circumstances.
- [2]** In the event of the status of the informal settlement contemplated in subsection [1] being determined as an authorized informal settlement, the Informal Settlements Manager shall deal with the matter in accordance with the provisions of section 6 of these by-laws.
- [3]** In the event of the status of the informal settlement contemplated in subsection [1] being determined as an unauthorized informal settlement, the Informal Settlements Manager shall deal with the matter in accordance with the provisions of section 8 of these by-laws.

**[6] Procedures relating to the Management and Control of Authorised Informal Settlements**

- [1]** As soon as a determination of the status of the authorised informal settlement has been made and within the period contemplated by section 5[1], the Informal Settlements Manager shall, personally or by means of a subordinate official designated by him/her for this purpose, visit the settlement concerned and notify the residents of the status of the authorised informal settlement in the manner contemplated by section 7[2] or by means of a letter delivered to each shack in the said informal settlement, whichever might be appropriate under the circumstances.
- [2]** The Informal Settlements Manager shall compile a comprehensive register of all the residents who are entitled to reside in the said authorised informal settlement in which shall be entered the following details in respect of each shack in such settlement -
  - [a]** the number allocated to the stand or site on which the shack is constructed or erected;
  - [b]** the name and identity number of the head of the household who is entitled to occupy such shack;
  - [c]** the names, identity numbers and relationships to the head of the

household of each and every other person occupying the said shack as a member of the particular household;

- [d] the reference number of the Manager's file containing a copy of the contractual agreement entered into between the head of the household and the Municipality in respect of his/her occupation of the shack in the authorised informal settlement;
  - [d] the number of the particular shack's rental account;
  - [e] the number of the particular shack's municipal services account;
  - [f] the previous address of the particular household ;
  - [g] the names, addresses and telephone numbers, if any, of at least two family members of the head of the household who do not live at the same address as the said household.
- [3] The Informal Settlements Manager shall ensure that the names, addresses and other relevant details of all the residents living within an authorized informal settlement are registered in the Municipality's Housing Waiting List.
- [4] The Informal Settlements Manager shall allocate to each site or stand in an authorized informal settlement a unique number as its temporary address and ensure that such number is legibly painted or inscribed in a prominent place on the site or stand.
- [5] The Informal Settlements Manager shall, furthermore, ensure that no new unauthorized shacks are constructed and that no new unauthorized residents take up residence within the said settlement by implementing appropriate measures to manage, monitor and control the occupancy of residents in the settlement in general.
- [6] Any unauthorized occupancy within the said authorized informal settlement must be dealt with in accordance with the provisions of section 8 of these by-laws.
- [7] The Informal Settlements Manager must ensure that the Municipality's Finance Department institutes, operates and maintains an appropriate account for services rendered by the Municipality, as well as any charges levied for the right of occupation of a particular site or stand and that it is supplied to the head of the household of each registered shack in the said authorized informal settlement.

**[7] Residents' Committee**

- [1] A meeting of residents in each authorized informal settlement shall be convened annually on a date and at a venue determined by the

Informal Settlements Manager to elect a Residents' Committee with a Chairperson, Deputy Chairperson, Secretary and six ordinary members, to represent the views and interests of the residents of the settlement in all consultative processes between the Municipality and the residents of the settlement.

- [2] The Residents' Committee and the Informal Settlements Manager [or his/her designated representative] shall meet on a regular monthly basis where the Municipality shall consult the said Committee on all matters relating to the authorized informal settlement and communicate matters of general concern to the residents on a collective basis. It shall, thereafter, be the sole responsibility of the Residents' Committee to inform the individual residents of matters discussed at such meetings.
- [3] Special meetings of residents may be convened from time to time by the Residents' Committee to communicate with and to inform the individual residents of matters relating to the settlement.
- [4] Notice of meetings of residents shall be given by placing notices prominently on the official notice board at the venue determined by the Residents' Committee and communicated to the residents at an official meeting of residents.
- [5] The Informal Settlements Manager shall consult the Ward Councillor in whose area the authorized informal settlement is situated with regard to the application of this section.
- [6] Nothing in this section shall preclude a duly established and operational ward committee from participating in the formation and operation of a Residents' Committee established in terms of this section.

**[8] Procedures relating to the Termination of Unauthorised Informal Settlements**

- [1] As soon as a determination of the status of the unauthorised informal settlement has been made and within the period contemplated by Section 5 [1], the Informal Settlements Manager shall, personally or by means of a subordinate official designated by him/her for this purpose, visit the settlement concerned and notify the residents of the status of the unauthorized informal settlement by means of a written notice hand-delivered to each shack in the said informal settlement.
- [2] The written notice contemplated in subsection [1] shall, furthermore, notify the residents of each shack in the unauthorized informal settlement that their occupation of the said shack and the site or stand on which it is situated is illegal and request them to vacate and remove all their shacks, structures, building materials and other personal property from the settlement within a period of 24 hours after serving of

such written notice.

- [3] In the event where the notified residents co-operate and vacate and remove their shacks, structures, building materials and other personal property from the site or stand on which it is situated, as requested, the Informal Settlements Manager shall take such steps as he/she may deem appropriate in order to prevent a recurrence of any incident of land invasion or illegal land occupation in the particular site or settlement and regularly monitor the situation to ensure such non-recurrence.
- [4] In the event where the notified residents fail to co-operate and to vacate and remove their shacks, structures, building materials and other personal property from the site or stand on which it is situated, as requested, the Informal Settlements Manager shall immediately institute the necessary legal procedures to obtain an eviction order contemplated by subsection [5].
- [5] Within a period of 24 hours after the expiry of the period mentioned in the written notice contemplated by subsection[1], the Informal Settlements Manager shall lodge an application in a competent court of law to obtain an eviction order contemplated in sections 4, 5 or 6 of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998 , [Act No. 19 of 1998] or any other applicable law against any person or persons jointly or separately occupying or residing in any shack, site or stand in the said unauthorized informal settlement.
- [6] The Informal Settlements Manager shall, within a period of 24 hours after obtaining the eviction order envisaged in subsection [5], deploy the Municipality's Land Invasion Reaction Unit to execute the said eviction order and to terminate the unauthorized informal settlement by vacating the relevant settlement, demolishing and removing all shacks, structures, building materials and other personal property from the settlement and dealing with such building materials and other personal property in accordance with the provisions of these by-laws.
- [7] Any costs incurred by the Informal Settlements Manager for the purposes of executing the provisions of these by-laws shall be undertaken by the Municipality in accordance with its approved Budget.

**[9] Disposal of Building Materials and Personal Property**

- [1] In the execution of the provisions of section 8[6], any building materials and other personal property belonging to any resident or inhabitant of a shack or structure in the unauthorized informal settlement shall be removed and stored in a safe place by the Informal Settlements Manager.
- [2] If such building materials and other personal property are not claimed

by the owner thereof within a period of three months after the date of removal and storage, it shall be sold to the best advantage by the Informal Settlements Manager or a person designated by him/her, who shall, after deducting the amount of any charges due or any expenses incurred, pay the net proceeds into the Municipality's Revenue Account; Provided that, subject to the laws governing the administration and distribution of estates, nothing in this subsection contained shall deprive the heir of any deceased person of his/her right to the balance of the proceeds of such property : Provided further, that any such building materials or other personal property which are, in the opinion of the Informal Settlements Manager, valueless and unable to realize any meaningful amount, may be destroyed, abandoned, dumped or otherwise disposed of.

**[3]** The Informal Settlements Manager shall compile and maintain a register in which shall be recorded –

**[a]** particulars of all building materials or other personal property removed and stored in terms of these by-laws;

**[b]** the date of removal and storage of such building materials or other personal property in terms of subsection [1] and the name and site or stand number of the owner thereof;

**[c]** **[i]** the signature or left thumb print of the person claiming ownership and to whom delivery of such building materials or other personal property has been made, or

**[ii]** full details of the amount realized on the sale of such building materials or other personal property and the date of such sale, and

**[iii]** if the building materials or other personal property have been destroyed, abandoned, dumped or otherwise disposed of, a certificate by the Informal Settlements Manager to the effect that these were valueless.

**[4]** Neither the Municipality, nor any of its officials acting within the reasonable scope of their authority, shall be held responsible for any loss or damage to property or injury to person suffered by any resident or inhabitant of an unauthorized informal settlement or any other person for any reason whatsoever.

**[10] Prohibition of Receipt or Solicitation of Consideration in respect of Unlawful Occupation of Land**

**[1]** No person may directly or indirectly receive or solicit payment of any money or other consideration as a fee or charge for arranging or organizing or permitting a person to occupy land without the consent of

the owner or person in charge of that land.

- [2] Any person who contravenes the provisions of subsection [1] is guilty of an offence and liable upon conviction to a fine or to imprisonment not exceeding two years, or to both such fine and such imprisonment.
- [3] The court which convicts any person of a contravention of this section, must order any money or other consideration received by that person which have been seized, to be forfeited, and the said money and the proceeds of such other consideration may be paid to the person or persons from whom the money or other consideration was received, and where such person or persons cannot be positively identified, into the Municipality's Revenue Account.
- [4] If any money has been received in contravention of subsection [1], but has not been seized or made available for purposes of confiscation, the court which convicts any person of a contravention of this section, may order the amount proved to the satisfaction of the court to have been received by such person to be paid to the person or persons from whom the money or other consideration was received, and where such person or persons cannot be positively identified, into the Municipality's Revenue Account, and such other order has the effect of and may be executed against such person as if it were a civil judgment in favour of that person or persons from whom the money or other consideration was received or in favour of the Municipality.

**[11] General prohibition on land invasion**

Notwithstanding the provisions of any law or in addition to any law relating to the illegal occupation or invasion of land, it shall be unlawful for any person to invade any land or permit the invasion of land within the municipal area, and, in addition to any other remedies available to the municipality in terms of any law and/or these by-laws, any person who invades land or permits the invasion of land in the municipal area shall be guilty of an offence and be liable upon conviction to a fine or imprisonment not exceeding two years or to both such fine and such imprisonment.

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

All by-laws adopted by the municipality or a former municipality now comprising an administrative unit of the municipality and relating to the management and control of informal settlements or any matter referred to in these by-laws are, from the date of promulgation of these by-laws, here by repealed.



**NOTICE – CHANGE OF TELEPHONE NUMBERS: GOVERNMENT PRINTING WORKS**

As the mandated government security printer, providing world class security products and services, Government Printing Works has adopted some of the highly innovative technologies to best serve its customers and stakeholders. In line with this task, Government Printing Works has implemented a new telephony system to ensure most effective communication and accessibility. As a result of this development, our telephone numbers will change with effect from 3 February 2014, starting with the Pretoria offices.

The new numbers are as follows:

- Switchboard : 012 748 6001/6002
- Advertising : 012 748 6205/6206/6207/6208/6209/6210/6211/6212
- Publications Enquiries : 012 748 6052/6053/6058 [GeneralEnquiries@gpw.gov.za](mailto:GeneralEnquiries@gpw.gov.za)
  - Maps : 012 748 6061/6065 [BookShop@gpw.gov.za](mailto:BookShop@gpw.gov.za)
  - Debtors : 012 748 6060/6056/6064 [PublicationsDebtors@gpw.gov.za](mailto:PublicationsDebtors@gpw.gov.za)
  - Subscription : 012 748 6054/6055/6057 [Subscriptions@gpw.gov.za](mailto:Subscriptions@gpw.gov.za)
- SCM : 012 748 6380/6373/6218
- Debtors : 012 748 6236/6242
- Creditors : 012 748 6246/6274

Please consult our website at [www.gpwonline.co.za](http://www.gpwonline.co.za) for more contact details.

The numbers for our provincial offices in Polokwane, East London and Mmabatho will not change at this stage.

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001.  
Tel: 748 6052, 748 6053, 748 6058

Also available at the **North-West Province**, Private Bag X2036, Mmabatho, 8681. Tel. (0140) 81-0121  
Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaat Sak X85, Pretoria, 0001.

Tel. Tel: 748 6052, 748 6053, 748 6058  
Ook verkrygbaar by die **Noordwes-provinsie**, Privaat Sak X2036, Mmabatho, 8681. Tel. (0140) 81-0121